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U. S. Fish and Wildlife Service
RE FWS-R8-ES-2014-0007

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Tracking #: 114-8cc0-ae08

Dear Colleagues,

The Service has asked me to serve as a peer reviewer for its 24 March 2014 "Species Report" that addresses the agency's own proposal to downlist the Arroyo Toad (*Anaxyrus californicus*) from Endangered to Threatened. You may recall that this has arisen through the bizarre administrative step of interpreting a factual, carefully-researched and reasoned 5 Year Review (FWS Ventura, August 2009) as supporting downlisting, when in fact that document contains nothing that would constitute formal evidence for a change in status. If anything, the 5 year review cites moderate to severe ongoing threats at most of the 20 indicator populations the Service identified as needing to be stable for downlisting to be proposed. As I stated at the time, this was a case of some political hack throwing the integrity of USFWS Ventura into the sewage. In the interim the Pacific Legal Foundation, without having to say a word other than that "FWS did it", petitioned for downlisting as per the request made in the addendum to the 5 year review. The PLF petition provides no new evidence.

I have read the 24 March 2014 proposal carefully, and I do not find enough support to change the status of arroyo toads. This report attempts to summarize information assembled since 2009, but it leaves out a fair bit of critical recent data and contains a number of errors that indicate an unfamiliarity with the landscape (particularly in the northern unit), apparent ignorance of information on Bd infection in general (including a dataset collected by a USFWS biologist!), a failure to note near-total reproductive failure across all northern populations in 2012, 2013 and 2014, and a host of issues related to drought and predator effects. Particularly stupid (in a document where that word comes to mind frequently) is the apparent assumption that since bullfrogs were subject to control measures at place a in 2006, place b in 2007-8, place c in 2010, etc., that everything is OK in those places since then.

Perhaps the most bizarre aspect of this chronicle is the long list of "good things" that have come with listing as Endangered. I agree that many agencies and some corporations have made very difficult, costly, and usually unpopular changes such as closing campgrounds, heavily restricting water releases

from dams, greatly constraining development proposals on floodplains, and significantly reducing the footprint of disturbances in riparian areas. I agree that they have been of immense value, and that this value continues. However, they were implemented only **because arroyo toads were Endangered**. If arroyo toads were downlisted, very little prevents all of these gains from being reversed, because the pressures to do so are the same or greater as they were at the time of listing. There is not a word in this document about the costs of delisting, no hint that FWS has considered the loss or reversal of all of the recovery efforts made to date.

I am annoyed to be spending any time refuting this junk science proposal, but I will ask just a few of the many hard questions that will come to mind.

The downlisting criteria include:

Page 88:

“At least 20 self-sustaining metapopulations or populations at the locations below must be maintained. Self-sustaining metapopulations or populations are those documented as having successful recruitment (i.e., inclusion of newly matured individuals into the breeding population) equal to 20 percent or more of the average number of breeding adults in 7 of 10 years of average to above average rainfall amounts with normal rainfall patterns. Such recruitment would be documented by statistically valid trend data indicating stable or increasing populations.”

Please provide these data, including the statistically valid trend data. Specifically, I want to see your data for **recruitment** in any 7 of 10 years since listing for the seven northern populations, i.e., Fort Hunter Liggett, the Sisquoc River, Mono and Indian Creeks, the Santa Ynez, Sespe, and upper and lower Piru drainage basins.

Pp 87-88:

“3) Identify and secure additional suitable arroyo toad habitat and populations.”

Please identify any additional suitable habitat and new populations that have been secured. If you cite Fort Hunter Liggett, please respond to the consultant reports that indicate the arroyo toad population there is nearing extinction, and describe how this counts as “secured” beyond a Sec. 7 piece of paper.

Page 88:

“4) Conduct research to obtain data to guide management efforts and determine the best methods for reducing threats;”

Please indicate who has been conducting this research, and why it is not incorporated in this document. Consultant reports (such as EIS for Piru Creek need to be subjected to outside review).

Page 88:

“5) Develop and implement an outreach program.”

Where can I see a copy of this program? Why is it not referenced in the downlisting proposal?

Pp. 90-91:

“Northern Recovery Unit

In the Northern Recovery Unit occurrences, we do have 3 years of monitoring results (2010–2012) according to the arroyo toad monitoring plan that was initiated by the DWR for arroyo toads in middle Piru Creek and Aqua Blanca downstream of Pyramid Dam (ESA 2012, p. 1–41+). Because the monitoring plan was required and

approved by FERC to track the health and status of arroyo toad breeding populations in middle Piru Creek and ensure the simulated natural water releases from Pyramid Dam are successfully contributing to recovery of the arroyo toad, we believe FERC should be considered one of the Federal agencies that is helping to meet this downlisting component for the Santa Clara River Basin occurrence.”

I have reviewed each of these reports in detail. In addition, a graduate student and I spent about 15 field days between January and August in 2010 and over 30 field days in 2011 monitoring all amphibian breeding on Piru Creek below 1200' elevation, and on Agua Blanca Creek below 1150' elevation. I have detailed records of species, clutch numbers and clutch fates for arroyo toads. I cannot duplicate ESA results, whether in terms of species identification, clutch numbers, or laying sites for the great majority of dates. We were in the field all day on some days cited by ESA, and did not see surveyors. I have communicated my concerns in analytical detail to USFWS Ventura previously.

I note that today is the end of the comment period, but I am not out of comments. The CD that was sent to reviewers was blank; I suppose the comment period might be extended in view of that small error?

In my view the Service violated its standards in interpreting the 5 year review as cause for downlisting, and has only made the matter worse here. No one would be happier than I if it was biologically defensible to downlist arroyo toads, but we are nowhere near that now.

Sincerely,



Samuel S. Sweet
Professor, EEM Biology
