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February 25, 2014

Mr. Douglas Krofta
Branch of Listing, Endangered Species Program
U.S. Fish and Wildlife Service
U.S. Department of the Interior
4401 North Fairfax Drive
Arlington, VA 22203

Re: Proposed Listing and 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

Dear Mr. Krofta,

On behalf of the Inyo County Board of Supervisors, I would like to thank you for the opportunity to comment on the U.S. Fish and Wildlife Service's Draft Economic Analysis of Critical Habitat Designation for Three Sierra Nevada California Amphibians (USFWS) (DEA). As always, we are committed to working with our State and Federal partners to promote the health and conservation of all species within our region. However, despite reassurances provided by the USFWS, we remain deeply concerned about the impacts the proposed listing and critical habitat designation we have on our culture, economy, and way of life in Inyo County.

The Service has requested information be provided affecting the proposed listings and designations of critical habitat. The County reiterates its concerns stated in our previous correspondence to the agency dated June 4th, 2013, June 18th, 2013, July 15th, 2013, September 23rd, 2013 and November 12th, 2013, as well as the concerns voiced by our constituents at public meetings held September 23rd, 2013, January 8th, 2014 and January 30th, 2014. The County believes there is insufficient evidence to list the species as endangered, the proposed rule ignores the best available science provided by the California Department of Fish and Wildlife (CDFW) the threats to the species have been poorly or inaccurately characterized, and the proposal critical habitat area is overbroad and unwarranted. The County also believes the socioeconomic impacts to our communities of the critical habitat designation outweigh the benefits to species. This position is in agreement with comments provided to the USFWS by the California Department of Fish and Wildlife.

In addition, the USFWS has asked for comments on the DEA regarding the economic impact of the critical habitat designation. It is the County's position that the DEA is inadequate and fails to evaluate economic impacts to small businesses, small organizations, and small government jurisdictions as required by the Final Rule. The DEA identifies the following activities as "threats" to the species that would be addressed by management actions: fish persistence and stocking, dams and water diversions, grazing, fuels reduction and timber harvest, and recreation. The County has repeatedly identified these activities as those which would have the greatest impact on our economy (specifically fish stocking, grazing, and recreation). The DEA provided no analysis of economic impacts to small business and governments that would result from management actions required to mitigate threats to the species.

The County requested to participate in the development of the draft economic study, but the USFWS did not respond to this request.

Basis of analysis – “Incremental Impacts”

The County understands that the economic analysis considers only those impacts that are incremental to the listing of the species as endangered. The analysis will not consider “baseline” impacts, i.e., impacts from the protections afforded the yellow-legged frog based on the listing of the species. The agency’s explanation, restated below, is understood by the County and all comments by the County are directed specifically at those impacts resulting from the incremental impacts resulting from the critical habitat designation, the “with critical habitat” scenario described by the agency.

“The “without critical habitat” scenario represents the baseline for the analysis, considering protections otherwise afforded to the Sierra Nevada yellow-legged frog, the northern DPS of the mountain yellow-legged frog, and the Yosemite toad (e.g., under the Federal listing and other Federal, State, and local regulations)... The “with critical habitat” scenario describes the incremental impacts specifically due to designation of critical habitat for the species. In other words, these incremental conservation measures and associated economic impacts would not occur but for the designation of critical habitat.”

The County also understands that the various management agencies, including the National Park Service (NPS), the U.S. Forest Service (USFS), and the CDFW all implemented programs to protect the proposed species, and the listing (baseline) would not change their management practices. The comments here will focus on and address those changes that will be necessary for the various management agencies to implement the critical habitat designation.

Standard of Review

On August 23, 2013 the USFWS published in the Federal Register its final rule providing the agency and the public direction on the process that future critical habitat designations will follow regarding timing and implementation of economic impact analysis. Even though the USFWS is not required to follow the rule in the present critical habitat designation process, it is important to note that the agency, through the publication of the Final Rule codified the present policies of the agency regarding the responsibilities of the agency in reviewing the economic impacts of the critical habitat designation.

