

Appendix A

Public Involvement

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under contracts for telecommunications services. Contracting officers and other DoD personnel use the information to ensure that information systems are protected; to participate in the establishment of tariffs for telecommunications services; and to establish reasonable prices for special construction by common carriers.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Annual Burden Hours: 1,428.

Number of Respondents: 424.

Responses Per Respondent: Approximately 4.

Annual Responses: 1,571.

Average Burden Per Response: 1 hour.

Frequency: On occasion.

Summary of Information Collection

The clause at DFARS 252.239-7000, Protection Against Compromising Emanations, requires that the contractor provide, upon request of the contracting officer, documentation that information technology used or provided under the contract meets appropriate information assurance requirements.

The clause at DFARS 252.239-7006, Tariff Information, requires that the contractor provide to the contracting officer: (1) Upon request, a copy of the contractor's existing tariffs; (2) before filing, a copy of any application to a Federal, State, or other regulatory agency for new rates, charges, services, or regulations relating to any tariff or any of the facilities or services to be furnished solely or primarily to the government, and, upon request, a copy of all information, material, and data developed or prepared in support of or in connection with such an application; and (3) a notification to the contracting officer of any application submitted by anyone other than the contractor that may affect the rate or conditions of services under the agreement or contract.

DFARS 239.7408 requires the contracting officer to obtain a detailed special construction proposal from a common carrier that submits a proposal or quotation that has special construction requirements related to the performance of basic telecommunications services.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 04-24286 Filed 10-29-04; 8:45 am]

BILLING CODE 5001-08-P

DEPARTMENT OF DEFENSE

Department of the Navy

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Notice of Intent To Prepare an Environmental Impact Statement/ Environmental Impact Report for the Santa Margarita River Conjunctive Use Project, San Diego County, CA

AGENCIES: Department of the Navy, DOD. Bureau of Reclamation, DOI.

ACTION: Notice.

SUMMARY: Pursuant to Section (102)(2)(c) of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4332 (2) (c)), as implemented by the Council on Environmental Quality Regulations (40 CFR parts 1500-1508), and the California Environmental Quality Act (CEQA) (PRC 21000 *et seq.*), as implemented by the California State CEQA Guidelines (14 CCR 15000-15387), the Department of the Navy, Marine Corps Base Camp Pendleton (MCB Camp Pendleton); the Bureau of Reclamation (Reclamation); and the Fallbrook Public Utility District (Fallbrook) intend to prepare an environmental impact statement/ environmental impact report (EIS/EIR) and conduct associated public scoping meetings for the proposed Santa Margarita River Conjunctive Use Project. Three public meetings will be held to collect scoping comments. The public and agencies are invited to attend and provide comments.

DATES: All written comments must be received by January 31, 2005. Public meeting dates are as follows:

1. January 12, 2005, 6 p.m. to 8 p.m., Oceanside, CA.
2. January 13, 2005, 6 p.m. to 8 p.m., Fallbrook, CA.

ADDRESSES: Written comments or requests for inclusion on the EIS/EIR mailing list may be submitted to: Bureau of Reclamation, Southern California Area Office, Attn: Bill Rohwer, 27708 Jefferson Ave, Suite 202, Temecula, CA 92590.

Public meeting locations are as follows:

1. Oceanside—Oceanside Civic Center Library and Community Rooms, 330 North Coast Hwy, Oceanside, CA.
2. Fallbrook—Fallbrook Public Utility District, 990 East Mission Rd, Fallbrook, CA.

FOR FURTHER INFORMATION CONTACT: Bureau of Reclamation, Mr. Bill Rohwer, telephone 951-695-5310, fax 951-695-

5319, or e-mail: wrohwer@lc.usbr.gov. Please submit requests for sign language interpretation for the hearing impaired or for other auxiliary aids at the public meetings to Mr. Rohwer by January 5, 2005.

SUPPLEMENTARY INFORMATION: The proposed conjunctive use project would be located in the lower Santa Margarita River basin on MCB Camp Pendleton, San Diego County, California. The project would upgrade an existing groundwater recharge and recovery system currently producing 7,000 acre-feet of water per year. Studies suggest that this yield could be increased to as much as 16,200 acre-feet per year. The project would improve existing diversion and percolation facilities and install new wells, an advanced potable water treatment plant, pump stations and a pipeline to Fallbrook. Potential options could involve in-stream water retention structures, reclaimed wastewater, off-stream storage, and recharge of other groundwater basins on MCB Camp Pendleton.

