



## BOARD OF SUPERVISORS COUNTY OF INYO

P. O. BOX N • INDEPENDENCE, CALIFORNIA 93526  
TELEPHONE (760) 878-0373 • FAX (760) 878-2241  
e-mail: [pgunsolley@inyocounty.us](mailto:pgunsolley@inyocounty.us)

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June 18, 2013

Public Comments Processing, Attn.: FWS-R8-ES-2012-0100 and FWS-R8-ES-2012-0074  
Division of Policy and Directives Management  
U.S. Fish and Wildlife Services  
4401 N. Fairfax Drive, MS 2042-PDM  
Arlington, VA 22203

**Re: 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**

To Whom It May Concern:

On behalf of the Inyo County Board of Supervisors, thank you again for inviting us to participate in development of regulations to protect the above species. As indicated in our June 4 correspondence, we are committed to working with you to reverse their decline, but we are deeply concerned about the potential impact to our economy, society, and culture. Based on feedback from U.S. Fish and Wildlife Service (USFWS) staff, we understand that additional opportunities for input will be afforded, and we look forward to coordinating with you throughout this process to work to achieve conservation of the species while avoiding significant impacts to our way of life.

As a procedural matter, it appears that the proposed critical habitat areas have been proposed prematurely. Critical habitat may only be proposed based on the best available scientific data *after* taking into consideration economic impacts of the designation, as well as other considerations such as the social impacts of such a listing. It appears that proposed areas have been designated based on their potential to host these species, with no consideration of the enormous economic impacts to this County (and the region) from doing so and no consideration of the designations' effects on the social and cultural milieu of the area. It is irresponsible to advance such a proposal prior to engaging in these required preliminary analyses.

We believe that substantial evidence exists to avoid listing of the species. Further, we believe that the proposed critical habitat areas in our County are overly expansive; portions of these areas do not accommodate habitat that is truly critical for the species and their designation will unduly harm our society, culture, and economy. Many actions have been taken to successfully protect these species without listing them as endangered. Nevertheless, USFWS is now proposing to list these species, despite the fact they exist in numerous areas throughout the Sierra, in significant numbers in some areas. Due to the short time frame to gather evidence during this comment period, we intend to provide additional evidence to show these species continue to be viable and are not endangered within the current management regime.

According to the proposed rules, the subject amphibians are being impacted primarily by climate change, pollution, and infection, and that recreation, grazing, packstock use, fire management, and roads are marginal culprits, if at all. If one is to assume that climate change, pollution, and infection are the primary stressors, then it is irrational to curtail these other uses since such actions would have marginal benefits at best. On page 24484 of the Federal Register Notice it states "threats from recreational foot traffic, camping, and timber harvest and related activities are not quantified, but they are not thought to be major drivers of frog population dynamics." In particular, trout-stocking, recreation, road building, and agricultural activities have been taking place since the 19<sup>th</sup> century and before, but the described decline in the amphibians is more recent. Anecdotal evidence suggests that grazing may be beneficial to amphibians, by clearing choking vegetation and minimizing fire damage. We have seen little discussion or evaluation of these habitats, which lead us to question the tenor of the proposed rule proposing to eliminate fish from critical habitat for these species.

Our economy is based primarily on service-related recreation activities, but also includes important agricultural sectors tied to grazing in the Sierra Nevada. Our economists, Gruen + Gruen Associates, have prepared the attached preliminary economic assessment. As indicated, both the proposed listing of endangered species and, to a greater degree, the proposed designation of critical habitat, have the potential to significantly reduce the scale and viability of the County's critical basic industry. We are particularly concerned about impacts to recreational activities occurring in the Rock Creek, Bishop Creek, and Big Pine Creek drainages, and on Coyote Flat. The proposed listings and critical habitats in these areas have the potential to devastate our economy.

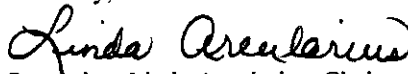
We know from our past experiences that our way of life is threatened. We have lived through the continuing degradation of access to the lands that have traditionally sustained us, and this proposal with others is significant and upsetting. Our forefathers and ancestors before them made their living and recreated in the Sierra Nevada, and the cumulative impacts are working to destroy our cultural-historic link to these lands. Numerous studies prove the links between declining agriculture and increased urbanization in other parts of California and beyond, and these proposals will result in secondary impacts to our traditional agricultural heritage. These effects must be considered in the rule-making processes.