The Final Rule requires the agency to examine the reasonably foreseeable or probable projects that might be impacted by the proposed critical habitat designation. Once the foreseeable or probable projects that may be impacted by the critical habitat designation are identified, the agency must examine the potential economic impact the proposed critical habitat designation will have on public and private entities based on required changes to those projects. The Final Rule states that:

“The Secretary shall identify any significant activities that would either affect an area considered for designation as critical habitat or be likely to be affected by the designation, and shall, after proposing designation of such an area, consider the probable economic and other impacts of the designation upon proposed or ongoing activities” (Final Rule, 78 FR 53058-01).

Additionally, the Final Rule states; *“Each states that the rule will, to the maximum extent practicable, “include a brief description and evaluation of those activities (whether public or private) that . . . may adversely modify such habitat or [may] be affected by such designation” (Final Rule, 78 FR 53058-01).*

The above process was not followed in the current proposed critical habitat designation process. Instead the agency used an unreasonably strict interpretation of the Regulatory Flexibility Act to circumvent the current policies and practices required by the Final Rule.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires Federal agencies must provide analysis on the impact of the rule on small businesses, small organizations, and small government jurisdictions. Regulatory flexibility analysis is not required if the head of an agency, or his designee, certifies that the rule will not have a significant economic impact on a substantial number of small entities (Endangered and Threatened Wildlife and Plants; Revisions to the Regulations for Impact Analyses of Critical Habitat, 78 FR 53058-01). The USFWS states its responsibility under the RFA, then ignores the requirements of the Act in the agency's implementation and application of the RFA.

As identified by the DEA, the proposed critical habitat designation would have management implications to fishing stocking, hydrological energy production (dams and diversions), timber, grazing, and recreation activities over nearly two million acres in 16 counties. Yet the DEA states that no small businesses or governments would be impacted by the designation and provides no analysis on economic impacts to these activities.

As stated above, the head of the agency may certify that the rule will not have a significant economic impact on a substantial number of small entities, but this requirement cannot be circumvented by merely certifying that small business will not be affected. The agency cannot merely ignore the reality of probable impacts that will occur if the designation goes forward as proposed. The federal agency must provide a factual basis for a "no significant economic impact" certification. Here, the factual basis for the certification is lacking. In fact, the agency ignored substantial information on the record documenting the probable impacts of the proposed designation on small businesses, small organizations, and small government jurisdictions in order to make the requisite certification under the RFA.

The agency attempts to avoid recognizing the probable impacts of the critical habitat designation by applying what it terms a "strict interpretation" of the RFA. The agency states *"Under a strict interpretation of the Regulatory Flexibility Act (RFA), only Federal agencies are directly regulated by the designation of critical habitat. Because Federal agencies are not small entities, under this interpretation, the Service may certify that the proposed critical habitat rule will not have a significant economic impact on a substantial number of small entities."* (Economic Analysis of Critical Habitat Designation for Three Sierra Nevada California Amphibians, ES-14, paragraph 29). The agency's "strict interpretation" is convenient for the agency because it allows it to ignore actual impacts, but does not meet the requirements of the law.

The logical outcome of this argument is to strip the substance and intent of the Regulatory Flexibility Act. The USFWS is ignoring the probable impacts of the designation by limiting its analysis only to other federal agencies, not to the actions those agencies authorize, fund, or carry out. If this reasoning were applied to all critical habitat designations, the USFWS could ignore the probable impacts to small businesses and entities in all critical habitat designations. In essence, the agency is arguing the Regulatory Flexibility Act does not apply to critical habitat designations, which is contrary to the law. But the agency's strict interpretation goes further by only recognizing certain federal agencies and not all agencies impacted by the critical habitat designation. The USFWS states that *"The National Marine Fisheries Service and the Fish and Wildlife Service are the only entities that are directly regulated by this rule because*

we are the only entities that can designate critical habitat. No external entities, including any small businesses, small organizations, or small governments, will experience any economic impacts from this rule” (Endangered and Threatened Wildlife and Plants; Revisions to the Regulations for Impact Analyses of Critical Habitat, 78 FR 53058-01)

The USFWS ignores the impacts to the CDFW, USFS and NPS which it has already, in its economic analysis and through communications at public hearings, admitted are impacted by the critical habitat designation. The DEA states: *“Although CDFW’s fish stocking activities are not normally federally-regulated or permitted, CDFW’s fish stocking program may have a Federal nexus for section 7 consultation through federally-funded programs of the Sport Fish Restoration Act (SFRA) and/or through revision of CDFW’s memorandum of understanding (MOU) with the USFS for fish stocking activities on National Forest lands.”* (Economic Analysis of Critical Habitat Designation for Three Sierra Nevada California Amphibians, ES-16, paragraph 8). Though the DEA acknowledges the potential Federal nexus associated with CDFW’s fish stocking activities, the DEA does not examine the potential economic impact the proposed critical habitat designation will have on public and private entities based on required modifications to those activities.