The purpose of the proposed project is to help meet water demands for MCB Camp Pendleton and Fallbrook, reduce regional dependency on imported water, and improve water reliability by increasing the yield of the lower Santa Margarita River basin and perfecting water rights permits that were assigned to Reclamation in 1974 pursuant to State Water Resources Control Board Order WR 73-50.

Reclamation currently holds three state-approved permits to divert and store water from the Santa Margarita River. The proposed conjunctive use project would enable permits 15000, 11357, and 8511 to be perfected, and could facilitate settlement of *United States v. Fallbrook Public Utility District, et al.* (No. 1247-SD-C), filed in 1951.

The permits were originally issued to Fallbrook and MCB Camp Pendleton. In 1968, Fallbrook, the U.S. Attorney General, the Secretary of the Navy, and the Secretary of the Interior signed a Memorandum of Understanding and Agreement to negotiate a physical solution predicated on the construction of a two-dam project on the Santa Margarita River. Fallbrook and MCB Camp Pendleton subsequently assigned the permits to Reclamation, which had been authorized to prepare feasibility studies for the project (Sec. 3, Pub. L. 89-561).

Reclamation completed a Feasibility Report in 1971 and a Final EIS in 1976 for a two-dam project to impound, conserve, and deliver the natural flows of the Santa Margarita River, as well as

imported waters, to MCB Camp Pendleton and Fallbrook. Reclamation prepared a supplemental EIS for the project in 1984. However, Congress did not approve the project's funding. A subsequent effort to design a smaller, single dam project was also unsuccessful.

A 1994 study, with additional reports in 2001 and 2002, concluded that a groundwater recharge and extraction project (*i.e.*, conjunctive use) may result in an annual yield comparable to that of the two-dam project, at a lower cost and with fewer adverse environmental effects.

The conference report for the 2003 Omnibus Appropriations Act (Pub. L. 108-7) directed Reclamation, under the Santa Margarita feasibility authorization, to perform the studies needed to address current and future municipal, domestic, military, environmental, and other water uses from the Santa Margarita River. The 2004 Energy and Water Appropriations Act (Pub. L. 108-137) provided funding for Reclamation to study the feasibility of the Santa Margarita Conjunctive Use Project.

Through previous investigations, several areas of potential impact have been identified that apply to this proposed conjunctive use project. Potential impacts identified to date include, but are not be limited to, the following areas: Water quality/quantity (surface and groundwater), water rights, water reuse, fish passage, endangered species, estuarine habitat, riparian/wetland habitat, and sediment transport.

MCB Camp Pendleton, Reclamation, and Fallbrook have scheduled public meetings to describe the proposed project and obtain public input on the range of issues that should be studied in order to evaluate potential impacts of the proposed project. Each meeting will begin with a formal presentation about the proposed project from 6 p.m. to 6:30 p.m. followed by an informal open house from 6:30 p.m. to 8 p.m.

These meetings will assist the agencies in identifying additional alternatives or options to meet the stated purpose of the conjunctive use project and to assist in determining issues that will be analyzed in the EIS/EIR.

In response to issues developed during scoping, other alternative means of meeting the project's purpose will be explored and analyzed in the EIS/EIR, if found to be reasonable. Federal, state and local agencies, tribes, and the general public are invited to participate in the environmental review process.

Comments, including names and home addresses of respondents, will be made available for public review.

Individual respondents may request their home address be withheld from public disclosure. Circumstances may exist in which we would withhold a respondent's identity from public disclosure, as allowable by law. Please prominently state at the beginning of your comment if you wish your name and/or address withheld from public disclosure. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety. Please note, unidentified comments will not be considered.

Dated: October 27, 2004.

J.H. Wagshul,

Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

Dated: October 27, 2004.

Robert W. Johnson,

Regional Director, Department of the Interior, Bureau of Reclamation, Lower Colorado Region.

