

authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify controlled airspace at Lewiston-Nez Perce County Airport, Lewiston, ID.

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, "Environmental Impacts: Policies and Procedures" prior to any FAA final regulatory action.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

#### PART 71—DESIGNATION OF CLASS A, B, C, D AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR Part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

##### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR Part 71.1 of the Federal Aviation Administration Order 7400.9V, Airspace Designations and Reporting Points, dated August 9, 2011, and effective September 15, 2011 is amended as follows:

*Paragraph 5000 Class D airspace.*

\* \* \* \* \*

##### ANM ID D Lewiston, ID [Modified]

Lewiston-Nez Perce County Airport, ID  
(Lat. 46°22'28" N., long. 117°00'55" W.)

That airspace extending upward from the surface to and including 3,900 feet MSL within a 4.1-mile radius of the Lewiston-Nez Perce County Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

*Paragraph 6002 Class E airspace designated as surface areas.*

\* \* \* \* \*

##### ANM ID E2 Lewiston, ID [Modified]

Lewiston-Nez Perce County Airport, ID  
(Lat. 46°22'28" N., long. 117°00'55" W.)

Within a 4.1-mile radius of the Lewiston-Nez Perce County Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

*Paragraph 6004 Class E airspace designated as an extension to a Class D surface area.*

\* \* \* \* \*

##### ANM ID E4 Lewiston, ID [Modified]

Lewiston-Nez Perce County Airport, ID  
(Lat. 46°22'28" N., long. 117°00'55" W.)  
Nez Perce VOR/DME

(Lat. 46°22'54" N., long. 116°52'10" W.)  
Lewiston-Nez Perce ILS Localizer  
(Lat. 46°22'27" N., long. 117°01'54" W.)

That airspace extending upward from the surface within 2.7 miles each side of the Lewiston-Nez Perce ILS localizer course extending from the 4.1-mile radius of the airport to 14 miles east of the airport and within 3.5 miles each side of the Nez Perce VOR/DME 266° radial extending from the 4.1-mile radius of the airport to 13.1 miles west of the airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

*Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.*

\* \* \* \* \*

##### ANM ID E5 Lewiston, ID [Modified]

Lewiston-Nez Perce County Airport, ID  
(Lat. 46°22'28" N., long. 117°00'55" W.)  
Walla Walla VOR/DME  
(Lat. 46°05'13" N., long. 118°17'33" W.)

That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 46°33'00" N., long. 117°38'00" W.; to lat. 46°31'30" N., long. 117°14'00" W.; to lat. 46°40'00" N., long. 116°48'00" W.; to lat. 46°26'00" N., long. 116°26'00" W.; to lat. 46°13'00" N., long. 116°30'00" W.; to lat. 46°14'00" N., long. 116°35'00" W.; to lat. 46°06'00" N., long. 116°47'00" W.; to lat. 46°17'00" N., long. 116°49'00" W.; to lat. 46°18'00" N., long. 117°00'00" W.; to lat. 46°17'30" N., long. 117°22'00" W.; to lat. 46°10'30" N., long. 117°26'30" W.; to lat. 46°12'00" N., long. 117°36'00" W.; thence to point of beginning; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 46°00'00" N., long. 116°00'04" W.; to lat. 46°00'00" N., long. 116°19'00" W.; to lat. 45°39'00" N., long. 116°10'03" W.; to lat. 45°30'00" N., long. 116°14'03" W.; to lat. 45°23'00" N., long. 116°21'03" W.; to lat. 45°25'00" N., long. 116°34'04" W.; to lat. 45°30'00" N., long. 116°46'04" W.; to lat. 46°00'00" N., long. 116°56'04" W.; thence west along lat. 46°00'00" N., to the Walla Walla VOR/DME 16.6-mile radius, thence counter clockwise along the Walla Walla VOR/DME 16.6-mile radius until intercepting V-536, thence northeast along V-536 and southeast along V-2 until intercepting long. 115°15'04" W.;

thence south along long. 115°15'04" W., until intercepting V-187; thence southeast along V-187 until intercepting long. 116°00'00" W.; thence south along long. 116°00'00" W.; to lat. 46°15'00" N.; to lat. 46°00'00" N., long. 115°50'00" W.; thence to the point of beginning.

Issued in Seattle, Washington, on May 23, 2012.