Impacts of the Proposed Rule

The proposed rule for listing the Mountain Yellow Legged Frog (MYLF) states that the habitat must be free of fish and other introduced predators (Endangered and Threatened Wildlife and Plants; 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, 78 FR 24516-01). This “free of fish” requirement impacts the CDFW fish stocking program and High Mountain Lakes Project, the NPS Sequoia and Kings National Parks Restoration of Native Species in High Elevation Aquatic Ecosystems Plan, and ongoing Yosemite National Park programs to protect the MYLF. In addition, the critical habitat designation as written will change the way the various regulatory agencies manage recreational fishing in their separate jurisdictions.

CDFW is currently managing a fish stocking program on federally managed lands. This program provides substantial fishing opportunities to visitors to the Inyo National Forest and additional economic benefits to the local communities which the visitors use as base locations to visit the forest. This program is subject to section 7 consultation and, based on the proposed regulation as written, will not be allowed to continue. Fish stocking cannot be allowed in a habitat designated by the agency as required to “be free of fish and other introduced predators.” The termination of fish stocking will have a substantial impact on visitor use days that will directly translate to reduction in visitor spending in local businesses and communities.

In addition, the Sequoia, Kings Canyon and Yosemite National Parks implemented programs for protecting the yellow-legged frog while encouraging recreational fishing. The proposed regulations will also affect their approach to protecting the yellow-legged frog and will negatively impact recreational fishing in those National Parks, which are a tourist draw to Inyo County. The current program in the National Parks protects recreational fishing while also providing the yellow-legged frog with essential habitat. If NPS is required to implement the “free of fish” requirement in designated critical habitat in the Parks, then they will be required to prioritize many of the excellent fishing lakes as priority lakes for yellow-legged frogs and remove the fish from those lakes. The DEA forecasts economic impacts associated with consultation for future fish removal activities, but does not provide analysis of the cost to implement non-native fish removal.

The DEA indicates that the Proposed Rule would not trigger any state or local laws, and provides no analysis of economic impacts to state or local governments. This assertion is simply false, since Inyo County is already carrying the burden of increased administrative costs associated with additional environmental review and planning processes to accommodate potential critical habitat. Impacts to state and local governments should be considered and evaluated in the final economic analysis.

Concerns Regarding the Proposed Rule

Inyo County maintains the position that the proposed rule provides insufficient evidence to make a determination as set forth in the Endangered Species Act to warrant listing the species as threatened or endangered, and fails to identify specific areas that contain physical or biological features essential for the conservation of the species at the time of listing.

The habitat or range of the species is not being threatened with destruction or modification. In fact, much of the habitat is in designated wilderness area. The USFWS recognized this fact in the Proposed Rule, when it stated "physical habitat destruction does not appear to be the primary factor associated with the decline of mountain yellow-legged frogs." The Proposed Rule states "currently, recreational activities are considered a threat of low significance to the species' habitat overall," and fails to present scientific evidence for any conclusion that recreation should be considered a threat to the species. Several published scientific papers are available which indicate that there is no impact from grazing on the amphibians, and that there may in fact be a positive relationship between grazing and amphibian populations (Roche, LM, et al 2012, Cattle grazing and conservation of a meadow-dependent amphibian species in the Sierra Nevada).