[FR Doc. 04-24335 Filed 10-29-04; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 1, 2004.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Carolyn Lovett, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395-6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public

participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.*, new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: October 27, 2004.

Angela C. Arrington,

Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer.

Institute of Education Sciences

Type of Review: Revision.

Title: 2005 National Household Education Surveys Program (NHES: 2005).

Frequency: One time.

Affected Public: Individuals or household.

Reporting and Recordkeeping Hour Burden: Responses: 92,476. Burden Hours: 11,663.

Abstract: NHES:2005 is a survey of households using random-digit-dialing and computer-assisted telephone interviewing. Three topical surveys are to be conducted in NHES:2005: Early Childhood Program Participation (ECPP), After-School Programs and Activities (ASPA), and Adult Education and Lifelong Learning (AELL). ECPP and ASPA will provide current measures of participation in early childhood education, after-school programs, and other forms of non-parental care, as well as in-home and out-of-home activities. AELL will provide in-depth information on the participation of adults in a wide range of training and education activities.

Requests for copies of the submission for OMB review; comment request may be accessed from <http://edicsweb.ed.gov>, by selecting the "Browse Pending Collections" link and by clicking on link number 2630. When you access the information collection, click on "Download Attachments" to view. Written requests for information

CEQA Daily Log

Documents Received during the Period: 12/01/2004 - 12/15/2004

SCH Number	Title / Lead Agency / City--County / Description	Document Type	Ending Date
<u>Documents Received on Wednesday, December 15, 2004</u>			
	- General Plan Amendment No. 2004-05, changing the designation on 37.12 acres from Low Medium Density Residential (6 dwelling units/acre) to THSP; and - Zone Change No. 2004-06, changing on 37.12 acres from R-1 to THSP; and - Tentative Tract Map No. 31370, subdividing approximately 368 acres into 807 dwelling units, streets, community and neighborhood parks, and approximately 130 acres of natural open space.		
2004121067	Cielita Linda Residential Subdivision Vista, City of Vista--San Diego The project consists of the annexation of approximately 7.35 acres into the City of Vista and development of a 52-lot single family residential subdivision, private streets, and associated improvements on a 20.24-acre site.	NOP	01/13/2005
2004121068	Santa Margarita River Conjunctive Use Project Fallbrook Public Utility District Fallbrook--San Diego The proposed project would upgrade an existing groundwater recharge and recovery system to help meet water demands for Camp Pendleton and Fallbrook, reduce regional dependency on imported water, and improve water reliability. The project would improve existing diversion and percolation facilities and install new wells, an advanced potable water treatment plant, pump stations, and a pipeline to Fallbrook.	NOP	01/13/2005
2004121069	El Rancho Middle School Sportsfield Improvements and Lighting Anaheim, City of Anaheim--Orange Lighting and improvements of El Rancho Middle School ballfield for more efficient utilization. The proposed project would result in a Joint Use Agreement between the City of Anaheim and the Orange Unified School District. This agreement will allow the City to schedule youth sports practice activities after school operation. The project involves placing permanent athletic field lighting on the 2 existing sportsfields and providing turf repair on both fields and improvements to their irrigation system.	Neg	01/13/2005
2004121070	Magnolia High School Sportsfield Reconfiguration and Lighting Anaheim, City of Anaheim--Orange Reconfiguration and lighting of Magnolia High School sportsfields for more efficient utilization. The proposed project would result in a Joint Use Agreement between the City of Anaheim & the Anaheim Union High School District. Project involves improving existing uses, relocating a running track elsewhere on the site, developing new field uses, and providing night lighting for extended practice uses. In addition, the existing turf and irrigation systems on the field will be replaced.	Neg	01/13/2005
2004121071	Miller Minor Use Permit and Grading Permit; DRC2003-00053 / PMT2003-02734 ED03-413 San Luis Obispo County Paso Robles--San Luis Obispo Request to allow grading for an access road and two building pads resulting in the total disturbance of approximately 2.5 acres (a majority of which has already been completed).	Neg	01/13/2005

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Directory of Public Scoping Comments

