

**TESTIMONY OF KELLY C. WOOSTER**  
**AUGUST 6, 2013**  
**RE: U.S. FISH AND WILDLIFE SERVICE**  
**PROPOSED LISTING OF YOSEMITE TOAD AS THREATENED**

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Our family has held a cattle grazing permit on the Highland Lakes allotment, Stanislaus National Forest, since 1941. We understand that livestock grazed the allotment since 1865. The allotment has numerous occupied toad sites.

In 2001, the U.S. Forest Service, Region 5, issued a decision that excluded livestock from toad breeding habitat. In 2004, it decided that there were crucial issues regarding the effects of livestock grazing on the toads and their habitat. It mandated a study, on six allotments, of which ours was one.

The Forest Service, and University of California scientists at UC Berkeley and UC Davis conducted the study, spanning five years. (Final Report 12-31-10). The study, among other things, compared grazed sites with sites where cattle were excluded. The study generated two peer-reviewed papers, published in scientific journals. The Forest Service, Region 5, takes the position that the study is “the best available science.” (6-6-13 UC Davis Release).

This study found *no detectable effect* of grazing on toad young of the year density, on breeding pool occupancy, *or* on water quality, *or* on cover. (Final Report, pp. 7, 10). There were no significant direct effects of cattle use on toad meadow occupancy. My *first* point is, by continuing to find that livestock grazing poses a threat to the toad, the USFWS is refusing to follow the best available science.

What excuses does it offer? It finds the results “to be inconclusive.” (p. 24504).

It complains about the study design, and that the study did not address grazing levels above Forest Service standards. The Forest Service answered these complaints in a June 21, 2013 letter.

The USFWS also claims cattle degrade habitat and trample toads. It relies heavily on information from a David Martin. The Forest Service answered that argument, too, in the same letter.

In addition, we submitted a declaration from a witness who met Martin on the Highland Lakes allotment in 1997. Martin told him “he was up there building a case against the cows.” He was biased.

The proposed rule cites other references to claim adverse effects on habitat from grazing. The Forest Service 6-21-13 letter pointed out that those references are outdated, and recent work, by 40 scientists, peer-reviewed, clearly shows that modern range and grazing management practices are compatible with riparian enhancement. (p. 6).

The Forest Service letter states that the findings in the FS/UC study, “cannot be regarded as inconclusive.” (6-21-13 letter, p. 11).

The Forest Service surveyed the Highland Lakes allotment between 1995 and 2002, looking for Yosemite toads. The Forest Service prepared, and we submitted, a map. By my count it shows ten separate occupied sites, some covering large areas of meadows. We also submitted the survey data itself.

The proposed rule claims toad populations have declined. It reports results of two studies that reflect substantial declines in toad populations. But these studies were in Yosemite National Park, where no grazing was allowed. (78 F.R. at 24501).

The proposed rule also says livestock stocking rates in the late 1800s and 1900s were very heavy. During this period, it says, toads were abundant. (p. 24502).

My *second* point is there are thriving toad populations where there has been grazing, substantial declines where there was not, and in the past, when there were *lots* of cattle, there were *lots* of toads. To claim grazing is a threat to toads does not square with these facts.

My *third* point is, these cattle pose no threat to the toad habitat.

We took pictures of most of the occupied toad meadows on our allotment, and they show healthy, thriving meadows.

In addition, we submitted photos taken in 1976 of various locations that show damage from vehicles. Then the vehicles were prohibited. We also submitted photos taken in 1997 of the same places. They show remarkable recovery, at each site, with grazing taking place during the intervening 20 years.

If there is a threat, that we can do something about, it arises from fire suppression. The proposed rule recognizes fire suppression may be a factor. (p. 24504). So did the FS/UC study. When fires in the forest are put out, little trees take over. They suck up water. The toad breeding pools dry up, and the toad pollywogs in them die. The FS/UC Study found that meadow wetness is the major determinant of toad occupancy. (p. 2). The little trees are drying up the meadows. That is my *fourth* point.

My *fifth* point is that the toads should not be listed, for these reasons.

One, grazing is *not* a threat.

Two, the proposed rule admits that conclusions about population trends, abundance, or extirpation rates are not possible from the survey information. (p. 24500). The Forest Service believes that its toad surveys under-reported the number of occupied sites. (6-21-13 letter, p. 3).

Three, the proposed rule admits that the current toad range is largely similar to the historic range. (p. 24499).

Four, a research biologist, Roland Knapp, to whom USFWS sent the proposed rule for peer review, reported that: the Yosemite toad may not be a valid species; evidence of toad declines is weak; trends are highly uncertain; and the USFWS apparently did not include all the

sites in national parks, so finding of “not warranted” for listing is “an alternative that is difficult to dismiss.” (June 2, 2013 letter, ¶ 2.6).

The toad should not be listed.

If it is, grazing should not be considered a threat. We know the toads, long-term, do fine with the cattle. We don’t know, long term, what happens if the cattle are gone. To remove cattle may actually pose a risk to the toads.

DATED: August 5, 2013

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KELLY C. WOOSTER