Per our June 4 correspondence, we request that research continue into the links between declining species vigor and suspected causal variables. We also believe that mitigation measures can and should be promulgated and implemented to minimize potential impacts to the species in any critical habitat areas, while providing for continued access for grazing, recreation, off-road vehicles, and fishing. We know it is possible to protect the habitat for these amphibians without destroying the economy of our county. Good progress has been made already. This over-reaching proposal is exactly the wrong solution for the people in our County, and is not necessary to preserve healthy and enduring populations of the proposed species.

We understand that public hearings and meetings will be scheduled for this project, and we look forward to participating. We request that public meetings be held in Inyo County and that USFWS staff brief the Board of Supervisors. We would be happy to assist in the logistics for the public meetings, and suggest that briefings before the Board of Supervisors be coordinated with the public meetings to reduce travel costs.

Thank you for the opportunity to provide input into this important rulemaking process. If you have any questions, please contact the County's Administrative Officer, Kevin Carunchio, at (760) 878-0292 or [kcarunchio@inyocounty.us](mailto:kcarunchio@inyocounty.us).

Sincerely,

  
Supervisor Linda Arcularius, Chairperson  
Inyo County Board of Supervisors

Attachment

cc: Board of Supervisors  
County Administrative Officer  
County Counsel  
Planning Director  
Doug Wilson, Willdan  
Regional Council of Rural Counties  
California State Association of Counties  
Fresno County  
Tulare County  
Mono County  
National Association of Counties  
Secretary Jewell, U.S. Department of Interior  
Dan Ashe, U.S. Fish and Wildlife Service  
Robert Moler, U.S. Fish and Wildlife Service  
Stephanie Weagley, U.S. Fish and Wildlife Service  
Ed Armenta, Inyo National Forest

**INITIAL COMMENTS ON POTENTIAL ECONOMIC AND SOCIAL IMPACTS  
OF FROG AND TOAD RELATED LISTINGS AND  
DESIGNATIONS OF HABITATS BY THE FISH & WILDLIFE SERVICE**

**The Role of Outdoor Recreation in the Private Economy of Inyo County**

Since 1928, urban and regional economists have categorized business or industrial sectors of a local or regional economy into “basic” and “non-basic” activities. This approach to economic analysis was first developed by Robert M. Haig in 1928, working on the Regional Plan of New York. It provides a very useful way of conceptualizing the division between activities that bring jobs and income into an area, and those that prosper by supporting the activities that bring dollars into the area, as well as other businesses that directly or indirectly obtain their income from supporting these basic industries. Typically, the total income and wealth potential of a region’s economy can be approximated by estimating the total jobs and income base of the area as a multiple of its basic activities.

As demonstrated by the 2011 sector employment data for Inyo County shown on Table 1, and the income data for that same year shown on Table 2, recreation is such an important basic industry to the Inyo County private sector economy that it can correctly be identified as a critical basic industry. The subsets of economic activities summarized as “Leisure and Hospitality” accounted for a little more than 24 percent of private employment in the County, and about 16 percent of private sector income. A review of the history of the County’s economy reveals that the role played by recreational activities in bringing dollars into the County in 2011 is quite typical of the pattern seen for decades.

The non-basic sectors of the County’s economy, such as Retail Trade, Transportation and Warehousing, Services of all types and Others, would generate significantly fewer local jobs and much less income if the basic income stream contributed by those who recreate in the County were to diminish. As discussed below, both the proposed listing of endangered species and, to a greater degree, the proposed designation of critical habitat, have the potential for significantly reducing the scale and viability of the County’s critical basic industry.