**John Warner**

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2012–13365 Filed 6–1–12; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[FWS–R8–ES–2012–0026; 92220–1113–0000–C5]

#### Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To Delist or Reclassify From Endangered to Threatened Six California Species

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of 90-day petition findings and initiation of status reviews.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to delist the Inyo California towhee (*Pipilo crissalis eremophilus*), and to reclassify from endangered to threatened the arroyo toad (*Anaxyrus californicus*), Indian Knob mountainbalm (*Eriodictyon altissimum*), Lane Mountain milk-vetch (*Astragalus jaegerianus*), Modoc sucker (*Catostomus microps*), and Santa Cruz cypress (*Cupressus abramsiana*) under the Endangered Species Act of 1973, as amended (Act). Based on our review, we find that the petition presents substantial scientific or commercial information indicating that the petitioned actions may be warranted. Therefore, with the publication of this notice, we are initiating status reviews of these taxa to determine if the respective actions of delisting and reclassifying are warranted. Section 4(c)(2)(A) of the Act also requires a status review of listed species at least once every 5 years. The status reviews we are initiating will also fulfill the requirements of section 4(c)(2) of the Act. To ensure that these status reviews are comprehensive, we are requesting scientific and commercial data and other information regarding these species and subspecies. Based on these status reviews, we will issue 12-month

findings for each of the species in the petition, which will address whether the petitioned actions are warranted under section 4(b)(3)(B) of the Act.

**DATES:** To allow us adequate time to conduct this review, we request that we receive information on or before August 3, 2012. Please note that if you are using the Federal eRulemaking Portal (see **ADDRESSES** section below), the deadline for submitting an electronic comment is 11:59 p.m. Eastern Standard Time on this date.

**ADDRESSES:** You may submit information by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. In Search field, enter the Docket number for this finding, which is FWS-R8-ES-2012-0026. Then click the Search button. You should then see an entry for this document that includes a button that reads, "Comment Now!" Please ensure that you have found the correct rulemaking before submitting your comment. If your comments will fit in the provided comment box, please use this feature of <http://www.regulations.gov>, as it is most compatible with our comment review procedures. If you attach your comments as a separate document, our preferred file format is Microsoft Word. If you attach multiple comments (such as form letters), our preferred format is a spreadsheet in Microsoft Excel.

- **U.S. mail or hand-delivery:** Public Comments Processing, Attn: FWS-R8-ES-2012-0026; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042-PDM; Arlington, VA 22203.

We will post all information we receive on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the **Request for Information** section below for more details).

After August 3, 2012, you must submit information directly to the Field Office (see **FOR FURTHER INFORMATION CONTACT**). Please note that we might not be able to address or incorporate information that we receive after the above requested date.

**FOR FURTHER INFORMATION CONTACT:** For information regarding the Modoc sucker, contact Laurie Sada, Field Supervisor, by mail at U.S. Fish and Wildlife Service, Klamath Falls Fish and Wildlife Office, 1936 California Avenue, Klamath Falls, OR 97601; by telephone at 541-885-8481; or by facsimile at 541-885-7837.

For information regarding the Inyo California towhee, arroyo toad, Indian Knob mountainbalm, Lane Mountain

milk-vetch, or Santa Cruz cypress, contact Diane Noda, Field Supervisor, by mail at U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, 2493 Portola Road Suite B, Ventura, CA 93003; by telephone at 805-644-1766; or by facsimile at 805-644-3958. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800-877-8339.

#### **SUPPLEMENTARY INFORMATION:**

##### **Request for Information**

When we make a finding that a petition presents substantial information indicating that delisting or reclassifying a species may be warranted, we are required to promptly review the status of the species (status review). For the status reviews to be complete and based on the best available scientific and commercial information, we request information on the Inyo California towhee, arroyo toad, Indian Knob mountainbalm, Lane Mountain milk-vetch, Modoc sucker, and Santa Cruz cypress from governmental agencies, Native American tribes, the scientific community, industry, and any other interested parties. We seek information on:

- (1) The species' biology, range, and population trends, including:
  - (a) Habitat requirements for feeding, breeding, and sheltering;
  - (b) Genetics and taxonomy;
  - (c) Historical and current range, including distribution patterns;
  - (d) Historical and current population levels, and current and projected trends; and
  - (e) Past and ongoing conservation measures for the species, their habitats, or both.
- (2) The factors that are the basis for making a listing, delisting, or downlisting determination for a species under section 4(a) of the Act, as amended (16 U.S.C. 1531 *et seq.*):
  - (a) The present or threatened destruction, modification, or curtailment of its habitat or range;
  - (b) Overutilization for commercial, recreational, scientific, or educational purposes;
  - (c) Disease or predation;
  - (d) The inadequacy of existing regulatory mechanisms; and
  - (e) Other natural or manmade factors affecting its continued existence.

