
SAN LUIS WATER DISTRICT AND PANOCHE WATER DISTRICT

FINAL ENVIRONMENTAL ASSESSMENT

INTERIM RENEWAL CONTRACT 2011-2013

Appendix A
Draft Interim Renewal Contracts

February 2011

1
2
3 UNITED STATES
4 DEPARTMENT OF THE INTERIOR
5 BUREAU OF RECLAMATION
6 Central Valley Project, California

7 INTERIM RENEWAL CONTRACT BETWEEN THE UNITED STATES
8 AND
9 PANOCHE WATER DISTRICT
10 PROVIDING FOR PROJECT WATER SERVICE
11 SAN LUIS UNIT AND DELTA DIVISION

12 THIS CONTRACT, made this _____ day of _____, 20____,
13 in pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or
14 supplementary thereto, including, but not limited to, the acts of August 26, 1937 (50 Stat. 844),
15 as amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented,
16 July 2, 1956 (70 Stat. 483), June 3, 1960 (74 Stat. 156), June 21, 1963 (77 Stat. 68), October 12,
17 1982 (96 Stat. 1263), October 27, 1986 (100 Stat. 3050), as amended, and Title XXXIV of the
18 Act of October 30, 1992 (106 Stat. 4706), all collectively hereinafter referred to as Federal
19 Reclamation law, between the UNITED STATES OF AMERICA, hereinafter referred to as the
20 United States, and PANOCHE WATER DISTRICT, hereinafter referred to as the Contractor, a
21 public agency of the State of California, duly organized, existing, and acting pursuant to the laws
22 thereof;

23 WITNESSETH, That:

24 EXPLANATORY RECITALS

25 [1st] WHEREAS, the United States and the Contractor entered into only one
26 interim renewal contract identified as Contract No. 14-06-200-7864A-IR1, hereinafter
27 referred to as the Existing Interim Renewal Contract, which provided for the continued water

28 service to the Contractor from January 1, 2009 through February 28, 2011 following
29 expiration of the existing contract no. 14-06-200-7864A; and

30 [2nd] WHEREAS, the United States and the Contractor have made significant
31 progress in their negotiations of a long-term renewal contract, believe that further negotiations on
32 the long-term renewal contract would be beneficial, and mutually commit to continue negotiating
33 in seeking to reach agreement, but anticipate that the environmental documentation necessary for
34 execution of any long-term renewal contract may be delayed until March 2013, or later for
35 reasons beyond the control of the parties; and

36 [3rd] WHEREAS, the Contractor has requested a subsequent interim renewal
37 contract pursuant to subdivision (b) of Article 2 of the Existing Interim Renewal Contract; and

38 [4th] WHEREAS, the United States has determined that the Contractor has to
39 date fulfilled all of its obligations under the Existing Interim Renewal Contract; and

40 [5th] WHEREAS, the United States is willing to renew the Existing Interim
41 Renewal Contract pursuant to the terms and conditions set forth below;

42 NOW, THEREFORE, in consideration of the mutual and dependent covenants
43 herein contained, it is hereby mutually agreed by the parties hereto as follows:

44 INCORPORATION AND REVISION OF
45 EXISTING INTERIM RENEWAL CONTRACT

46 1. The terms and conditions of the Existing Interim Renewal Contract are hereby
47 incorporated by reference into this Contract with the same force and effect as if they were
48 included in full text with the exception of Article 2 thereof, which is revised as follows:

49 (a) The first sentence in subdivision (a) of Article 2 of the Existing Interim
50 Renewal Contract is modified as follows: “This Contract shall be effective from March 1, 2011,
51 and shall remain in effect through February 28, 2013, and thereafter will be renewed as described

52 in subdivision (a) of Article 2 of the Existing Interim Renewal Contract if a long-term renewal
53 contract has not been executed with an effective commencement date of March 1, 2013.”

54 (b) Subdivision (b) of Article 2 of the Existing Interim Renewal Contract is
55 amended by deleting the date “February 28, 2011,” and replacing same with the date
56 “February 28, 2013.”

57 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of
58 the day and year first above written.