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**GRUEN GRUEN+ASSOCIATES  
595 MARKET STREET, SUITE 1180  
SAN FRANCISCO, CA 94105-2822**

**TEL (415) 433-7598  
FAX (415) 989-4224  
SF@GGASSOC.COM**

<b>Table 1</b>		
<b>INYO COUNTY EMPLOYMENT: 2011</b>		
	<b>#</b>	<b>%</b>
Forestry, fishing, and related activities	52	0.7%
Mining & Utilities	373	5.2%
Construction	415	5.8%
Manufacturing	322	4.5%
Wholesale Trade	164	2.3%
Retail Trade	1,174	16.4%
Transportation & Warehousing	175	2.4%
Information	96	1.3%
FIRE	573	8.0%
Professional & Business Services	737	10.3%
Education & Healthcare	718	10.0%
Leisure & Hospitality	1,726	24.1%
Other Services	641	8.9%
<b>Private Nonfarm Employment</b>	<b>7,166</b>	<b>100.0%</b>
Government	3,152	
<b>Total</b>	<b>10,318</b>	

Source: Bureau of Economic Analysis; Gruen Gruen + Associates

<b>Table 2</b>		
<b>INYO COUNTY EARNINGS BY INDUSTRY: 2011</b>		
<b>(in thousands of dollars)</b>		
	<b>\$</b>	<b>%</b>
Forestry, fishing, and related activities	640	0.2%
Mining & Utilities	25,184	9.8%
Construction	17,038	6.7%
Manufacturing	33,625	13.1%
Wholesale Trade	8175	3.2%
Retail Trade	37718	14.7%
Transportation & Warehousing	4,279	1.7%
Information	3,502	1.4%
FIRE	8,221	3.2%
Professional & Business Services	28,423	11.1%
Education & Healthcare	25,302	9.9%
Leisure & Hospitality	40,305	15.7%
Other Services	23,641	9.2%
<b>Private Nonfarm Employment</b>	<b>256,053</b>	<b>100.0%</b>
Government	206,459	
<b>Total</b>	<b>462,512</b>	

Source: Bureau of Economic Analysis; Gruen Gruen + Associates



### **Potential Economic Impact of the Listing of the Sierra Nevada Yellow-Legged Frog, the Northern Distinct Population Segment (DPS) and the Yosemite Toad as Threatened Species**

Adding the two frog species and the toad species to the list of endangered and threatened wildlife under the Act is likely to curtail, and over time eliminate, fishing in all areas that currently host the frogs or toads. While it is not at all clear from reading the Fish & Wildlife Service report published in Volume 78, No. 80 of the Federal Register on April 25, 2013, whether the frog has the potential to survive the effects of climate change and disease epidemics, even if fishing and other outdoor recreational and grazing activities were not allowed, it is clear that fish stocking and the survival of naturally thriving fish have been found to be incompatible with the survival of the frog and toad. Thus, it would appear possible that the scientific evidence suggesting the possible extinction would provide the Agency with the authority to remove fish from all areas that now host the frog, whether or not they are declared as critical habitat. In the event the listing provides this authority, subsequent action could eliminate one of the most important attractions to recreation in Inyo County.

### **Economic Impact of Proposed Critical Habitat Designation**

Many of the areas the Fish & Wildlife Service proposes to designate as critical habitat for the Sierra Nevada Yellow-Legged Frog, the Northern Distinct Population Segment of the Mountain Yellow-Legged Frog and the Yosemite Toad are important magnets for recreational activities, including fishing, hiking, backpacking, camping, and boating. Some also support cattle grazing activities, and in one case, mining. Only a portion of the habitat the Service proposes to designate as critical, some of the areas in wilderness portions of the John Muir Wilderness and the Golden Trout Wilderness, are in Inyo County. As is true of other recreational magnets and access routes to such areas, demand for overnight visitor permits to wilderness areas has remained high. Further, during the May 1<sup>st</sup> through November 1<sup>st</sup> period, the number of days when quotas limited access averaged 247, with a high of 370 days for the fifty-eight trailheads with daily use quotas. In 2012, a total of 43,657 overnight permits were issued for the John Muir wilderness area.

Examples of proposed critical habitat areas that constitute economically and socially valuable recreational opportunities are listed below.

***Rock Creek Lodge/Resort*** – critical habitat is proposed for the Sierra Nevada Yellow-legged Frog in this area. The lodge and resort provide important revenues to the County from sales, use, and transient occupancy taxes. The lodge and resort are well-known destinations in the County and are important marketing tools. Together with the lodge and resort, numerous cabins provide property tax revenues to the County. Fishing opportunities are provided in Rock Creek, Rock Creek Lake, and in streams and lakes nearby and further into the back country. The area is famous for its fishing, hiking, camping, dining, site-seeing,



horseback riding, and numerous other recreation activities. It is an important staging area for hikes into the Sierra as well, includes a pack station, and several of the trails in the area are gentle and therefore conducive to family outings.