Please include sufficient information with your submission (such as references to scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, cannot be considered in making a determination. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened species must be made "solely on the basis of the best scientific and commercial data available."

You may submit your information concerning these status reviews by one of the methods listed in the **ADDRESSES** section. If you submit information via <http://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the Web site. If you submit a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this personal identifying information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions at <http://www.regulations.gov>.

Information and supporting documentation that we received and used in preparing this finding are available for you to review at <http://www.regulations.gov>, or you may make an appointment during normal business hours at the U.S. Fish and Wildlife Service, Klamath Falls or Ventura Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

##### **Background**

Section 4(b)(3)(A) of the Act (16 U.S.C. 1533(b)(3)(A)) requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We are to base this finding on information provided in the petition, supporting information submitted with the petition, and information otherwise available in our files. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish our notice of the finding promptly in the **Federal Register**.

Our standard for substantial scientific or commercial information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding is "that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted" (50 CFR 424.14(b)). If we find that substantial scientific or commercial information was presented, we are required to promptly conduct a species status review, which we

subsequently summarize in our 12-month finding.

Section 4(c)(2)(A) of the Act requires that we conduct a review of listed species at least once every 5 years. We are then, under section 4(c)(2)(B), to determine on the basis of such a review whether or not any species should be removed from the List (delisted), or reclassified from endangered to threatened, or threatened to endangered. Our regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species currently under active review. This notice announces our active review of the Inyo California towhee, arroyo toad, Indian Knob mountainbalm, Lane Mountain milk-vetch, Modoc sucker, and Santa Cruz cypress.

#### Petition History

On December 21, 2011, we received a petition dated December 19, 2011, from The Pacific Legal Foundation, requesting the Service to delist the Inyo California towhee, and to reclassify from endangered to threatened the arroyo toad, Indian Knob mountainbalm, Lane Mountain milk-vetch, Modoc sucker, and Santa Cruz cypress, based on the analysis and recommendations contained in the most recent 5-year reviews for these taxa. The petition clearly identified itself as such and included the requisite identification information for the petitioner, as required by 50 CFR 424.14(a).

#### Previous Federal Actions

Under the Act, we maintain the Lists of Endangered and Threatened Wildlife and Plants at 50 CFR 17.11 (for animals) and 17.12 (for plants) (Lists). We amend the Lists by publishing final rules in the **Federal Register**. Section 4(c)(2)(A) of the Act requires that we conduct a review of listed species at least once every 5 years. Section 4(c)(2)(B) requires that we determine: (1) Whether a species no longer meets the definition of threatened or endangered and should be removed from the Lists (delisted), (2) whether a species listed as endangered more properly meets the definition of threatened and should be reclassified to threatened (downlisted), or (3) whether a species listed as threatened more properly meets the definition of endangered and should be reclassified to endangered (uplisted). Using the best scientific and commercial data available, we will consider a species for delisting if the data substantiate that the species is neither endangered nor threatened for one or more of the

following reasons: (1) The species is considered extinct; (2) the species is considered recovered; or (3) the original data available when the species was listed, or the interpretation of such data, were in error.

The Inyo California towhee was listed as threatened in 1987, and critical habitat was designated concurrent with the listing (52 FR 28780, August 3, 1987). At the time of listing, this species was classified as the subspecies *Pipilo fuscus eremophilus*. Following the American Ornithologist Union (1989), we now recognize this subspecies as the Inyo California towhee (*P. crissalis eremophilus*). A recovery plan was published for the species in 1998 (Service 1998a). A notice initiating a 5-year review was published for the Inyo California towhee in 2006 (71 FR 14538, March 22, 2006). A 5-year review completed in 2008 recommended that the Inyo California towhee be delisted (74 FR 12878, March 25, 2009; Service 2008a, p. 20).