Organization	Commenter	Comment Tracking Code	Page Number
Federal Agencies			
National Oceanic and Atmospheric Administration	Rodney R. McInnis	F1	3
U.S. Environmental Protection Agency	Lisa B. Hanf	F2	5
U.S. Fish and Wildlife Service	Karen A. Goebel	F3	16
State Agencies			
California Department of Fish and Game	Donald R. Chadwick	S1	22
Native American Heritage Commission	Carol Gaubatz	S2	23
State Water Resources Control Board	Katherine Mrowka	S3	26
Local Interest Groups			
Endangered Habitats League and Conservation Biology Institute	Dan Silver and Michael D. White	L1	31
Fallbrook Land Conservancy Trails Council	Jane Comella	L2	35
Fallbrook Land Conservancy Trails Council	Joe Comella	L3	36
Fallbrook Land Conservancy Trails Council	Donna Gebhart	L4	37
Individuals			
None	Barbara Hayden	I1	38
None	Alberta Jane Parker	I2	39
None	James F. Pigg	I3	40

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F1 – National Oceanic and Atmospheric Administration (page 1 of 2)


UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southwest Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802-4213

JUL 27 2007

In response please refer to
SWR/2007/NA852.SCG.

RECEIVED	OFFICIAL
REPLY DATE	7/26/07
DATE	7/26/07
CLASSIFICATION	1508
PROJECT	
CONTROL NO.	

Mr. Doug McPherson
Environmental Protection Specialist
U.S. Bureau of Reclamation
27708 Jefferson Avenue, Suite 202
Temecula, California 92590

Dear Mr. McPherson:

NOAA's National Marine Fisheries Service (NMFS) is contacting you regarding the proposed Reclamation's (BOR) proposal to build a Conjunctive Use Project (project) in the watershed of Margarita River Watershed on the Camp Pendleton Marine Corps Base in San Diego County, California. The proposed project includes replacing an existing water diversion with an inflatable "Obermeyer" type diversion structure, upgrading an existing groundwater recharge and recovery system, installing new wells, pump stations, and a pipeline between the Base and Fallbrook Public Utilities District facilities. Other potential project elements involve instream water retention structures, reclaimed wastewater, off-stream storage, and recharge of other groundwater basins on the Base. The water yield from project implementation could increase from the current 7,000 acre-foot per year to 16,200 acre-foot per year. NMFS is concerned about the potential effects of the BOR's project on the long-term recovery of endangered southern California steelhead (*Oncorhynchus mykiss*) and would like to provide the following comments:

The Santa Margarita River watershed lies within the Southern California Distinct Population Segment (DPS) of endangered steelhead, which ranges from the Santa Maria River to the Mexican Border (71 FR 834). This watershed is included in the Santa Catalina Gulf Coast biogeographic group, which includes nine streams located in Orange and San Diego Counties. NMFS' Steelhead Technical Recovery Team has identified this group of streams as being crucial to the viability and recovery of the southern DPS of steelhead (Boughton et al. 2006, Boughton et al. 2007). NMFS believes that this watershed was historically inhabited by steelhead, and because steelhead have recently been found in other streams near the Santa Margarita River (i.e., San Juan Creek, San Mateo Creek, and the San Luis Rey River) it is possible that steelhead will attempt to enter the Santa Margarita River during the winter and spring when reinstorms and increased wet-season flows occur. Based on the available information, NMFS believes that the proposed project will have substantial effects on the timing, magnitude, duration and frequency of surface flows in the lower Santa Margarita River. The project and corresponding effects on surface flows during the wet season could impede adult steelhead attempting to migrate to and from areas upstream of the diversion. Additionally, the project and corresponding effects on



Response:

1. A study was prepared (Reclamation et al. 2012) to investigate the project impacts on steelhead migration in the Santa Margarita River. This study is referenced in the impact analysis of the EIS/EIR.

Santa Margarita surface water flow effects are discussed in Section 4.2, *Water Resources*. Potential effects to the endangered southern California steelhead are discussed in Section 4.3, *Biological Resources* and in the Biological Assessment submitted to NOAA Fisheries.

F1 – National Oceanic and Atmospheric Administration (page 2 of 2)

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surface flows during the dry season could affect juvenile steelhead migrating to the ocean, or juvenile steelhead rearing in riverine areas near or downstream of the diversion and extraction wells. NMFS understands that there are preliminary plans for a fishway to be installed on the proposed diversion for steelhead passage, but until NMFS engineers can evaluate the final fishway design and corresponding water releases, the efficacy of any fish passage facility remains in question.