***Mt. Tom*** – critical habitat is proposed for the Sierra Nevada Yellow-legged Frog in this area. Mt. Tom provides excellent fishing and hiking opportunities.

***Pine Creek Canyon*** – critical habitat is proposed for the Sierra Nevada Yellow-legged Frog and the Yosemite Toad in this area. Pine Creek provides important fishing opportunities, and several trails provide access to day hikes and further exploration of the backcountry, with a pack station. The Pine Creek Mine was one of the largest tungsten mines in the world, and private property associated with the mine is located in the vicinity of the proposed critical habitat. Several mining claims lie in the vicinity, and hydropower development is being considered as well. Adaptive reuse of the mine lands, as well as further mining, potentially provide significant economic development opportunities.

***Bishop Creek*** – critical habitat is proposed primarily for the Sierra Nevada Yellow-legged Frog, but also the Yosemite Toad, in this area, including outside of Wilderness around South Lake. Bishop Creek Lodge. These areas provide significant recreation opportunities, including for camping, fishing, hiking, boating, hunting, family outings, horseback riding, and motorized access. Campgrounds with vehicle access are provided, and numerous pack stations, a boat ramp, and other recreational facilities are common. Fishing is popular in South Lake, as well as boating for fishing and other recreational purposes. The South Lake trailhead provides access to Bishop Pass and Kings Canyon National Park. Although not in the proposed critical habitat, Lake Sabrina provides similar opportunities that could be indirectly impacted by the designation. Hydropower generation is important throughout the drainage. Numerous trailheads provide access to nearby lakes and streams and other high-country fishing and recreational opportunities. Off-road vehicle recreation is also popular.

***Coyote Flats*** – critical habitat is proposed for the Sierra Nevada Yellow-legged Frog in this area. Fishing, hiking, camping, off-road vehicle recreation, hunting, picnicking, horseback riding, and a myriad of other recreational opportunities are popular in this area. Access to other recreational opportunities in the high country and Sierra escarpment is also utilized within the proposed critical habitat area. This area is used for cattle grazing, which supports a County ranching operation.

***Big Pine Canyon/Lakes*** – critical habitat is proposed for the Sierra Nevada Yellow-legged Frog in this area, which provides recreational access to the Palisade Glacier. These lakes provide recreation access for hiking, fishing, and climbing in particular, and cabins and a pack station provide important economic activity in the County.

***Onion Valley*** – critical habitat is proposed for the Sierra Nevada Yellow-legged Frog in this area. A campground and pack station lie within the proposed critical habitat. These facilities



provide access to fishing and hiking, both locally and higher in the Sierra. The Onion Valley trailhead provides access to Kearsarge Pass and Kings Canyon National Park.

It is clear from the proposed rule dealing with the necessity of trout eradication, as well as other introduced predators, what is not clear is whether this rule would apply to areas that currently do not host the yellow-legged frog. But the critical habitat designation would clearly provide an authority for what, in effect, would be a creation of critical habitat for frogs and toads in areas that currently do not host them, and this has the potential of disastrous long range effects on the critical basic elements in the Inyo County private economy.

It appears that to date, the Department of the Interior has made no effort to quantify the economic and social impact of this designation. Whether or not these significant economic impacts occur depends on whether the areas that currently serve as important magnets for recreational activities are excluded from the final critical habitat designation under Section 4(b)(2) of the Act and the implementing regulations at 50 CFR 424.19.

#### **Takings – Executive Order 12630**

On page 24543, under the heading “Takings – Executive Order 12630,” Federal Register Volume 78 No. 80 states as follows: “The takings implications assessment concludes that this designation of critical habitat for the Sierra Nevada Yellow-legged Frog, the Northern DPS of the Mountain Yellow-legged Frog, and the Yosemite Toad, does not pose significant taking implications for lands within or affected by the designation.” Since we read no exclusion of the privately-owned capital in the Rock Creek Resort, or in the tungsten mine located within one of the habitats, we doubt the validity of this quotation. In order to respond to Executive Order 12630, we request the Service to acknowledge the existence of private property, the taking of which will be commensurable if not excluded from the designation.

