

**TESTIMONY OF REN LOHOEFENER,  
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U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR**

**BEFORE THE HOUSE COMMITTEE ON NATURAL RESOURCES  
SUBCOMMITTEE ON WATER AND POWER**

**ON “QUESTIONABLE FISH SCIENCE AND ENVIRONMENTAL LAWSUITS: JOBS AND WATER  
SUPPLIES AT RISK IN THE INLAND EMPIRE”**

**OCTOBER 18, 2011**

Good morning Chairman McClintock, Ranking Member Napolitano, and Members of the Subcommittee. I am Ren Lohoefer, Regional Director for the U.S. Fish and Wildlife Service's (Service) Pacific Southwest Region. Thank you for the opportunity to testify. The focus of my testimony will be on the Critical Habitat designation for the federally-threatened Santa Ana sucker.

As pressure increases for water conservation (storage) for human use through dams and water diversions, the amount of suitable habitat (water) available to the Santa Ana sucker declines. This occurs because water is generally diverted from the system upstream of areas occupied by the Santa Ana Sucker. Suitable habitat for this native fish is also being impacted to variable extents by fire, off-road vehicles, mining operations and nonnative plants. Impacts from nonnative predators are also increasing at all six locations where Santa Ana suckers exist.

Conservation of the Santa Ana sucker has been the subject of much litigation since it was first listed as a threatened species under the Endangered Species Act in April 2000. In December 2010, pursuant to a settlement agreement with environmental groups, the Service published a revised final rule designating 9,331 acres along the Santa Ana River and its tributaries as critical habitat for the Santa Ana sucker. This revision of critical habitat was the latest in a series of litigation driven actions for this species that date to 2004 when the Service, responding to a court order, designated 21,129 acres along portions of the Santa Ana and San Gabriel Rivers and Big Tujunga Wash as critical habitat for the sucker.

Critical habitat does not create preserves, wilderness areas or refuges, nor does it necessarily preclude development or use of an area. Rather, designation of critical habitat prompts future analyses of effects for projects that are carried out, funded, or authorized by Federal agencies. This ensures such activities do not destroy or adversely modify the designated habitat to the extent that it no longer retains the biological functions that are essential to conservation of the species.

Since listing the Santa Ana sucker in 2000, the Service completed over 30 consultations on the species, including projects in critical habitat areas. Most of the consultations addressed transportation, utility, or other in-stream construction projects. In no instance did the Service conclude that a proposed project was likely to jeopardize the continued existence of Santa Ana sucker or adversely modify the species' designated critical habitat, and no water restrictions have been imposed by our agency.

In designating critical habitat for any species, the Service uses the best scientific and commercial data available to inform our decisions. I want to assure you that we remain steadfast in our efforts to have high-quality science and scholarship informing our decisions. In accordance with our peer review policy, we solicited review of our December 2010 revised rule by knowledgeable scientific experts familiar with the Santa Ana sucker, the geographic region, and conservation biology principles pertinent to the species. We reviewed all comments received from the peer reviewers for substantive issues and new information regarding critical habitat for Santa Ana sucker.

The Endangered Species Act also requires us to consider the economic impacts of specifying any area as critical habitat. Our economic analysis, prepared by independent economists, determined that incremental impacts associated specifically with the designation of critical habitat could range from \$14.3 to \$450 million over the next 20 years in present value terms. The economic analysis took a conservative approach – meaning it is more likely to overstate than understate costs.

Since the Santa Ana sucker was listed, the Service has worked with multiple jurisdictions, including 24 participating permittees, through the Western Riverside County Multispecies Habitat Conservation Plan (Plan) which is a regional habitat conservation plan encompassing about 1.26 million acres in western Riverside County. We also have worked cooperatively with other Federal, State, and local agencies on the Santa Ana Sucker Conservation Program (Program).

Mr. Chairman, this species continues to be the focus of litigation. On August 23, 2011, 10 water agencies and two cities filed a formal complaint in U.S. District Court, challenging the revised final designation of critical habitat for the Santa Ana sucker. Because of the ongoing litigation, I am not able to talk about the issues specifically alleged in the complaint. However, I want to make it clear that the Service is continuing to work cooperatively with its many partners, including the 24 permittees to the Western Riverside County Plan, and members of the Santa Ana Sucker Collaborative Task Force, and the Santa Ana Sucker Conservation Program.

We will continue to work collaboratively and transparently with all our partners, including water users, to move forward with potential conservation actions that may help the species. Ultimately, our goal is to realize a healthy, self-sustaining population of Santa Ana sucker and remove it from the list of threatened and endangered species. To achieve this goal, we will work with others to identify and apply a conservation strategy for the Santa Ana sucker so that future projects can be implemented without impacting the species.

Mr. Chairman, this concludes my statement. I will be pleased to answer your questions.