



## 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

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June 3, 2014

Secretary Jewell  
U.S. Department of the Interior  
1849 C Street, N.W.  
Washington, DC 20240

**Re: Final Rule Listing the Sierra Nevada Yellow-Legged Frog and the Northern Distinct Population Segment of the Mountain Yellow-Legged Frog as endangered, and the Yosemite Toad as threatened**

Dear Secretary Jewell:

On behalf of the Inyo County Board of Supervisors, we wish to thank you for the opportunity to participate in development of the listing for the above species, and commend you and your staffs for the hard work you have undertaken to solicit the concerns of an alarmed public and incorporate them into the final rule. We are committed to working with you to reverse the decline of these species, and we recognize that these actions will require substantial efforts locally as well as regionally and nationally.

After reviewing the final rule, we have ongoing concerns that the listing may have detrimental impacts to our regional economy and cultural identity, particularly in regards to certain activities that may be interpreted as a violation of Section 9 of the Endangered Species Act. Pursuant to the listing, these activities would be considered a violation in certain instances where the frog is currently extant; however, activities which are otherwise lawful could be considered a violation throughout the species' historic range if the U.S Fish and Wildlife Service (Service) determines the critical habitat designation is warranted. Inyo County's economy is based primarily on agriculture and tourism, particularly recreational fishing, and any limitations on these activities throughout the exceptionally broad area proposed to be included in the designation would have disastrous consequences on our regional economy.

We urge the Service to refine the final critical habitat rule to make certain that otherwise lawful activities will not be unnecessarily curtailed or prohibited, including but not limited to; fish stocking and recreational angling, hiking, backpacking, equestrian activities including pack-stock, off-highway vehicle use, and other outdoor recreational activities. As established by an economic analysis of the proposed rule<sup>1</sup>, recreational activities in the proposed critical habitat area contribute approximately \$17,000,000 annually to our tourism-based economy. Restrictions to these activities would have an irreparable impact on our regional economy.

Additionally, we encourage the Service to be diligent in ensuring defined primary constituent elements included in the Final Rule specify only those features which are truly essential habitat for the species. Based on the final listing rule, this would exclude lower elevation lakes, where the species does not currently and has not historically existed, as well as highly valued and successful fisheries. We wish to reiterate our request that the following lakes be excluded from the critical habitat designation. This inventory was developed in partnership with the California Department of Fish and Wildlife, and is consistent with the High Mountain Lakes Project, as noted:

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<sup>1</sup> *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, 2014

**Inyo County Lakes and Basins Requested to be Excluded from Proposed Critical Habitat**

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

<sup>2</sup> Analysis is consistent with individual management unit plans from CDFW Region 6's High Mountain Lakes Project.

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Pass (Subunits 3E, 13)	<ul style="list-style-type: none"> <li>• This area is a CDFW experimental fishery, developed in collaboration with local business and stakeholders.</li> </ul>		
5. Rock Creek Lake (Subunit 3D)	<ul style="list-style-type: none"> <li>• Self-sustaining fish population</li> <li>• Large, deep and well-connected: fish removal is impractical and dispersal barriers are few</li> <li>• Easily accessed, heavily used fishery and recreation area</li> <li>• <i>Bd</i> fungus positive: recolonization efforts by the CDFW have been unsuccessful</li> <li>• Would be contingent on removing fish from upstream watershed.</li> </ul>	<ul style="list-style-type: none"> <li>• Site visits to this popular fishery support the estimated annual \$17 million fishing, hiking, backpacking, and outdoor recreation sector of the Inyo County economy.</li> </ul>	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
6. Rock Creek downstream from Chickenfoot and Ruby Lakes (Subunit 3D)	<ul style="list-style-type: none"> <li>• Self-sustaining fish population</li> <li>• Well-connected: dispersal barriers are few</li> <li>• Easily accessed, heavily used fishery and recreation area</li> <li>• <i>Bd</i> fungus positive: recolonization efforts by the CDFW have been unsuccessful.</li> </ul>	<ul style="list-style-type: none"> <li>• Site visits to this popular fishery support the estimated annual \$17 million fishing, hiking, backpacking, and outdoor recreation sector of the Inyo County economy.</li> </ul>	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. Pine Creek, beginning at and downstream of Golden Lake (Subunit 13)	<ul style="list-style-type: none"> <li>• Self-sustaining fish population</li> <li>• Large, deep and well-connected: fish removal is impractical</li> <li>• Easily accessed fishery and recreation area</li> <li>• Fish removal is not a threat to Yosemite Toad, so fish removal should not be considered a management strategy.</li> </ul>	<ul style="list-style-type: none"> <li>• Site visits to this popular fishery support the estimated annual \$17 million fishing, hiking, backpacking, and outdoor recreation sector of the Inyo County economy.</li> </ul>	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.
8. Robinson Lake (Subunit 3F)	<ul style="list-style-type: none"> <li>• Self-sustaining fish population</li> <li>• Isolated, poor habitat</li> <li>• Moderately-easy to access</li> </ul>	<ul style="list-style-type: none"> <li>• Site visits to this popular fishery support the estimated annual \$17 million fishing,</li> </ul>	No foreseeable justification: this location is not included as a potential recovery