The arroyo toad was listed as endangered in 1994 (59 FR 64859, December 16, 1994). At the time the species was listed, it was classified as a subspecies (*Bufo microscaphus californicus*) of the southwestern toad (*B. microscaphus*). However, the taxonomy of the arroyo toad was re-examined (Gergus 1998), and as a result, in 2001, the Service formally changed the name on the List of Endangered and Threatened Wildlife to *B. californicus* (66 FR 9414, February 7, 2001). Based on a phylogenetic analysis of comparative anatomical and molecular genetic data for amphibians (Frost *et al.* 2006, p. 363), the Service again formally changed the name on the List to *Anaxyrus californicus* in 2011 (76 FR 7246, February 9, 2011). A recovery plan was published in 1999 (Service 1999). Critical habitat was designated in 2001 (66 FR 9414, February 7, 2001) and revised in 2005 (70 FR 19562, April 13, 2005). Critical habitat was revised a second time in 2011 (76 FR 7246, February 9, 2011). A notice initiating a 5-year review was published in 2008 (73 FR 11945, March 5, 2008), and a 5-year review completed in 2009 recommended that the arroyo toad be reclassified to threatened (75 FR 28636, May 21, 2010; Service 2009a, p. 31).

Indian Knob mountainbalm was listed as endangered in 1994 (59 FR 64613, December 15, 1994). Critical habitat has not been designated for this species. A recovery plan was published in 1998 (Service 1998b). A notice of review initiating a 5-year review was published

in 2006 (71 FR 14538, March 22, 2006), and a 5-year review completed in 2009 recommended that Indian knob mountainbalm be reclassified to threatened (75 FR 28636, May 21, 2010; Service 2009b, p. 15).

Lane Mountain milk-vetch was listed as endangered in 1998 (63 FR 53596, October 6, 1998). In 2005, we completed a critical habitat rulemaking process that resulted in a decision to designate zero (0) acres of critical habitat for this species (70 FR 18220, April 8, 2005). In 2011, we revised the critical habitat designation and designated 14,069 acres (76 FR 29108, May 19, 2011). No recovery plan has been completed for Lane Mountain milk-vetch. A notice initiating a 5-year review was published for the species in 2006 (71 FR 14538, March 22, 2006), and a 5-year review completed in 2008 recommended that Lane Mountain milk-vetch be reclassified to threatened (74 FR 12878, March 25, 2009; Service 2008b, p. 20)).

Modoc sucker was listed as endangered in 1985, and critical habitat was designated concurrent with the listing (50 FR 24526, June 11, 1985). At the time of listing, the Service, the California Department of Fish and Game, and the U.S. Forest Service were developing an "Action Plan for the Recovery of the Modoc sucker." The April 27, 1983, revision of this Plan was formally signed by all participants in 1984 (Service 1984). We determined that the Action Plan and its 1989 revisions adequately fulfilled the requirements of a recovery plan, and in a 1992 memorandum from the Regional Director (Region 1) to the Service's Director, we adopted it as the Recovery Plan for the Modoc sucker (Service 1992). A notice initiating a 5-year review was published for the Modoc sucker in 2006 (71 FR 14538, March 22, 2006), and a 5-year review completed in 2009 recommended that the Modoc sucker be reclassified to threatened (75 FR 28636, May 21, 2010; Service 2009c, p. 38).

Santa Cruz cypress was listed as endangered in 1987 (52 FR 675, January 8, 1987), and critical habitat has not been designated. A recovery plan was completed for the species in 1998 (Service 1998c). A notice initiating a 5-year review was published for Santa Cruz cypress in 2007 (72 FR 7064, February 14, 2007), and a 5-year review completed in 2009 recommended that Santa Cruz cypress be reclassified to threatened (75 FR 28636, May 21, 2010; Service 2009d, p. 18).

