



October 19, 2009

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To: Public Comments Processing  
Attn: FWS-R8-ES-2009-0044  
Division of Policy and Directives Management  
U.S. Fish and Wildlife Service  
4401 N. Fairfax Drive, Suite 222  
Arlington, VA 22203

**Re: Endangered and Threatened Wildlife and Plants; Designating of Critical Habitat for the Sonoma County Distinct Population Segment of California Tiger Salamander (*Ambystoma californiense*) [Docket No. FWS-R8-ES-2009-0044; 92210-1117-0000-FY09-B4]**

## **I. Introduction**

The Student Animal Legal Defense Fund (SALDF) at Lewis & Clark Law School submits the following comments supporting the proposal by the United States Fish and Wildlife Service (FWS) to designate critical habitat for the Sonoma County distinct population segment (DPS) of the California tiger salamander (*Ambystoma californiense*) under the Endangered Species Act (ESA). Designating critical habitat for the Sonoma County California tiger salamander (SC-CTS) is essential to the survival and conservation of this DPS. The proposed rule should be adopted in full as the critical habitat designated was created with the central goal of supporting the conservation of this DPS, using the best available scientific information.

The Lewis & Clark Law School Student Animal Legal Defense Fund (“SALDF”) is devoted to enhancing the welfare and legal status of all animals, wild and domestic, through legal advocacy. The Lewis & Clark chapter is the oldest and largest of over 130 chapters at law schools across the Nation. Our law school is home to the preeminent animal law program, which

draws students from across the country. I am commenting in my capacity as a wildlife biologist (M.S. Wildlife Biology, 2007).

## **II. Designation of critical habitat is essential to the conservation of the Sonoma county tiger salamander DPS.**

The SC-CTS is subject to a multitude of human threats, including the destruction, alteration and fragmentation of habitat that often result from the type of urban development that is prevalent in this county. This species also faces threats from introduced predatory fish, disease, and pesticides. These threats have contributed to the decline in this species that led to its eventual listing under the ESA. These threats need to be reduced or eliminated in order to support the survival and conservation of this DPS.

The life history of the SC-CTS also increases its vulnerability to human threats and impacts. California tiger salamanders tend to have a low lifetime reproductive success, with a female, on average, only producing 11 metamorphic offspring in a lifetime (Trenham et al. 2000). Many of these offspring do not survive to maturity (Trenham 1998). This low recruitment rate is a result of a combination of factors such as the species' slow development to sexual maturity and variable weather patterns. In low rainfall years, CTS is unlikely to successfully reproduce because seasonal wetlands and ponds will dry up before the larvae are large enough to metamorphose. Those individuals that are able to develop quickly and metamorphose before a wetland dries up will be small and less likely to survive and reproduce. With such a low recruitment rate, this species is likely to suffer major population declines from both unusual natural events and human caused threats that reduce breeding success and individual survival. Hence, the need to provide protections to reduce or eliminate human threats, factors that we can control, is especially important for the survival and conservation of this DPS.

Designating critical habitat will extend regulatory protection, under section 7, to suitable habitat that is not currently known to be occupied. Since this species is currently only known to occupy small areas, simply protecting these areas will not allow for the conservation of this species as required under section 3 of the Endangered Species Act. Currently this species only receives special protections under section 7 (a) (2) jeopardy standard for areas currently known to support populations. Given that this species is currently only known to occupy a small portion of its historic range, it is unlikely that the 7 (a) (2) jeopardy standard will be sufficient. It will not be possible to protect and conserve this DPS without designating critical habitat.

## **III. The proposed critical habitat designation should be adopted in full, with no reduction in size.**

In this proposal for critical habitat designation, FWS appears to have considered the best scientific data available. It looked at the essential habitats to support all life stages of CTS including: aquatic habitat, upland habitat and underground burrows, and dispersal habitat. The designation of a large area that includes all of these factors is essential to the conservation of this species. FWS appropriately includes essential areas outside the geographical area currently known to be occupied, as required by section 3 of the ESA. It proposes a critical habitat that is

large enough to allow for an increase in the size of SC-CTS populations rather than simply maintaining currently known populations. The proposed critical habitat should be adopted at its current size to ensure that the goal of increasing the size of SC-CTS populations, a step towards conservation, will be possible.

It is also important to include suitable habitats not currently known to be occupied because the California tiger salamander is a species that is difficult to detect in surveys. It is generally difficult, if not impossible, to do extensive enough surveys to be able to declare that an area is unoccupied for any wildlife species. This is especially true for a species like the CTS that spends most of its life in underground burrows and where only some portion of the population migrates to wetlands to breed each year. It is probable that all local populations have not yet been identified. These potentially unidentified occupied habitats will be protected under this critical habitat designation since the critical habitat encompasses all areas in the DPS' historic range that currently contain one or more of the primary constituent elements that are essential to the conservation of this DPS. By adopting the proposed critical habitat in full there will be an assurance that any currently unknown occupied SC-CTS habitats will have regulatory protection.

FWS cannot exclude habitat from its critical habitat designation because it is included in the "Santa Rosa Plain Conservation Strategy." FWS previously excluded a large area from its proposed critical habitat designation because it fell under this plan. However, this plan failed to provide protections for the SC-CTS as cities in the Santa Rosa Plain failed to adopt or fund the plan.

#### **IV. Conclusion**

FWS should adopt the proposed critical habitat for the Sonoma County DPS of the California tiger salamander because it is an essential step towards the conservation of this species. This DPS is especially vulnerable to human caused threats due to its current low numbers and its life history. Regulatory protection of habitat, which will be provided by critical habitat designation, is necessary to support the reduction or elimination of these human caused threats. The proposed critical habitat designation should be adopted in full, with no reduction in its size, as a large area of coverage is necessary to allow for the increase in populations essential to conservation.

Sincerely,

Jennifer Loda, *Member*

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