59 UNITED STATES OF AMERICA

60 By: _____
61 Regional Director, Mid-Pacific Region
62 Bureau of Reclamation

63 (SEAL) PANOCHE WATER DISTRICT

64 By: _____
65 President

66 Attest:

67 By: _____
68 Secretary

1
2
3 UNITED STATES
4 DEPARTMENT OF THE INTERIOR
5 BUREAU OF RECLAMATION
6 Central Valley Project, California

7 INTERIM RENEWAL CONTRACT BETWEEN THE UNITED STATES
8 AND
9 SAN LUIS WATER DISTRICT
10 PROVIDING FOR PROJECT WATER SERVICE
11 SAN LUIS UNIT AND DELTA DIVISION

12 THIS CONTRACT, made this ____ day of _____, 20____,
13 in pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or
14 supplementary thereto, including, but not limited to, the acts of August 26, 1937 (50 Stat. 844),
15 as amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented,
16 July 2, 1956 (70 Stat. 483), June 3, 1960 (74 Stat. 156), June 21, 1963 (77 Stat. 68), October 12,
17 1982 (96 Stat. 1263), October 27, 1986 (100 Stat. 3050), as amended, and Title XXXIV of the
18 Act of October 30, 1992 (106 Stat. 4706), all collectively hereinafter referred to as Federal
19 Reclamation law, between the UNITED STATES OF AMERICA, hereinafter referred to as the
20 United States, and SAN LUIS WATER DISTRICT, hereinafter referred to as the Contractor, a
21 public agency of the State of California, duly organized, existing, and acting pursuant to the laws
22 thereof;

23 WITNESSETH, That:

24 EXPLANATORY RECITALS

25 [1st] WHEREAS, the United States and the Contractor entered into only one
26 interim renewal contract identified as Contract No. 14-06-200-7773A-IR1, hereinafter
27 referred to as the Existing Interim Renewal Contract, which provided for the continued water

28 service to the Contractor from January 1, 2009 through February 28, 2011 following
29 expiration of the existing contract no. 14-06-200-7773A; and

30 [2nd] WHEREAS, the United States and the Contractor have made significant
31 progress in their negotiations of a long-term renewal contract, believe that further negotiations on
32 the long-term renewal contract would be beneficial, and mutually commit to continue negotiating
33 in seeking to reach agreement, but anticipate that the environmental documentation necessary for
34 execution of any long-term renewal contract may be delayed until March 2013, or later for
35 reasons beyond the control of the parties; and

36 [3rd] WHEREAS, the Contractor has requested a subsequent interim renewal
37 contract pursuant to subdivision (b) of Article 2 of the Existing Interim Renewal Contract; and

38 [4th] WHEREAS, the United States has determined that the Contractor has to
39 date fulfilled all of its obligations under the Existing Interim Renewal Contract; and

40 [5th] WHEREAS, the United States is willing to renew the Existing Interim
41 Renewal Contract pursuant to the terms and conditions set forth below;

42 NOW, THEREFORE, in consideration of the mutual and dependent covenants
43 herein contained, it is hereby mutually agreed by the parties hereto as follows:

44 INCORPORATION AND REVISION OF
45 EXISTING INTERIM RENEWAL CONTRACT

46 1. The terms and conditions of the Existing Interim Renewal Contract are hereby
47 incorporated by reference into this Contract with the same force and effect as if they were
48 included in full text with the exception of Article 2 thereof, which is revised as follows:

49 (a) The first sentence in subdivision (a) of Article 2 of the Existing Interim
50 Renewal Contract is modified as follows: “This Contract shall be effective from March 1, 2011,
51 and shall remain in effect through February 28, 2013, and thereafter will be renewed as described

52 in subdivision (a) of Article 2 of the Existing Interim Renewal Contract, if a long-term renewal
53 contract has not been executed with an effective commencement date of March 1, 2013.”

54 (b) Subdivision (b) of Article 2 of the Existing Interim Renewal Contract is
55 amended by deleting the date “February 28, 2011,” and replacing same with the date
56 “February 28, 2013.”

57

58 IN WITNESS WHEREOF, the parties hereto have executed this contract as of
59 the day and year first above written.

60

UNITED STATES OF AMERICA

61
62
63

By: _____
Regional Director, Mid-Pacific Region
Bureau of Reclamation

64 (SEAL)

SAN LUIS WATER DISTRICT

65
66
67
68

By: _____
President, Board of Directors

69 Attest:

70 By: _____
71 Secretary

SAN LUIS WATER DISTRICT AND PANOCHE WATER DISTRICT

FINAL ENVIRONMENTAL ASSESSMENT

INTERIM CONTRACT RENEWAL 2011-2013

Appendix B
Water Needs Assessment

February 2011

Water Need Assessment

Contractor ID: 202030

West San Joaquin

Contractor's Water Supply Sources and Quantities (acre-feet)