TABLE 1—PREVIOUS FEDERAL ACTIONS FOR THE SIX TAXA ADDRESSED IN THIS PETITION FINDING

Species name	Date listed and status	Critical habitat designated	Recovery plan published	Most recent 5-year review and recommendation
Inyo California towhee ( <i>Pipilo crissalis eremophilus</i> ).	August 3, 1987 (52 FR 28780). Threatened.	August 3, 1987 (52 FR 28780).	April 10, 1998 .....	September 30, 2008. Delist.
Arroyo toad ( <i>Anaxyrus californicus</i> ) .....	December 16, 1994 (59 FR 64859). Endangered.	February 9, 2011 (76 FR 7246).	July 24, 1999 .....	August 17, 2009. Downlist.
<i>Eriodictyon altissimum</i> (Indian Knob mountainbalm).	December 15, 1994 (59 FR 64613). Endangered.	None .....	September 26, 1998 ..	February 4, 2009. Downlist.
<i>Astragalus jaegerianus</i> (Lane Mountain milk-vetch).	October 6, 1998 (63 FR 53596). Endangered.	May 19, 2011 (76 FR 29108).	None .....	July 10, 2008. Downlist.
Modoc sucker ( <i>Catostomus microps</i> ) ..	June 11, 1985 (50 FR 24526). Endangered.	June 11, 1985 (50 FR 24526).	February 28, 1992 .....	August 3, 2009. Downlist.
<i>Cupressus abramsiana</i> (Santa Cruz cypress).	January 8, 1987 (52 FR 675). Endangered.	None .....	September 29, 1998 ..	August 17, 2009. Downlist.

### Species Information

The Inyo California towhee is a subspecies of the California towhee (*Pipilo crissalis*) found in the southern Argus Mountains of the Mojave Desert in Inyo County, California. This subspecies requires areas of dense riparian vegetation to provide nesting substrate, protection from predators, and shade from the desert sun. It also uses upland creosote vegetation for nesting and foraging. For more information on the life history, biology, and distribution of Inyo California towhee, see the 2008 5-year review of the species at <http://www.regulations.gov> or <http://www.fws.gov/angered/>.

The arroyo toad is a small, dark-spotted toad that occurs in the headwaters of coastal drainages in southern California. Its breeding habitat consists of slow-moving streams with shallow pools, nearby sandbars, and adjacent stream terraces. The arroyo toad breeds and deposits egg masses in shallow sandy pools that are usually bordered by sand and gravel flood terraces. Outside of the breeding season, arroyo toads are essentially terrestrial and are known to use a variety of upland habitats. For more information on the life history, biology, and distribution of the arroyo toad, see the 2009 5-year review of the species at <http://www.regulations.gov> or <http://www.fws.gov/angered/>.

Indian Knob mountainbalm is a perennial plant species endemic to southwestern San Luis Obispo County, California. It is a diffusely branched evergreen shrub that can reach heights of 6 to 13 feet (2 to 4 meters). New growth occurs primarily from

rhizomatous suckers (shoots extending from a root-like subterranean stem), but flowers can also produce numerous tiny seeds. Indian Knob mountainbalm occurs within coastal dune scrub and coastal chaparral plant communities where it grows on tar sand or sandy loam soils. For more information on the life history, biology, and distribution of Indian Knob mountainbalm, see the 2009 5-year review of the species at <http://www.regulations.gov> or <http://www.fws.gov/angered/>.

Lane Mountain milk-vetch is a perennial plant species found in the west Mojave Desert in San Bernardino County, California. It typically twines up through a host shrub that it uses for structural support. Although the taproot is perennial, the aboveground portion of the plant is herbaceous and resprouts from the taproot or old stems with the first winter rains, dying back during the drier summer months. In years with little rainfall, taproots may remain dormant and few plants will be visible. In years with more rainfall, individuals may grow vegetatively and produce seed. For more information on the life history, biology, and distribution of Lane Mountain milk-vetch, see the 2008 5-year review of the species at <http://www.regulations.gov> or <http://www.fws.gov/angered/>.

The Modoc sucker is a relatively small member of the sucker family (Catasomidae), usually reaching only 7 inches (17.8 cm) in total length when mature. It is known from three stream drainages in the Pit River Basin, including the Goose Lake subbasin in northeastern California (Modoc and Lassen Counties) and south-central Oregon (Lake County). Modoc suckers

typically occupy small, moderate-gradient streams with low summer flow. They are most abundant in pools, especially those deeper than 1 foot (0.3 m), where they graze on algae and small benthic invertebrates. For more information on the life history, biology, and distribution of the Modoc sucker, see the 2009 5-year review of the species at <http://www.regulations.gov> or <http://www.fws.gov/angered/>.

Santa Cruz cypress is a small-statured tree in the cypress family (Cupressaceae), with mature trees reaching 82 feet (25 meters) in height. This species occurs as patches within a mosaic of coastal chaparral and mixed evergreen forests located on dry ridges inland from the coastal fog belt. At an average of 11 years of age, trees begin producing cones that slowly release seeds throughout the life of the tree. However, fire can accelerate seed release, and areas that have been recently disturbed by fire or mechanical means can produce a high number of saplings. This species is known from five populations in the Santa Cruz Mountains in Santa Cruz and San Mateo Counties, California. For more information on the life history, biology, and distribution of Santa Cruz cypress, see the 2009 5-year review of the species at <http://www.regulations.gov> or <http://www.fws.gov/angered/>.