The County is further concerned with the conclusion presented in the Proposed Rule that the most likely decline of the Sierra Nevada and Mountain Yellow-Legged Frog and Yosemite Toad is introduced trout. Scientific evidence overwhelming indicates that the most significant threat to the species is chytrid fungus. Of the threats to the Yellow-legged frog, the lethal chytrid fungus disease must be acknowledged as capable of single-handedly exterminating existing populations. If the fungus is not sufficiently curtailed, none of the other threats are relevant. Even if non-native fish could be eradicated in fungus-infected waters, frogs would still not be able to recolonize the site. Further, eradication of self-sustaining trout populations in highly connected watersheds, is financially infeasible, if even possible. It must be acknowledged that modifications to fish stocking, recreation, access, grazing, and other economic activities will not be sufficient to restore populations of the species in light of the chytrid fungus.

Concerns Regarding the Draft Economic Analysis

The DEA identifies the following economic activities as potential threats to the amphibians: fish persistence and stocking; dams and water diversions; grazing; fuels reduction and timber harvest; and recreation. As stated above, Inyo County's primary economic concerns include modifications impacts to fishing stocking, grazing and recreation activities as a result of the critical habitat designation. Review of the best available science indicates threats included in the economic analysis have been overstated or incorrectly identified.

Similar impacts were reviewed in an Economic Analysis of Critical Habitat Designation for the Mountain Yellow-Legged Frog in August 2006 (2006 Economic Analysis), for a proposed critical habitat covering 8,770 acres in Los Angeles, San Bernardino, and Riverside Counties. The analysis was completed by the same contractor that completed the proposed economic analysis for this critical habitat designation (2013 Economic Analysis). The 2006 Economic Analysis found "*Total future impacts, including costs resulting from modification to fishing and other types of activity, range from \$11.4 million to \$12.9 million (undiscounted) over twenty years*" (2006 Analysis, ES-2) and that "*Recreational trout fishing comprised 57% of the impacts*(2006 Analysis, ES-5). The currently proposed critical habitat designation is over 200 times larger than that proposed in southern California, yet the 2013 Economic Analysis found only \$17,500 in impacts over 17 years and 100% of that was attributed to consultation between the agencies (2013 Economic Analysis, ES-11).

In contrast, an economic impact analysis of the currently proposed critical habitat designation prepared for Inyo County found that restrictions placed on fishing stocking, recreation and grazing would have devastating consequences to Inyo County's fragile economy. The study indicated that if visitors chose to vacation elsewhere due to restrictions to fish stocking and other recreational activities, including hiking and backpacking, the economic impact to the Inyo County could be as high as \$17 million annually. Between 25 and 40 percent of businesses that primarily cater to recreational activities within the critical habitat area could be detrimentally impacted by management actions intended to reduce threats to the species as identified in the proposed listing and designation. In addition, restrictions to grazing allotments could result in estimated losses of \$6.9 million over 20 years. (See Attachment A: Socio-Economic Impact on Inyo County of the Proposed Designation of Critical Habitat for the Sierra Nevada Yellow-Legged Frog, Mountain Yellow-Legged Frog and Yosemite Toad, Gruen Gruen + Associates).

The DEA failed to provide any analysis of the direct economic impacts that would result from implementation of conservation efforts requested by USFWS to avoid potential adverse modification to critical habitat, including consideration of impacts to numerous federally permitted businesses that operate within the proposed critical habitat area, and direct economic losses associated with restricted access and recreational opportunities. The DEA indicates that direct economic impacts associated with fish stocking and recreation would be limited to administrative costs; however, as a result of the 2006 critical habitat designation in Los Angeles, San Bernardino, and Riverside Counties, a U.S. District Court Judge ordered the ongoing closure of areas of the Angeles National Forest, including rerouting 4.5 miles of the Pacific Crest Trail. Similar closures or access restrictions in Inyo County would have devastating impacts to our regional economy. The DEA suggests that the local economy will be able to make long-term adjustments in response to regulatory changes and management actions. As described in the economic analysis prepared for Inyo County, impacts of this scale are difficult if not impossible to adjust to, particularly given Inyo County's unique economic constraints.

Based on the tremendous discrepancy between the findings of Inyo County's economic analysis and the USFWS economic analysis, as well as the large discrepancies between USFWS process used in the 2006 Economic Analysis and 2013 Economic Analysis, analyzing the same species, Inyo County requests the USFWS complete a new economic analysis on the proposed critical habitat designation. This new economic analysis should follow the letter and intent of the RFA and the Final Rule recognizing all the probable economic impacts, public and private, created by the designation.