Date: 6/2/2003 8:27:14 A

Timeframe	Surface Water Supply						Groundwater Supply				Total Supply	
	Reference Delivery	USBR Total Deliv/Max	SWP	Local	Local Source	Trsfr / Rtm / Recycle In	Trsfr / Out	District	Private	Safe Yield		Recharge
1	2	3	4	5	6	7	8	9	10	11	12	13
1989 WC Plan	86,081	91,887	0	0		1,792	42	0	0		0	93,637
1999	0	0										0
2025	94,000 *	94,000 *	0	0		0	48	0	0		0	93,952

Contractor's Agricultural Water Demands

Maximum Productive Acres: 35,786

Timeframe	Crop Water Requirement (acre-feet)	District Irrig. Efficiency (%)	Effective Precip (acre-feet)	Reference Effective Precip (acre-ft)	Calculated Net Crop Water Req (acre-feet)	USBR Net Crop Water Req (acre-feet)	Average Irrigated Acres (acres)	Reference Irrigated Acres (acres)	Calculated FDR (AF/acre)	USBR FDR (AF/acre)	Conveyance Loss (acre-feet)	Total Ag Demand (acre-feet)
1	15	16	17	18	19	20	21	22	23	24	25	26
1989	80,707	75	6,555	10,676	98,869	99,641	35,661	35,586	2.77	2.80	7,903	106,772
1999	81,443	75	10,859	10,859	94,112	94,112	36,197	36,197	2.60	2.60		
2025	85,916	85	11,430	11,430	87,630	87,630	38,100	38,100	2.30	2.30	5,186	92,816

Contractor's M&I Water Demands

Timeframe	Residential Water Demand			Nonresidential Water Demand			Loss	Ref Urban Per Capita Dmd (gpcd)	Calc Urban Per Capita Dmd (gpcd)	Total M&I Demand (acre-feet)	Total Ag + M&I Dmd (acre-feet)	Unmet Demand (acre-feet)
	Population	Per Capita Demand (gpcd)	Total Demand (acre-feet)	Industrial (acre-feet)	Comm / Instit. (acre-feet)	Total Demand (acre-feet)	Unacc. / Distr. (acre-feet)					
1	28	29	30	31	32	33	34	35	36	37	38	39
1989							0	0		0	106,772	13,135
1999							0	0		0	0	0
2025							0	0		0	92,816	-1,136

* Represents Maximum Contract Amount

Notes: In 1989 and 2025, USBR total supply includes 42 & 48 AF M&I; these supplies are shown as transfers out to make this solely an assessment of ag water need.

SAN LUIS WD-DMC

Contractor ID: 202100

Delta

Water Need Assessment

Contractor's Water Supply Sources and Quantities (acre-feet)

Date: 6/2/2003 8:27:04 A

Timeframe 1	Surface Water Supply							Groundwater Supply				Total Supply 13
	Reference Delivery 2	USBR Total Deliv/Max 3	SWP 4	Local 5	Local Source 6	Trsr / Rtrn / Recycle In 7	Trsr / Out 8	District 9	Private 10	Safe Yield 11	Recharge 12	
1989 WC Plan	120,261	106,092	0	0		13,038	1,864	0	10,000		0	127,266
1998 WC Plan	125,080 *	70,409	0	0		4,458	2,894	0	10,000		0	81,973
1999	0	0										0
2025	125,080 *	125,080 *	0	0		0	4,894	0	5,000		0	125,186

Contractor's Agricultural Water Demands

Maximum Productive Acres: 50,523

Timeframe 1	Crop Water Requirement (acre-feet) 15	District Irrig. Efficiency (%) 16	Effective Precip (acre-feet) 17	Reference Effective Precip (acre-ft) 18	Calculated Net Crop Water Req (acre-feet) 19	USBR Net Crop Water Req (acre-feet) 20	Average Irrigated Acres (acres) 21	Reference Irrigated Acres (acres) 22	Calculated FDR (AF/acre) 23	USBR FDR (AF/acre) 24	Conveyance Loss (acre-feet) 25	Total Ag Demand (acre-feet) 26
1989	128,994	75	9,289	13,385	159,607	129,389	44,764	44,617	3.57	2.90	442	160,049
1998	104,656	75	33,107		95,399		47,924		1.99		1,906	97,305
1999	103,037	75	12,880	12,880	120,210	120,210	42,932	42,932	2.80	2.80		
2025	112,883	85	13,050	13,050	117,450	117,450	43,500	43,500	2.70	2.70	1,906	119,356

