

# Inyo California towhee may no longer be threatened, but it's still a rare bird

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An unassuming bird that's rebounded in California's remote Inyo County is giving conservatives and environmentalists alike something to crow about.

The Sacramento-based Pacific Legal Foundation gets to claim victory, with the Fish and Wildlife Service's new proposal to remove the Inyo California towhee from federal protection. The conservative advocacy group sued to force action.

But in a rare win-win for the perennially embattled Endangered Species Act, environmentalists are likewise pleased with the Fish and Wildlife Service's proposal. The towhee's revival, they say, shows the 1973 law can still work.

"The recovery of the towhee and its spring habitats is cause for celebration and provides yet another example of the success of our most important law for saving wildlife," declared Tierra Curry, a biologist at the Center for Biological Diversity.

On Monday, the Fish and Wildlife Service published the formal proposal to remove the Inyo California towhee from the list of "threatened" species. The estimated population of the grayish-brown bird found in the Argus mountains of the Mojave Desert has increased sevenfold since the bird gained federal protection in 1987, officials say.

The proposal also puts the towhee in rare company.

Only 30 other species, including the bald eagle, have been delisted from the Endangered Species Act because their populations have recovered. More than 1,500 U.S. species remain listed, including more than 300 currently found in California.

The law itself seemed endangered for many years, as congressional Republicans led by former Rep. Richard Pombo, a San Joaquin Valley rancher-turned-chairman of the House Resources Committee, vowed to roll it back. Pombo was defeated in 2006 after being targeted by deep-pocketed environmental groups.

Since his departure, serious Capitol Hill debate over the Endangered Species Act has all but disappeared, though the GOP-controlled House of Representatives committees still hold hearings that highlight the law's perceived problems.

"The Endangered Species Act and the legal restrictions that flow from it impose an unnecessary regulatory burden on the public when species that do not qualify for listing are not reclassified," Pacific Legal Foundation attorney Daniel A. Himebaugh said via email Monday.

The foundation and the Center for Biological Diversity usually represent opposite views on [endangered species](#) protection. Both aggressively litigate. Last January, for instance, the center sued the Fish and Wildlife Service over alleged failures to protect the Sierra Nevada red fox, some of which live near Sonora Pass south of Lake Tahoe in California. The legal foundation, meanwhile, is still awaiting action on a petition to delist Indian Knob mountain balm, a plant found in San Luis Obispo County, Calif.

With the Inyo California towhee, the frequent antagonists unexpectedly ended up maneuvering federal officials toward a mutually satisfying conclusion.

In 2000, it was the Center for Biological Diversity that sued federal land managers over California desert habitat protection. The resulting settlement helped cut risks to the protected bird, including more aggressive efforts to get rid of the wild desert burros whose "dust baths" stir up trouble for the towhee. The bird's population soared out of danger.

This year, it was the Pacific Legal Foundation's time to sue, as a follow-up to an earlier petition to delist the towhee.

"Unfortunately, the service does not usually take regulatory action when it discovers through a review of a species that the species should be reclassified," Himebaugh said. "This means that a petition from the public and litigation may be necessary to get the agency to act."

The population of the Inyo California towhee, an omnivorous bird that mates for life, is now estimated to range from 640 to 741 adults.

Nearly the entire habitat considered crucial to the towhee's survival is on federal land, including a chunk of Naval Air Weapons Station China Lake. Less than 1 percent of the bird's critical habitat is on private property.

The Fish and Wildlife Service first proposed removing the bird from federal protection in 2008, but it never happened. The new proposal is open for public comment through Jan. 3.

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