Secretary's Discretion

Section 4(b)(2) of the Endangered Species Act provides the Secretary with the discretion to make revisions to the critical habitat designation based on "the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat" (Endangered and Threatened Wildlife and Plants; 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, 78 FR 24516-01).

However, the problem with the current process is that the Secretary has not been provided with the best available scientific data. The best and most knowledgeable scientists from the agencies are not in agreement with the position the USFWS has taken on the need to designate critical habitat. The economic impact is a cursory document measuring, evaluating and monetizing only the consultation cost of the designation and avoiding most of the probable economic impacts to local businesses and communities. Because the Secretary has not been provided the required information needed to make a reasoned decision, the Secretary is not able to effectively exercise the discretion with which the Secretary is empowered.

Conclusion

Inyo County is committed to working with its State and Federal partners to preserve and promote the recovery of these species, while protecting our cultural heritage, economy and connection to public lands. Inyo County requests the Secretary consider the following recommendations in preparing the final species listing and critical habitat designation rule, which address our primary concerns with the proposed rule.

As stated above, the rule as it is currently written would not allow for CDFWs fish hatcheries programs to continue in the critical habitat area. Inyo County requests the rule eliminate language requiring that the proposed critical habitat area must be “free of fish and other introduced predators.” The County also requests that recreation and grazing be removed as threats to the species from the Final Rule based on published scientific studies and USFWS own admission that they are not.

Inyo County requests USFWS revise the proposed rule to incorporate specific recommendations provided by the CDFW in their comments regarding Federal Register Vol.78 No.80, dated November 11, in which CDFW states *“The Department believes the information contained within the Proposed Rule, does not make a convincing argument that designating Critical Habitat would substantially benefit the species (i.e., the prudence determination is weakly supported). As a result, the Department recommends the Service not designate Critical Habitat for the mountain yellow-legged frog complex.”*

Should USFWS decide to designate critical habitat for the YMLF and Yosemite Toad, Inyo County recommends the agency consider the following exclusions:

First, there is a substantial portion of the designation that should not have been included in the original designation because it did not meet the criteria of “specific areas within the geographic area occupied by a species.” Much of the area designated by the agency is not occupied by the species, has never been occupied by the species, and will not be occupied by the species in the future. This revision to the critical habitat designation would not be discretionary by the Secretary. It would be required because it does not meet the minimum criteria required by the Endangered Species Act. This position is also recommended by the CDFW, which made the following comments: *“The description of the currently proposed Critical Habitat units does not specifically exclude many habitats that are not necessary for the recovery of the species. For example, within the northern Sierra Nevada (Subunits 1A, 1B, 2A, 2B, 2C, 2F & 2G), the Service includes 26 front country reservoirs occupied by self-sustaining, non-native fishes and managed as hydroelectric projects. In the eastern Sierra Nevada, the Service includes steep, low elevation stream habitat, much of which is ephemeral. It is the Department’s opinion that habitats, which are clearly not critical to mountain yellow-legged frog complex conservation, should be deliberately excluded from the delineation.”*

If the agency does not revise its critical habitat area based on a review of our comments and concerns, then we request the Secretary consider excluding all areas outside wilderness boundaries. Most areas outside wilderness boundaries are easily accessed and heavily used by recreationalists. These areas are important for fishing, hiking, bouldering, and other recreational uses and are vital to the economies of the local communities. In a time when drought is impacting both summer and winter economic activities, it is essential that the USFWS does not close off additional economic activity, especially when it has not been identified as essential by the scientific experts that created the “best science” upon which the agency depends for its designation. The County of Inyo believes the benefits of excluding the areas outside wilderness boundaries outweigh the benefits of including the area as critical habitat.

Additionally, the County of Inyo requests the following lakes and basins be excluded from the designation based on their high use and importance to the economies of the local communities. These areas have been identified in consultation with the CDFW and reflect their recommendations based on the High Mountain Lakes Project. Inyo County also requests that USFWS adopt CDFW's evaluative process established by the High Mountain Lakes Project for determining lakes for rehabilitation of habitat as the foundation for their species recovery plan.