Contractor's M&I Water Demands

Timeframe 1	Residential Water Demand			Nonresidential Water Demand			Loss	Ref Urban Per Capita Dmd (gpcd) 35	Calc Urban Per Capita Dmd (gpcd) 36	Total M&I Demand (acre-feet) 37	Total Ag + M&I Dmd (acre-feet) 38	Unmet Demand (acre-feet) 39
	Population 28	Per Capita Demand (gpcd) 29	Total Demand (acre-feet) 30	Industrial (acre-feet) 31	Comm / Instlit. (acre-feet) 32	Total Demand (acre-feet) 33	Unacc. / Distr. (acre-feet) 34					
1989	0	0.0	0	0	0	0	0	0.0	0.0	0	160,049	32,783
1998							0			0	97,305	15,332
1999							0			0	0	0
2025	0	0.0	0	0	0	0	0	0.0	0.0	0	119,356	-5,830

* Represents Maximum Contract Amount

Notes: Historic transfers out include M&I deliveries. Drainage water of 3,785 for 1989 and 2,621 for 1998 not included. In 2025, 2000 AF M&I water use included in transfers out due to increase in development of I-5 businesses.

SAN LUIS WATER DISTRICT AND PANOCHE WATER DISTRICT

FINAL ENVIRONMENTAL ASSESSMENT

INTERIM CONTRACT RENEWAL 2011-2013

Appendix C
Threatened and Endangered Species List

February 2011

U.S. Fish & Wildlife Service
Sacramento Fish & Wildlife Office
Federal Endangered and Threatened Species that Occur in
or may be Affected by Projects in the Counties and/or
U.S.G.S. 7 1/2 Minute Quads you requested

Document Number: 100903013938

Database Last Updated: April 29, 2010

Quad Lists

Listed Species

Invertebrates

- Branchinecta longiantenna*
longhorn fairy shrimp (E)
- Branchinecta lynchi*
vernal pool fairy shrimp (T)
- Desmocerus californicus dimorphus*
valley elderberry longhorn beetle (T)
- Lepidurus packardii*
vernal pool tadpole shrimp (E)

Fish

- Hypomesus transpacificus*
delta smelt (T)
- Oncorhynchus mykiss*
Central Valley steelhead (T) (NMFS)

Amphibians

- Ambystoma californiense*
California tiger salamander, central population (T)
Critical habitat, CA tiger salamander, central population (X)
- Rana draytonii*
California red-legged frog (T)
Critical habitat, California red-legged frog (X)

Reptiles

- Gambelia (=Crotaphytus) sila*
blunt-nosed leopard lizard (E)
- Thamnophis gigas*
giant garter snake (T)

Mammals

- Dipodomys ingens*
giant kangaroo rat (E)
- Dipodomys nitratoides exilis*
Fresno kangaroo rat (E)
- Vulpes macrotis mutica*
San Joaquin kit fox (E)

Plants

Monolopia congdonii (= *Lembertia congdonii*)

San Joaquin woolly-threads (E) > 5-mile south

Proposed Species

Amphibians

Rana draytonii

Critical habitat, California red-legged frog (PX)

Quads Containing Listed, Proposed or Candidate Species:

CHOUNET RANCH (361B)

DOS PALOS (382B)

HAMMONDS RANCH (382C)

BROADVIEW FARMS (382D)

CHARLESTON SCHOOL (383A)

ORTIGALITA PEAK NW (383B)

LAGUNA SECA RANCH (383D)

LOS BANOS VALLEY (384A)

VOLTA (403C)

LOS BANOS (403D)

SAN LUIS DAM (404D)

County Lists

No county species lists requested.

Key:

(E) *Endangered* - Listed as being in danger of extinction.

(T) *Threatened* - Listed as likely to become endangered within the foreseeable future.

(P) *Proposed* - Officially proposed in the Federal Register for listing as endangered or threatened.

(NMFS) Species under the Jurisdiction of the [National Oceanic & Atmospheric Administration Fisheries Service](#). Consult with them directly about these species.

Critical Habitat - Area essential to the conservation of a species.

(PX) *Proposed Critical Habitat* - The species is already listed. Critical habitat is being proposed for it.

(C) *Candidate* - Candidate to become a proposed species.

(V) Vacated by a court order. Not currently in effect. Being reviewed by the Service.

(X) *Critical Habitat* designated for this species

Important Information About Your Species List

How We Make Species Lists

We store information about endangered and threatened species lists by U.S. Geological Survey 7½ minute quads. The United States is divided into these quads, which are about the size of San Francisco.