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	fishery and recreation area <ul style="list-style-type: none"> <li>• Not in Wilderness Boundary.</li> </ul>	hiking, backpacking, and outdoor recreation sector of the Inyo County economy.	site in CDFW's High Mountain Lakes Project.
9. The North Fork of Independence Creek, beginning at and downstream from Heart Lake (Subunit 3F)	<ul style="list-style-type: none"> <li>• Self-sustaining fish population</li> <li>• Large, deep and well-connected: fish removal is impractical</li> <li>• Easily accessed, heavily used fishery and recreation area.</li> </ul>	<ul style="list-style-type: none"> <li>• Site visits to this popular fishery support the estimated annual \$17 million fishing, hiking, backpacking, and outdoor recreation sector of the Inyo County economy.</li> </ul>	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 Big Pine Creek, beginning at and downstream of Third Lake (Subunit 3E)	<ul style="list-style-type: none"> <li>• Self-sustaining fish population</li> <li>• Easily accessed, heavily used fishery and recreation area</li> <li>• CDFW experimental fishery</li> <li>• Bd fungus positive: existing population has been recently infected and potentially extirpated.</li> </ul>	<ul style="list-style-type: none"> <li>• Site visits to this popular fishery support the estimated annual \$17 million fishing, hiking, backpacking, and outdoor recreation sector of the Inyo County economy.</li> </ul>	No foreseeable justification: this location is not included as a potential recovery site in CDFW's High Mountain Lakes Project.
11. Baker Creek beginning at and downstream from Thunder and Lightning Lake (Subunit 3E)	<ul style="list-style-type: none"> <li>• Self-sustaining fish population</li> <li>• Well-connected: fish removal is impractical and dispersal barriers are few</li> <li>• Easily accessed, heavily used fishery and recreation area</li> <li>• Bd fungus positive existing population has been recently infected and potentially extirpated.</li> </ul>	<ul style="list-style-type: none"> <li>• Site visits to this popular fishery support the estimated annual \$17 million fishing, hiking, backpacking, and outdoor recreation sector of the Inyo County economy.</li> </ul>	Not applicable: recolonization attempts have been unsuccessful, demonstrating this location is not available for the recovery of the species.
12. The Coyote Flats – the West Fork of Coyote Creek, downstream of Coyote Lake, Baker Creek (Bd positive),	<ul style="list-style-type: none"> <li>• <i>Bd</i> fungus positive</li> <li>• Easily accessed OHV and recreation area</li> <li>• Grazing lease</li> <li>• Rocky Bottom Lake and Funnel Lake seasonal snowmelt lakes and therefore are unsuitable habitat for frogs</li> <li>• Not in Wilderness</li> </ul>	<ul style="list-style-type: none"> <li>• Site visits to this popular fishery support the estimated annual \$17 million fishing, hiking, backpacking, and outdoor recreation sector of the Inyo County economy.</li> <li>• Grazing leases in the Coyote Flats supports</li> </ul>	Not applicable: recolonization attempts have been unsuccessful, demonstrating this location is not available for the recovery of the species.

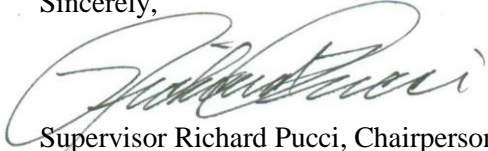
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and Cow Creek (Bd positive) (Subunit 3E)	Boundary.	approximately 400 head of cattle, which represents an estimated \$376,000 contribution the agriculture sector of the Inyo County economy.	
13. Mulkey Meadows (Subunit 5B)	<ul style="list-style-type: none"> <li>• Grazing lease</li> <li>• Native populations of Golden Trout</li> <li>• Bd fungus positive – though populations have subsisted.</li> </ul>	<ul style="list-style-type: none"> <li>• Site visits to this popular fishery support the estimated annual \$17 million fishing, hiking, backpacking, and outdoor recreation sector of the Inyo County economy.</li> <li>• 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.</li> </ul>	No foreseeable justification: this location is not included as a potential recovery site in CDFW's High Mountain Lakes Project.
14. Birch Creek <sup>3</sup>	<ul style="list-style-type: none"> <li>• Easily accessed OHV and recreation area.</li> <li>• Grazing lease</li> </ul>	<ul style="list-style-type: none"> <li>• Site visits to this popular fishery support the estimated annual \$17 million fishing, hiking, backpacking, and outdoor recreation sector of the Inyo County economy.</li> </ul>	No foreseeable justification: this location is not included as a potential recovery site in CDFW's High Mountain Lakes Project.

We encourage the U.S. Fish and Wildlife Service to adopt the California Department of Fish and Wildlife's (CDFW) High Mountain Lakes Project in its entirety as the foundation of a balanced species management plan, with an emphasis on CDFW's mission to "manage lakes and streams in a manner which maintains or restores native biodiversity and habitat quality, supports viable populations of native species, and provides for recreational opportunities considering historical and future use patterns". We request the Service consult with CDFW to establish evaluative criteria based on the High Mountain Lakes Project for identifying features considered for inclusion in critical habitat.

<sup>3</sup> The County requests that Birch Creek be removed from consideration for expanding the Critical Habitat area per the suggestion of the US Forest Service.

In closing, we would like to express our interest in participating in the development of the Species Recovery Plan, and request the Service to keep us informed of the species recovery planning process and any additional opportunities to participate. Thank you again 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 Richard Pucci, Chairperson  
Inyo County Board of Supervisors

cc: Board of Supervisors  
County Administrative Officer  
County Counsel  
Planning Director  
Secretary Vilsack, USDA  
Doug Wilson, Willdan  
Regional Council of Rural Counties  
California State Association of Counties  
National Association of Counties  
Fresno County  
Tulare County  
Mono County  
Dan Ashe, U.S. Fish and Wildlife Service  
Jennifer Norris, 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  
Chief Tidwell, Forest Service  
Heidi Sickler, California Department of Fish and Wildlife