Inyo County Lakes and Basins Requested to be Excluded from Proposed Critical Habitat			
Location (and Subunit)	Deficient Primary Constituent Elements¹ Section 3(5)(A)(i)	Exclusion Benefits Section 4(b)(2)	Resulting in Extinction Section 4(b)(2)
1. South Lake (Subunit 3E)	<ul style="list-style-type: none"> • Self-sustaining fish population • Large, deep and well-connected: fish removal is impractical • Easily accessed, heavily used fishery and recreation area • Existing Southern California Edison (SCE) power-generation dam limits habitat quality. Reservoir is frequently drained and is not suitable for habitat. • Would be contingent on removing fish from upstream watershed. • Not in Wilderness Boundary. 	<ul style="list-style-type: none"> • Assurance of existing electrical generation capacity for the state from renewable resources • Site visits to this popular fishery support the estimated annual \$17 million fishing, hiking, backpacking, and outdoor recreation sector of the Inyo County economy. 	No foreseeable justification: this location is not included as a potential recovery site in CDFW's High Mountain Lakes Project as it does not meet selection criteria.
2. South fork of Bishop Creek beginning at and downstream from Bishop Lake (Subunit 3E)	<ul style="list-style-type: none"> • Self-sustaining fish population • Large, deep and well-connected: fish removal is impractical and dispersal barriers are few • Easily accessed, heavily used fishery and recreation area. 	<ul style="list-style-type: none"> • Site visits to this popular fishery support the estimated annual \$17 million fishing, hiking, backpacking, and outdoor recreation sector of the Inyo County economy. 	No foreseeable justification: this location is not included as a potential recovery site in CDFW's High Mountain Lakes Project.
3. Treasures Lakes 1 and 2, and downstream (Subunit 3E)	<ul style="list-style-type: none"> • Self-sustaining fish population • Large, deep and well-connected: fish removal is impractical • Easily accessed, heavily used fishery and recreation area, 	<ul style="list-style-type: none"> • Site visits to this popular fishery support the estimated annual \$17 million fishing, hiking, backpacking, and outdoor recreation sector of the Inyo County economy. 	No foreseeable justification: this location is a low priority as a potential recovery site in CDFW's High Mountain Lakes Project.

¹ Analysis is consistent with individual management unit plans from CDFW Region 6's High Mountain Lakes Project.

	including one of the only fisheries with Golden Trout.		
4. Lamarck Creek, beginning at and including Upper and Lower Lamarck Lakes and Grass Lake (Subunit 3E)	<ul style="list-style-type: none"> • Self-sustaining fish population • Easily accessed, heavily used fishery and recreation area. • Large, deep and well-connected: fish removal is impractical 	<ul style="list-style-type: none"> • Site visits to this popular fishery support the estimated annual \$17 million fishing, hiking, backpacking, and outdoor recreation sector of the Inyo County economy. 	No foreseeable justification: this location is not included as a potential recovery site in CDFW's High Mountain Lakes Project.
5. North Fork of Bishop Creek in the Paiute Pass drainage, beginning at and downstream from Paiute Pass (Subunits 3E, 13)	<ul style="list-style-type: none"> • Self-sustaining fish population • Well-connected: fish removal is impractical and dispersal barriers are few • Easily accessed, heavily used fishery and recreation area • This area is a CDFW experimental fishery, developed in collaboration with local business and stakeholders. 	<ul style="list-style-type: none"> • Site visits to this popular fishery support the estimated annual \$17 million fishing, hiking, backpacking, and outdoor recreation sector of the Inyo County economy. 	No foreseeable justification: this location is not included as a potential recovery site in CDFW's High Mountain Lakes Project.
6. Rock Creek Lake (Subunit 3D)	<ul style="list-style-type: none"> • Self-sustaining fish population • Large, deep and well-connected: fish removal is impractical and dispersal barriers are few • Easily accessed, heavily used fishery and recreation area • <i>Bd</i> fungus positive: recolonization efforts by the CDFW have been unsuccessful • Would be contingent on removing fish from upstream watershed. 	<ul style="list-style-type: none"> • Site visits to this popular fishery support the estimated annual \$17 million fishing, hiking, backpacking, and outdoor recreation sector of the Inyo County economy. 	No foreseeable justification: this location is not included as a potential recovery site in CDFW's High Mountain Lakes Project as it does not meet selection criteria
7. Rock Creek downstream from Chickenfoot and Ruby Lakes (Subunit 3D)	<ul style="list-style-type: none"> • Self-sustaining fish population • Well-connected: dispersal barriers are few • Easily accessed, heavily used fishery and recreation area 	<ul style="list-style-type: none"> • Site visits to this popular fishery support the estimated annual \$17 million fishing, hiking, backpacking, and outdoor recreation sector of the Inyo County economy. 	No foreseeable justification: this location is not included as a potential recovery site in CDFW's High Mountain Lakes Project as it does not meet selection criteria.