### Evaluation of Information for This Finding

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations at 50 CFR part 424 set forth the procedures for adding a species to, or removing a species from, the Federal Lists of Endangered and Threatened Wildlife

and Plants. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

We must consider these same five factors in delisting a species. We may delist a species according to 50 CFR 424.11(d) if the best available scientific and commercial data indicate that the species is neither endangered nor threatened for the following reasons:

(1) The species is extinct;

(2) The species has recovered and is no longer endangered or threatened; or

(3) The original scientific data used at the time the species was classified were in error.

In making this 90-day finding, we evaluated whether information regarding threats to Inyo California towhee, arroyo toad, Indian Knob mountainbalm, Lane Mountain milk-vetch, Modoc sucker, and Santa Cruz cypress, as presented in the petition and other information available in our files, is substantial, thereby indicating that the petitioned actions may be warranted. Our evaluation of this information is presented below.

#### *Information Provided in the Petition*

The petitioner requested that the Service delist the Inyo California towhee, and reclassify the arroyo toad, Indian Knob mountainbalm, Lane Mountain milk-vetch, Modoc sucker, and Santa Cruz cypress based on the analysis and recommendations contained in the most recent 5-year reviews of these taxa. The petitioner cited the 5-year reviews for each of these species as supporting information for the petition.

#### *Evaluation of Information Provided in the Petition and Available in Service Files*

On March 25, 2009, we published a notice of completion of 42 5-year reviews (74 FR 12878), including the recommendation of status changes for the Inyo California towhee and Lane Mountain milk-vetch. On May 21, 2010, we published a notice of completion of 96 5-year reviews (75 FR 28636), including the recommendation of status changes for the arroyo toad, Indian

Knob mountainbalm, Modoc sucker, and Santa Cruz cypress. Status change recommendations for these species are shown in Table 1. Each 5-year review contains general background and life-history information, overview of recovery criteria, an analysis of threats specific to each taxon based on the five listing factors in section 4 the Act, and recommendation of status change, if appropriate. The petitioner cited the 5-year reviews for each of these species as supporting information for the petition, but provided no other information. We hereby cite and incorporate the data and recommendations in the 5-year reviews for each of these species. Accordingly, we have already evaluated information regarding threats as presented in the petition (see the 5-year reviews of the species at <http://www.regulations.gov> or <http://www.fws.gov/endangered/>).

The primary rationale for the recommendation in the 2008 5-year review to delist the Inyo California towhee was the substantial increase in population numbers and expansion of the species' range (Service 2008a, p. 19). Additionally, the primary threats identified at the time of listing (habitat loss due to grazing, recreation, water diversion, and mining) have been significantly reduced. Approximately 94 percent of the species' range is federally owned and measures are being implemented to conserve the species (Service 2008a, p. 19). The best available information indicated that the species no longer met the definition of endangered or threatened.

The primary rationale for the recommendation in the 2009 5-year review to downlist the arroyo toad was the achievement of the recovery plan downlisting criterion of establishing 20 self-sustaining populations of arroyo toads (Service 2009a, p. 19). Since listing the arroyo toad in 1994, new locations in areas not previously known to be occupied by arroyo toads have been discovered as a result of site-specific surveys. In addition, a new population was discovered in Monterey County, and the area known to be occupied by the original 22 populations has expanded as a result of the discovery of new arroyo toad localities. Threats to the arroyo toad identified at the time it was listed in 1994 are still present. However, many of these threats have been reduced as a result of various conservation measures undertaken for the species and management plans that include the species (Service 2009a, p. 19). The best available information indicated that the species was no longer in imminent danger of extinction and best met the definition of threatened.

The primary reason for the recommendation in the 2009 5-year review to downlist Indian Knob mountainbalm was the removal of the threat of development throughout the species' range (Service 2009b, p. 11). The best available information indicated that occurrences of Indian Knob mountainbalm were self-sustaining and stable, were no longer in imminent danger of extinction, and that the species best met the definition of threatened.