As currently proposed, NMFS believes that the proposed project has the potential to impede or preclude recovery of steelhead in the Santa Margarita watershed. Because of the potential importance of this watershed for long term recovery of the endangered Southern California steelhead DPS, NMFS believes that BOR has the responsibility under Section 7(a)(1) of the Endangered Species Act to ensure that its actions in this watershed are carried out in a manner that will support the conservation and recovery of endangered steelhead. Accordingly, we request that you consult with us on the proposed project to ensure that the project is designed in a manner that will promote the conservation and recovery of steelhead in the Santa Margarita River, and the larger Southern California steelhead DPS. In this regard, we request that you provide us with information and plans for the project, including any design plans for fish passage, and planned water release regimes.

NMFS appreciates the opportunity to provide comments for the BOR's proposed action. Please contact Stan Glowacki at 562-980-4061 or via email at Stan.Glowacki@noaa.gov if you have any questions concerning this letter or if you require additional information.

Sincerely,


Rodney R. McInnis
Regional Administrator

cc: Bill Barry, Camp Pendleton

Literature Cited

Boughton, D. A., P. B. Adams, E. Anderson, C. Fusaro, E. Keller, E. Kelley, L. Lentsch, J. Nielsen, K. Perry, H. Regan, J. Smith, C. Swift, L. Thompson, and F. Watson. 2006. Steelhead of the south-central/southern California coast: population characterization for recovery planning. NOAA Technical Memorandum, NOAA-TM-NMFS-SWFSC-394.

Boughton, D. A., P. B. Adams, E. Anderson, C. Fusaro, E. Keller, E. Kelley, L. Lentsch, J. Nielsen, K. Perry, H. Regan, J. Smith, C. Swift, L. Thompson, and F. Watson. 2007. Draft. Viability criteria for steelhead of the south-central and southern California coast. NOAA Technical Memorandum, NOAA-TM-NMFS-SWFSC-XXX.

Response:

2. Reclamation/DON would consult with NOAA Fisheries on southern California steelhead.

F2 – U.S. Environmental Protection Agency (page 1 of 11)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

RECEIVED 02/11/05	
DATE	02/11/05
TIME	10:00
BY	1300
FILE NO.	1000
PROJECT	
CONTROL NO.	
REGION	IX
NAME	

February 11, 2005

Bill Rohwer
Southern California Area Office
Bureau of Reclamation
27708 Jefferson Ave.
Suite 202
Temecula, CA 92590

Dear Mr. Rohwer:

The Environmental Protection Agency (EPA) has reviewed the Notice of Intent to prepare an environmental impact statement (EIS) for the **Santa Margarita River Conjunctive Use Project, San Diego County, CA**. Our review is pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act.

Based on our review of the NOI and information provided at an October 7, 2004 briefing for regulatory agencies we are concerned that the proposed conjunctive use project may have adverse effects on the aquatic resources associated with the Santa Margarita River. EPA's concerns, as described in the enclosed detailed comments, focus on: (1) compliance with Section 404(b)(1) of the Clean Water Act, (2) the range of alternatives, (3) description of the environmental baseline, (4) study of environmental uses of the Santa Margarita River, (5) the method used to perfect water rights, (6) indirect and cumulative impacts, (7) potential impacts to special status species; and (8) general scoping comments for water supply projects.

In response to the December 13, 2004 letter from William Steele to our Regional Administrator, Wayne Nasti, inviting EPA to become a cooperating agency on this project, we respectfully decline the Bureau of Reclamation's invitation to participate as a Cooperating Agency due to resource constraints. While EPA has oversight responsibilities pursuant to the Clean Water Act (Section 404 wetlands, water quality), we do not have specific permitting authority and do not have the resources to assist in development of the action in a timely manner. EPA Region 9 encompasses the States of California, Nevada, Hawaii, and Arizona. Pursuant to Section 309 of the Clean Air Act, EPA is required to review and comment on all Environmental Impact Statements (EIS). As such, our office is involved in a high volume of environmental reviews.