	<ul style="list-style-type: none"> • <i>Bd</i> fungus positive: recolonization efforts by the CDFW have been unsuccessful. 		
8. Pine Creek, beginning at and downstream of Golden Lake (Subunit 13)	<ul style="list-style-type: none"> • Self-sustaining fish population • Large, deep and well-connected: fish removal is impractical • Easily accessed fishery and recreation area • Fish removal is not a threat to Yosemite Toad, so fish removal should not be considered a management strategy. 	<ul style="list-style-type: none"> • Site visits to this popular fishery support the estimated annual \$17 million fishing, hiking, backpacking, and outdoor recreation sector of the Inyo County economy. 	No foreseeable justification: this location is not included as a potential recovery site in CDFW's High Mountain Lakes Project as it does not meet selection criteria.
9. Robinson Lake (Subunit 3F)	<ul style="list-style-type: none"> • Self-sustaining fish population • Isolated, poor habitat • Moderately-easy to access fishery and recreation area • Not in Wilderness Boundary. 	<ul style="list-style-type: none"> • Site visits to this popular fishery support the estimated annual \$17 million fishing, hiking, backpacking, and outdoor recreation sector of the Inyo County economy. 	No foreseeable justification: this location is not included as a potential recovery site in CDFW's High Mountain Lakes Project.
10. The North Fork of Independence Creek, beginning at and downstream from Heart Lake (Subunit 3F)	<ul style="list-style-type: none"> • Self-sustaining fish population • Large, deep and well-connected: fish removal is impractical • Easily accessed, heavily used fishery and recreation area. 	<ul style="list-style-type: none"> • Site visits to this popular fishery support the estimated annual \$17 million fishing, hiking, backpacking, and outdoor recreation sector of the Inyo County economy. 	No foreseeable justification: this location is not included as a potential recovery site in CDFW's High Mountain Lakes Project.
11. The North Fork of Big Pine Creek, beginning at and downstream of Third Lake (Subunit 3E)	<ul style="list-style-type: none"> • Self-sustaining fish population • Easily accessed, heavily used fishery and recreation area • CDFW experimental fishery • <i>Bd</i> fungus positive: existing population has been recently infected and potentially extirpated. 	<ul style="list-style-type: none"> • Site visits to this popular fishery support the estimated annual \$17 million fishing, hiking, backpacking, and outdoor recreation sector of the Inyo County economy. 	No foreseeable justification: this location is not included as a potential recovery site in CDFW's High Mountain Lakes Project.
12. Baker Creek beginning at and downstream from Thunder and Lightning Lake	<ul style="list-style-type: none"> • Self-sustaining fish population • Well-connected: fish removal is impractical and dispersal barriers are few • Easily accessed, heavily used fishery and 	<ul style="list-style-type: none"> • Site visits to this popular fishery support the estimated annual \$17 million fishing, hiking, backpacking, and outdoor recreation sector of the Inyo County economy. 	Not applicable: recolonization attempts have been unsuccessful, demonstrating this location is not available for the recovery of the species.