The animals on your species list are ones that occur within, **or may be affected by** projects within, the quads covered by the list.

- Fish and other aquatic species appear on your list if they are in the same watershed as your quad or if water use in your quad might affect them.

- Amphibians will be on the list for a quad or county if pesticides applied in that area may be carried to their habitat by air currents.
- Birds are shown regardless of whether they are resident or migratory. Relevant birds on the county list should be considered regardless of whether they appear on a quad list.

Plants

Any plants on your list are ones that have actually been observed in the area covered by the list. Plants may exist in an area without ever having been detected there. You can find out what's in the surrounding quads through the California Native Plant Society's online [Inventory of Rare and Endangered Plants](#).

Surveying

Some of the species on your list may not be affected by your project. A trained biologist and/or botanist, familiar with the habitat requirements of the species on your list, should determine whether they or habitats suitable for them may be affected by your project. We recommend that your surveys include any proposed and candidate species on your list. See our [Protocol](#) and [Recovery Permits](#) pages.

For plant surveys, we recommend using the [Guidelines for Conducting and Reporting Botanical Inventories](#). The results of your surveys should be published in any environmental documents prepared for your project.

Your Responsibilities Under the Endangered Species Act

All animals identified as listed above are fully protected under the Endangered Species Act of 1973, as amended. Section 9 of the Act and its implementing regulations prohibit the take of a federally listed wildlife species. Take is defined by the Act as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect" any such animal.

Take may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or shelter (50 CFR §17.3).

Take incidental to an otherwise lawful activity may be authorized by one of two procedures:

- If a Federal agency is involved with the permitting, funding, or carrying out of a project that may result in take, then that agency must engage in a formal [consultation](#) with the Service.

During formal consultation, the Federal agency, the applicant and the Service work together to avoid or minimize the impact on listed species and their habitat. Such consultation would result in a biological opinion by the Service addressing the anticipated effect of the project on listed and proposed species. The opinion may authorize a limited level of incidental take.

- If no Federal agency is involved with the project, and federally listed species may be taken as part of the project, then you, the applicant, should apply for an incidental take permit. The Service may issue such a permit if you submit a satisfactory conservation plan for the species that would be affected by your project.

Should your survey determine that federally listed or proposed species occur in the area and are likely to be affected by the project, we recommend that you work with this office and the California Department of Fish and Game to develop a plan that minimizes the project's direct and indirect impacts to listed species and compensates for project-related loss of habitat. You should include the plan in any environmental documents you file.

Critical Habitat

When a species is listed as endangered or threatened, areas of habitat considered essential

to its conservation may be designated as critical habitat. These areas may require special management considerations or protection. They provide needed space for growth and normal behavior; food, water, air, light, other nutritional or physiological requirements; cover or shelter; and sites for breeding, reproduction, rearing of offspring, germination or seed dispersal.

Although critical habitat may be designated on private or State lands, activities on these lands are not restricted unless there is Federal involvement in the activities or direct harm to listed wildlife.

If any species has proposed or designated critical habitat within a quad, there will be a separate line for this on the species list. Boundary descriptions of the critical habitat may be found in the Federal Register. The information is also reprinted in the Code of Federal Regulations (50 CFR 17.95). See our [Map Room](#) page.

Candidate Species

We recommend that you address impacts to candidate species. We put plants and animals on our candidate list when we have enough scientific information to eventually propose them for listing as threatened or endangered. By considering these species early in your planning process you may be able to avoid the problems that could develop if one of these candidates was listed before the end of your project.

Species of Concern

The Sacramento Fish & Wildlife Office no longer maintains a list of species of concern. However, various other agencies and organizations maintain lists of at-risk species. These lists provide essential information for land management planning and conservation efforts. [More info](#)

Wetlands

If your project will impact wetlands, riparian habitat, or other jurisdictional waters as defined by section 404 of the Clean Water Act and/or section 10 of the Rivers and Harbors Act, you will need to obtain a permit from the U.S. Army Corps of Engineers. Impacts to wetland habitats require site specific mitigation and monitoring. For questions regarding wetlands, please contact Mark Littlefield of this office at (916) 414-6580.

Updates

Our database is constantly updated as species are proposed, listed and delisted. If you address proposed and candidate species in your planning, this should not be a problem. However, we recommend that you get an updated list every 90 days. That would be December 02, 2010.