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F2 – U.S. Environmental Protection Agency (page 2 of 11)

P-3

We appreciate the opportunity to provide comments on the preparation of the EIS. We appreciate the Bureau of Reclamation's interest in working with EPA. We intend to continue our participation through the review of future environmental documents pursuant to our formal responsibilities under the Clean Water Act and National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act.

Please send two copies of the Draft Environmental Impact Statement (DEIS) to this office at the same time it is officially released for public review or filed with our Washington D.C. Office. If you have questions, please contact me or Laura Fujii, the lead reviewer for this project. Laura can be reached at 415-972-3852 or fujii.laura@epa.gov.

Sincerely,


Lisa B. Hanf, Manager
Federal Activities Office
Cross Media Division

Enclosure:
EPA's Detailed Comments

Cc: Robert Hargrove, EPA
Horst Greczmiel, Council on Environmental Quality

F2 – U.S. Environmental Protection Agency (page 3 of 11)

EPA DETAILED COMMENTS FOR THE NOI SANTA MARGARITA RIVER CONJUNCTIVE USE PROJECT, SAN DIEGO COUNTY, CA., FEBRUARY 11, 2005 The proposed conjunctive use project in the lower Santa Margarita River basin on Marine Corps Base Pendleton (MCB Camp Pendleton) would: (1) upgrade an existing groundwater recharge and recovery system; (2) improve existing diversion and percolation facilities; (3) install new wells; (4) construct an advanced potable water treatment plant; (5) construct pump stations; and (6) construct a pipeline to Fallbrook. Potential project alternatives include in-stream water retention structures, reclaimed wastewater, off-stream storage, and recharge of other groundwater basins on MCB Camp Pendleton. The existing groundwater recharge and recovery system, which currently produces 7,000 acre-feet of water per year, could be increased to 16,200 acre-feet per year. <u>Compliance with Section 404(b)(1) of the Clean Water Act</u> 1. Various components of the project will likely involve the discharge of dredged or fill material into the Santa Margarita River and/or other waters of the United States. This activity requires authorization by the Army Corps of Engineers and compliance with the substantive environmental criteria of the Federal Guidelines (Guidelines) at 40 CFR 230 promulgated under Section 404(b)(1) of the Clean Water Act. These criteria require a permitted discharge to: (1) be the least environmentally damaging practicable alternative (LEDPA); (2) avoid causing or contributing to a violation of a State water quality standard; (3) avoid jeopardizing a federally listed species or adversely modifying designated critical habitat for a federally listed species; (4) avoid causing or contributing to significant degradation of the waters of the U.S.; and (5) mitigate unavoidable impacts to waters. <u>Recommendation:</u> We encourage the Bureau of Reclamation (Reclamation) to integrate the requirements of Section 404 of the Clean Water Act with NEPA in the formulation of alternatives, analysis of impacts, and development of mitigation. In this regard, the draft environmental impact statement (DEIS) should include sufficient information to clearly demonstrate that the preferred alternative is also the LEDPA. The LEDPA is generally the alternative that avoids or minimizes impacts to waters of the United States (US) to the extent practicable. In developing an appropriate range of avoidance alternatives, the DEIS should factor in the potential effects of construction, operations, and maintenance activities of the different water supply system components. Potential impacts of the entire footprint of the project should be evaluated. We recommend consideration of alternatives that avoid impacts to wetlands and waters of the US.	Response: 1. Impacts to Water Resources and waters of the U.S., including compliance with Section 404 of the Clean Water Act are discussed in Section 4.2, <i>Water Resources</i> and Section 4.3, <i>Biological Resources</i>.
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F2 – U.S. Environmental Protection Agency (page 4 of 11)