(Subunit 3E)	<p>recreation area</p> <ul style="list-style-type: none"> • Bd fungus positive existing population has been recently infected and potentially extirpated. 		
13. The Coyote Flats – the West Fork of Coyote Creek, downstream of Coyote Lake, Baker Creek (Bd positive), and Cow Creek (Bd positive) (Subunit 3E)	<ul style="list-style-type: none"> • <i>Bd</i> fungus positive • Easily accessed OHV and recreation area • Grazing lease • Rocky Bottom Lake and Funnel Lake seasonal snowmelt lakes and therefore are unsuitable habitat for frogs • Not in Wilderness Boundary. 	<ul style="list-style-type: none"> • Site visits to this popular fishery support the estimated annual \$17 million fishing, hiking, backpacking, and outdoor recreation sector of the Inyo County economy. • Grazing leases in the Coyote Flats supports approximately 400 head of cattle, which represents an estimated \$376,000 contribution the agriculture sector of the Inyo County economy. 	Not applicable: recolonization attempts have been unsuccessful, demonstrating this location is not available for the recovery of the species.
14. Mulkey Meadows (Subunit 5B)	<ul style="list-style-type: none"> • Grazing lease • Native populations of Golden Trout • Bd fungus positive – though populations have subsisted. 	<ul style="list-style-type: none"> • Site visits to this popular fishery support the estimated annual \$17 million fishing, hiking, backpacking, and outdoor recreation sector of the Inyo County economy. • Grazing leases in Mulkey Meadows supports approximately 235 head of cattle, which represents an estimated \$221,000 contribution the agriculture sector of the Inyo County economy. 	No foreseeable justification: this location is not included as a potential recovery site in CDFW's High Mountain Lakes Project.
15. Birch Creek ²	<ul style="list-style-type: none"> • Easily accessed OHV and recreation area. • Grazing lease 	<ul style="list-style-type: none"> • Site visits to this popular fishery support the estimated annual \$17 million fishing, hiking, backpacking, and outdoor recreation sector of the Inyo County economy. 	No foreseeable justification: this location is not included as a potential recovery site in CDFW's High Mountain Lakes Project.

We appreciate your consideration of our concerns and thank you for the opportunity to comment on the proposed listing, critical habitat designation and draft economic analysis. We hope that this information will assist USFWS in revising the proposed listing, critical habitat designation, and draft economic analysis to

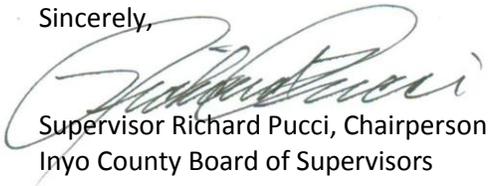
² The County requests that Birch Creek be removed from consideration for expanding the Critical Habitat area per the suggestion of the US Forest Service.

Mr. Douglas Krofta
February 25, 2014
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accurately identify appropriate habitat for recovery of the species, while minimizing the economic and social impacts to our businesses and communities.

To discuss further, please contact the County's Administrative Officer, Kevin Carunchio, at (760) 878-0292 or kcarunchio@inyocounty.us.

Sincerely,



Supervisor Richard Pucci, Chairperson
Inyo County Board of Supervisors

Attachments:

Attachment A: Socio-Economic Impact on Inyo County of the Proposed Designation of Critical Habitat for the Sierra Nevada Yellow-Legged Frog, Mountain Yellow-Legged Frog and Yosemite Toad, Gruen Gruen + Associates

Attachment B: Critique of "Economic Analysis of Critical Habitat Designation For Three Sierra Nevada California Amphibians" An August 27 ,2013 draft prepared for U.S. Fish and Wildlife Service, Gruen Gruen + Associates

cc: Board of Supervisors
County Administrative Officer
County Counsel
Planning Director
Secretary Jewell, U.S. Department of Interior
Secretary Vilsack, USDA
Doug Wilson, Willdan
Rural County Representatives of California
California State Association of Counties
National Association of Counties
Fresno County
Tulare County
Mono County
Ren Lohofener, U.S. Fish and Wildlife Service
Dan Ashe, U.S. Fish and Wildlife Service
Jan Knight, U.S. Fish and Wildlife Service
Carl Benz, U.S. Fish and Wildlife Service
Stephanie Weagley, U.S. Fish and Wildlife Service
Ed Armenta, Inyo National Forest
Chief Tidwell, US Forest Service
Charlton Bonham, California Department of Fish and Wildlife
Kimberly Nicol, California Department of Fish and Wildlife
Heidi Sickler, California Department of Fish and Wildlife
Public Comments Processing, Attn.: FWS-R8-ES-2012-0100 and FWS-R8-ES-2012-0074