SAN LUIS WATER DISTRICT AND PANOCHE WATER DISTRICT

FINAL ENVIRONMENTAL ASSESSMENT

INTERIM CONTRACT RENEWAL

Appendix D

U.S. Fish and Wildlife Service Concurrence Memo

February 2011



United States Department of the Interior
FISH AND WILDLIFE SERVICE
Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825-1846



In reply refer to:
81420-2008-I-0538-4

DEC 15 2010

Memorandum

To: Chief, Resources Management Division, Bureau of Reclamation, South-Central California Area Office, Fresno, California

From: ~~for~~ Assistant Field Supervisor, Sacramento Fish and Wildlife Office, Sacramento, California

Subject: Consultation on the Interim Renewal of Water Service Contracts with San Luis Water District and Panoche Water District

Daniel Russell

This memorandum transmits the U.S. Fish and Wildlife Service's (Service) concurrence with the U.S. Bureau of Reclamation's (Reclamation) September 21, 2010 determination that issuance of two Interim Renewal Contracts (IRCs), for the San Luis Water District (SLWD) and Panoche Water District (PWD), for a period of 24 months, beginning March 1, 2011 and going through February 28, 2013, may affect, but is not likely to adversely affect (NLAA) the federally-listed San Joaquin kit fox (*Vulpes macrotis mutica*), giant garter snake (*Thamnophis gigas*), and Delta smelt (*Hypomesus transpacificus*), including Delta smelt designated critical habitat. This response is provided pursuant to section 7(a) of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531 *et seq.*), and in accordance with the regulations governing interagency consultations (50 CFR §402). The current contracts expire at the end of February 2011. We received your September 21, 2010 request for concurrence memo on October 6, 2010.

Interim renewal contract deliveries have several components of effects on listed species (e.g., effects from drainage management and disposal, and changes to land use and cropping patterns, etc.). For the SLWD and PWD IRCs, some of these components were determined to result in adverse effects, but these effects have been addressed in other consultations (e.g., the Service's consultation on the Grassland Bypass Project, Service File No. 2009- F-1036 and San Luis Drainage Feature Re-evaluation, Service File No. 2006-F-0027). The effects of IRCs considered in this NLAA concurrence memo are related solely with the delivery of water and associated land use impacts.

Reclamation has determined that the proposed action will have no effect on the federally listed species or critical habitats identified in Table 1 below and is not requesting concurrence with those determinations. Reclamation did not request Service concurrence with this determination, and as a result, these species are not considered as part of this consultation. However, in the spirit of interagency cooperation, the Service would like to take this opportunity to discuss in

TAKE PRIDE
IN AMERICA 

more depth one of the species, the blunt-nosed leopard lizard (*Gambelia sila*), included in Reclamation's 'no effect' determination. Because blunt-nosed leopard lizards have historically been found within the boundaries of SLWD, and based on the land use map for SLWD that Reclamation provided to the Service on November 23, 2010 showing some lands within SLWD that are either classified as "barren" or "grassland" and which could serve as habitat to the lizard, the Service believes that this species would more appropriately fall under the 'may affect' category, with the subsequent required analysis of whether or not the project is likely to adversely affect the species. As explained in the Service's 1998 Consultation Handbook on conducting section 7 consultations, an action agency's determination of 'no effect' is within its purview and discretion, and no further action or response is required from the agency or the Service regarding the Act. Therefore, the Service is only providing this response to offer our perspective on this aspect of consultation for the proposed project.

Table 1. Threatened and endangered species and/or critical habitat potentially within the Action Area that Reclamation determined would not be affected by the proposed action.

<u>Common Name</u>	<u>Scientific Name</u>	<u>Status</u> ¹
San Joaquin woolly-threads	<i>Monolopia congdonii</i>	E
Valley elderberry longhorn beetle	<i>Desmocerus californicus dimorphus</i>	T
Longhorn fairy shrimp	<i>Branchinecta longiantenna</i>	E, H
Vernal pool fairy shrimp	<i>Branchinecta lynchi</i>	T, H
Vernal pool tadpole shrimp	<i>Lepidurus packardii</i>	E, H
Blunt-nosed leopard lizard	<i>Gambelia (=Crotaphytus) sila</i>	E
California red-legged frog	<i>Rana aurora draytonii</i>	T, H
California tiger salamander	<i>Ambystoma californiense</i>	T, H
Fresno kangaroo rat	<i>Dipodomys nitratooides exilis</i>	E, H
Giant kangaroo rat	<i>Dipodomys ingens</i>	E