Response: - Chapter 2, of the EIS/EIR discusses the action alternatives, including the process used to formulate the alternatives carried forward for detailed analysis and a description of the those alternatives eliminated from detailed study and the rationale for their elimination. - Numerous studies were prepared with the common goal of developing feasible alternatives that would enhance and optimize the productivity of the lower Santa Margarita groundwater basin. Various potential alternatives were examined in these previous studies, including local and regional projects located within and outside the Santa Margarita River basin. Factors that were considered when identifying potential project alternatives included: Chapter 2, of the EIS/EIR provided a detailed explanation of the Alternatives development process.	Range of Alternatives - The potential range of alternatives to be analyzed in the DEIS is unclear. The Notice of Intent (NOI) identifies specific components to be included in the proposed project. However, the agency briefing material identifies three alternatives that include various combinations of these and other project components. A Pre-feasibility Study which analyzes 22 project alternatives and recommends three to five alternatives for further evaluation was scheduled to be completed in January 2005. Recommendation: We recommend Reclamation solicit additional public input on alternatives and other aspects of the proposed project after the Pre-Feasibility Study is made available for public review. The DEIS should include a summary of the Pre-Feasibility Study, describing the project alternatives eliminated from detailed analysis and the rationale their elimination. - EPA advocates an approach to water supply management and allocation which can adjust to changing conditions and help balance available water supplies, ecosystem health (e.g., in-stream beneficial uses), and user requirements. In the long-term, water supply actions should focus on sustainable management of developed supplies to meet these objectives. Recommendations: The range of alternatives should include alternatives that consider other water supply options (e.g., water transfers, reclaimed wastewater, enhanced conservation measures) and avoid impacts to waters of the US. Efficient use of existing water supplies should be maximized through conservation, reuse, and pollution prevention. We urge consideration of all available tools for enhancing water supply management flexibility, supply reliability, environmental conditions, and water quality. In addition to conjunctive use, these tools could include water transfers and exchanges, pricing, operational flexibility, market-based incentives for efficient water use, water acquisition, and wastewater reclamation and recycling. Alternatives considered in the DEIS should evaluate an integrated range of these tools. Environmental Baseline - The selection of the environmental baseline is a critical step in the environmental analysis and the comparison with other action alternatives. "No action" does not equate with "no impact." Continuation of the existing management situation would constitute a discretionary commitment of resources that is, effectively, an action affecting the environment. 2
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F2 – U.S. Environmental Protection Agency (page 5 of 11)

Response:

4. Chapter 3, *Affected Environment* for each resource area provides the “baseline analysis” within the region of influence (ROI) for each alternative carried forward. Chapter 4, *Environmental Consequences*, for each resource area provides the “impact analysis” for each alternative carried forward, including the No-Action Alternative.
5. Section 1.4, *Project Background* describes the legal history and current institutional framework for the Conjunctive Use Project. Chapter 3, *Affected Environment* also describes the current conditions as they apply to each resource area.
6. The impact analysis for subsurface and surface water flow is provided in Section 4.2, *Water Resources*. The impact analysis for riparian and fisheries habitat is provided in Section 4.3, *Biological Resources*.
7. An analysis of flows to reintroduce species has not been included. It should be noted that the lower Santa Margarita River historically did not flow year round to the estuary. The river went underground over large stretches of the braided channel in the lower Santa Margarita River basin. Improving the ability to lower the weir and bypass flows throughout the year will improve in-stream conditions. However, a study was prepared (Reclamation et al. 2012) to investigate the project impacts on steelhead migration in the Santa Margarita River. This study is referenced in the impact analysis of the EIS/EIR. In addition, the diversion weir is being modified and project partners will consult with NOAA Fisheries regarding the appropriate mitigation to minimize/avoid impacts to steelhead migration (i.e., fish ladder and fish screen on O’Neill Ditch) at the weir.

Recommendations:

The alternatives analysis of the DEIS should clearly describe the environmental baseline and disclose the environmental consequences of all reasonable alternatives, including no action alternative....” in comparative form, thus sharply defining the issues and providing a clear basis for choice among options for the decision maker and the public.” (40 CFR Part 1502.14).

The DEIS should also clearly describe existing resource conditions in the “affected environment” and the policy and institutional context for the “no action” (without project) and with project alternatives. For example, the DEIS should describe current and historical litigation, tentative agreements, and the underlying assumptions, water rights, and legal mandates (if any) of the proposed new water supply and alternatives.

2. To adequately evaluate potential impacts of the proposed project, it is important to determine the surface flows and subsurface water elevations sufficient to maintain and restore the riparian ecosystem of the Santa Margarita River. Restoration opportunities for the Santa Margarita River and its tributaries should not be precluded by potential project alternatives.