The primary reason for the recommendation in the 2008 5-year review to downlist Lane Mountain milk-vetch was the increased abundance and range of the species (Service 2008b, p. 14) compared to that at the time of listing. Additionally, information available at the time indicated that, while 20 percent of the species' range was at risk of extirpation from military exercises, most of the remaining habitat had been placed under various conservation designations. Based on this new understanding of abundance and range and the planned conservation measures, the best available information indicated that Lane Mountain milk-vetch was no longer in imminent danger of extinction and best met the definition of threatened (Service 2008b, p. 14). Since the 5-year review, new information has become available indicating that the number of individuals has declined between 2001 and 2011. The information provided with the petition, as well as new information contained in our files, will be evaluated in the 12-month finding.

The primary rationale for the 2009 5-year review recommendation to downlist the Modoc sucker was the substantial reduction in the threats of habitat modification, range reduction, and hybridization (Service 2009c, p. 26). Habitat conditions on both public and private lands have shown substantial improvement. The distribution of known populations has remained stable or expanded over the past 20 years. A greater understanding of genetic relationships and natural gene flow between the Modoc and Sacramento sucker has reduced concerns about hybridization between the species. The principal remaining threat is predation by nonnative fishes, in particularly brown trout (*Salmo trutta*) and largemouth bass (*Micropterus salmoides*). Based on the increased range and reduction of threats, the best available information indicated that the Modoc sucker was no longer in imminent danger of extinction and best met the definition of threatened (Service 2009c, p. 26).

The primary reasons for the 2009 5-year review recommendation to downlist Santa Cruz cypress were the reduction in threats and survey information indicating there are a substantially greater number of individuals than were known at the time of listing (Service 2009d, p. 12). The threats of residential development, agricultural conversion, and logging have decreased since the time of listing, primarily as a result of land acquisition for conservation purposes. The species still faces threats to its long-term persistence due to a low level of regeneration. Based on the reduced threats and increased abundance, the best available information indicated that Santa Cruz cypress was no longer in imminent danger of extinction and best met the definition of threatened (Service 2009d, p. 12).

Any additional information we receive in response to this finding will be incorporated into our status review.

### Finding

On the basis of our determination under section 4(b)(3)(A) of the Act, we have determined that the petition and information in our files present substantial scientific or commercial information indicating that delisting the Inyo California towhee and reclassifying from endangered to threatened the arroyo toad, Indian Knob mountainbalm, Lane Mountain milk-vetch, Modoc sucker, and Santa Cruz cypress may be warranted. This finding

is based on information provided in our analyses of the threats to each taxon contained in the most recent 5-year reviews for each of these taxa.

Because we have found that the petition presents substantial information indicating that delisting the Inyo California towhee, and reclassifying the arroyo toad, Indian Knob mountainbalm, Lane Mountain milk-vetch, Modoc sucker, and Santa Cruz cypress may be warranted, we are initiating status reviews for the taxa to determine whether the petitioned actions of delisting or reclassifying are warranted.

The “substantial information” standard for a 90-day finding differs from the Act’s “best scientific and commercial data” standard that applies to a status review to determine whether a petitioned action is warranted. A 90-day finding does not constitute a status review under the Act. We will complete a thorough status review of each species following a substantial 90-day finding. In the resulting 12-month finding, we will determine whether a petitioned action is warranted. Because the Act’s standards for 90-day and 12-month findings are different, as described above, a substantial 90-day finding does not mean that the 12-month finding will result in a warranted finding.

### 5-Year Reviews

Section 4(c)(2)(A) of the Act requires that we conduct a review of listed species at least once every 5 years. We are then, under section 4(c)(2)(B), to

determine on the basis of such a review whether or not any species should be removed from the List (delisted), or reclassified from endangered to threatened, or threatened to endangered. Our regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species currently under active review. This notice announces our active review of the Inyo California towhee, arroyo toad, Indian Knob mountainbalm, Lane Mountain milk-vetch, Modoc sucker, and Santa Cruz cypress.

### References Cited

A complete list of references cited is available on the Internet at <http://www.regulations.gov> and upon request from the Klamath Falls or Ventura Fish and Wildlife Offices (see **FOR FURTHER INFORMATION CONTACT**).

### Authors

The primary authors of this notice are the staff members of the U.S. Fish and Wildlife Service Pacific Southwest Regional Office in Sacramento, California.

**Authority:** The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: May 17, 2012.

**Gregory E. Siekaniec,**

*Acting Director, U.S. Fish and Wildlife Service.*

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