In 2004, Reclamation requested initiation of formal consultation under the ESA for San Luis Unit (SLU) long term contract renewals, including SLWD and PWD. Consultation on SLU long term contract renewals was suspended to allow completion of the consultation for the coordinated operations of the Central Valley Project and State Water Project Operations Criteria and Plan. In accordance with and as required by Section 3404(c) of the Central Valley Improvement Act (CVPIA) of 1992 (Public Law 102-575), interim renewal contracts are undertaken to provide a bridge between the expiration of the original long-term water service contracts and long-term renewal of those contracts. In 2007, Reclamation executed interim renewal contracts for the San Luis Unit. The Service issued a Biological Opinion on December 18, 2007 for five SLU IRCs (Westlands Water District, California Department of Fish and

¹ Status: (E) Endangered; (T) Threatened; (H) Designated Critical Habitat; (PH) Proposed Critical Habitat

Game, and the Cities of Avenal, Coalinga, and Huron) (Service File No. 2008-F-0538). The SLWD and PWD IRCs were not included in that consultation based on the discussions between Reclamation and the Service relating to the extension of the Grassland Bypass Project. The long-term contracts for SLWD and PWD expired December 31, 2008. The Service completed an ESA consultation on 26-month IRCs for SLWD and PWD from January 1, 2009 through February 28, 2011 with a finding that this action may affect, but is NLAA the federally listed San Joaquin kit fox and giant garter snake (Service File No. 2008-I-0538-2).

In 2006 Reclamation completed an Environmental Impact Statement (EIS) and Record of Decision (ROD) under the National Environmental Policy Act (NEPA), and the Service completed a Biological Opinion and a Fish and Wildlife Coordination Act Report in accordance with the provisions of section 2(b) of the Fish and Wildlife Coordination Act (48 stat. 401, as amended; 16 U.S.C. 661, et seq.) on San Luis Drainage Feature Re-evaluation (SLDFR). The purpose of the SLDFR project is to meet Reclamation's obligations under the Federal San Luis Unit Act of June 3, 1960, Public Law 86-488, 74 Stat. 156, Section 5, to provide drainage service to drainage-impacted lands within the San Luis Unit (including drainage impacted lands within SLWD and PWD). Once fully implemented, Reclamation anticipated in the EIS and ROD that the drainage discharge from the San Luis Unit would be reduced to sufficient standards to meet the statutory and judicial requirements imposed. Congress has not yet acted to authorize and make appropriations to implement the SLDFR ROD, although Reclamation has the authority to complete some of the actions described in the EIS.

On December 18, 2009, the Service issued a Biological Opinion to Reclamation on the continued agricultural drainage management and disposal called the Grassland Bypass Project (GBP), involving seven agricultural water districts including SLWD and PWD. The Service concluded that the GBP may adversely affect, but is not like to jeopardize the continued existence of the giant garter snake and the San Joaquin kit fox, and not likely to adversely affect the Delta smelt (including Critical Habitat). The 2009 Biological Opinion provided reasonable and prudent measures and terms and conditions to implement those measures. The execution of Interim Renewal Contracts for SLWD and PWD will be subjected to the terms and conditions as specified in the 2009 Biological Opinion.

The Service bases this concurrence with Reclamation's NLAA determination on the information provided for the SLU long-term contract renewal consultation (2004 Biological Assessment, draft Environmental Impact Statement and Supplement, responses to insufficiency memoranda, and additional information generated by the Endangered Species Recovery Program), the May 2007 Draft Environmental Assessment, San Luis Unit Water Service Interim Renewal Contracts, 2008 – 2011, and the November 2010 "Draft Environmental Assessment, San Luis Water District's and Panoche Water District's Water Service Interim Renewal Contracts, 2011-2013". The proposed action is the execution of IRCs for SLWD and PWD in amounts up to a maximum of 125,080 and 94,000 acre-feet respectively. The IRCs provide delivery of "a maximum quantity of water subject to hydrological and regulatory constraints for up to the full contract amounts," as described in Reclamation's September 2005 Memo and attachments on SLU long term contract renewals.

The IRCs considered in this consultation will apply the same interim shortage provisions that are currently applied to existing contracts, in accordance with the June 9, 1997 CVPIA Administrative Proposal on Urban Water Supply Reliability (p. 2-29, CVPIA Programmatic

biological opinion, Service file No. 98-F-0124). These IRCs will not change contract terms or conditions governing the allocation of project water during a drought emergency, so would not provide additional water reliability. As a result, we do not anticipate these IRCs to affect water allocations identified by existing Central Valley Project operations criteria.

The Service's concurrence with a NLAA determination for this action is based in part on an Applicant commitment from the SLWD (Attachment A) stipulating that use of Central Valley Project water for new municipal and industrial uses will not occur until compliance with the ESA has been confirmed. Such confirmation shall be consistent with a process elaborated in the Final Environmental Assessment/Initial Study for the 25-Year Transfer and Groundwater Pumping Project of the San Joaquin Exchange Contractors and the U.S. Bureau of Reclamation, pages F-29 through F-30 (Attachment B).

Our concurrence with your NLAA determination concludes this consultation for this action. Therefore, unless new information reveals effects of the proposed action that may affect listed species in a manner or to an extent not considered, or a new species or critical habitat is designated that may be affected by the proposed action, no further action pursuant to the ESA is necessary. If you have questions regarding this action, please contact Joy Winckel or Daniel Russell at (916) 414-6600.

Attachments

cc:
USBR, Sacramento, CA (Attn: Mike Chotkowski)
USBR, Fresno, CA (Attn: David Hyatt)

Attachment A.

6715 NORTH PALM AVENUE
SUITE 116
FRESNO, CALIFORNIA 93704
GARY W. SAWYERS
SCOTT D. GREENWOOD-MENERT

LAW OFFICES OF
GARY W. SAWYERS

TELEPHONE (559) 438-5656
FACSIMILE (559) 438-1781
GSAWYERS@SAWYERSLAW.COM
SGREENWOOD-MENERT@SAWYERSLAW.COM

May 3, 2006

VIA FACSIMILE ONLY
(559) 487-5397

Ms. Kathy Wood
Chief, Resource Management Division
Bureau of Reclamation
South-Central California Area Office
1243 "N" Street
Fresno, CA 93721

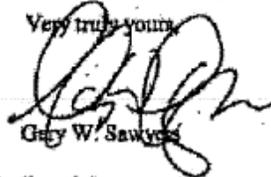
Re: San Luis Water District
Our File No. 52120.001

Dear Kathy:

In connection with the pending Agreement for the Acquisition of Water by the United States, San Luis & Delta-Mendota Water Authority, and Madera Irrigation District from the San Joaquin River Exchange Contractor Water Authority, I understand that Reclamation requires certain confirmations from the San Luis Water District. As you know, I am general counsel to the District. On behalf of the District, I hereby confirm that the District will not deliver Central Valley Project water to development or converted habitat without confirmation from the Bureau of Reclamation or other evidence that compliance with the Endangered Species Act has occurred with respect to the subject land either through Section 7 or Section 10 of the Act.

If you have any questions or need further confirmation, please contact me.

Very truly yours,



Gary W. Sawyers

GWS:lj
cc: Mr. Martin McInryre (via facsimile only)
Mr. Daniel Nelson (via facsimile only)

Excerpt from the Final Environmental Assessment/Initial Study for the 25-Year Transfer and Groundwater Pumping Project of the San Joaquin Exchange Contractors and U.S. Bureau of Reclamation, pages 2-17 through 2-18 and copied for reference below:

Use of transferred water for new M&I uses will not occur until (1) compliance with CESA and with CEQA, including analysis and mitigation for other sensitive biological resources, has been confirmed with the DFG and (2) ESA compliance for such M&I uses has been demonstrated by one of the following methods:

1. A letter or memo from the Service stating that the use will not result in adverse effects on listed or proposed species or proposed or designated critical habitat.
2. An incidental take permit for the M&I use issued by the Service pursuant to section 10(a)(1)(B) of the ESA.
3. A non-jeopardy, non-adverse modification or destruction biological opinion, or a biological opinion with a reasonable and prudent alternative, or a memo/letter concurring with a “not likely to adversely affect” determination issued by the Service to the lead Federal agency having jurisdiction over the project(s) using the transferred water for M&I use.

A properly documented “no effect” determination made by the Federal agency(ies) having jurisdiction over the project(s) using the transferred water for M&I use. Commitment 8 on page 2-70 of the CVPIA Programmatic Biological Opinion requires Reclamation to “provide necessary information to the Service’s SFWO Endangered Species Division” on Central Valley Project actions “where a determination of no effect has been made, sufficiently in advance, to enable the Service’s review”. Reclamation would accomplish this via the current SCCAO practice of immediately notifying Service of the availability of NEPA documents for public review and comment. Because any significant impacts from M&I use would be mitigated by the M&I projects before a water transfer is approved and water is actually provided, the proposed project has no significant impacts on the environment that are related to such transfers.