Recommendations:

A water budget for the Santa Margarita River should be developed which takes into account all surface and subsurface water resource needs, including riparian and fisheries requirements.

Surface flows sufficient to successfully reintroduce and maintain a viable fishery in the Santa Margarita River and its major tributaries should be determined and disclosed in the DEIS. The effects of the project alternatives on this restoration opportunity should be analyzed in the DEIS. We note that the draft watershed management plan prepared by the Santa Margarita Watershed Project Team includes recommendations focused on the reintroduction of native fish such as steelhead, stickleback, and lamprey to the river.

F2 – U.S. Environmental Protection Agency (page 6 of 11)

Response:	
8. Numerous studies have been conducted and reports written regarding use of water from the Santa Margarita River and how to best achieve the water supply improvement objectives of MCB Camp Pendleton and FPUD. These studies are identified in Section 2.2 and referenced throughout the EIS/EIR analysis. 9. The purpose has been modified as described in Section 1.3; the legal background of water rights pertaining to this project is discussed in Section 1.4. 10. Provisions for protecting aquatic and riparian resources associated with the Santa Margarita River and discussed in Section 4.3, <i>Biological Resources</i>. 11. Special Conservation Measures for providing sufficient flows for maintain viable aquatic and riparian ecosystems along the Santa Margarita River are discussed in Section 4.3, <i>Biological Resources</i>.	<u>Study of Environmental Uses</u> The NOI states that Reclamation will perform studies needed to address current and future uses of the Santa Margarita River, including environmental uses. <u>Recommendation:</u> We recommend Reclamation provide specific information on the type and scope of studies to be performed to determine the current and future uses of the Santa Margarita River in the Pre-Feasibility Study. <u>Perfecting Water Rights</u> One of the stated purposes of the proposed project is to perfect water rights permits that were assigned to Reclamation in 1974 pursuant to State Water Resources Control Board Order WR 73-50. However, the NOI does not state how the studies of various water uses will be used to perfect these water rights. For instance, it is unclear how the quantity of water needed to maintain current and future environmental uses of the Santa Margarita River will be factored into perfecting these water rights. <u>Recommendations:</u> The DEIS should fully disclose the process and studies to be used in perfecting water rights pursuant to WR 73-50. The proposed project has the potential to increase the water withdrawals from the Santa Margarita River system. The overall water supply strategy for Camp Pendleton and Fallbrook should include explicit provisions in the DEIS for protecting the aquatic and riparian resources associated with the Santa Margarita River. If flows to maintain current and future Santa Margarita River environmental uses will not be proposed, an alternative project approach may be to petition the State Water Resources Control Board for a change in use for purposes of preserving or enhancing wetlands habitat and fish and wildlife resources (e.g., California Water Code 1707). Whatever strategy is used to protect the beneficial uses of the Santa Margarita River, safeguards need to be in place for providing sufficient flows to maintain viable aquatic and riparian ecosystems along the Santa Margarita River.

Response:

Full disclosure of cumulative and indirect impacts is of specific concern. The National Environmental Policy Act (NEPA) requires evaluation of indirect impacts which are caused by the action (40 CFR Part 1508.8(b)). Indirect effects may include "growth-inducing effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems." (40 CFR Part 1508.9(b)). Induced residential, commercial, and industrial growth can adversely affect water quality, wetlands, and other natural resources.

Recommendations:

The cumulative impacts analysis should address: (1) changes in sediment transport processes; (2) in-stream structures and barriers to passage by fish and other aquatic organisms; (3) changes in surface flows and subsurface water elevations (accounting for seasonal and inter-year variation); (4) water quality and quantity; and (5) potential effects of these changes on the establishment and maintenance of wetland/riparian plant communities.

Past cumulative effects may have greatly influenced "existing conditions". These historical cumulative effects, which may be perpetuated under the no action and alternative actions, should be fully disclosed and evaluated in the environmental effects and cumulative impact analyses. Existing projects that may have altered the extent of waters of the US and riparian areas or the availability of water to such areas should be included in these analyses. Examples of such projects at MCB Camp Pendleton include: (1) expansion of MCB Camp Pendleton pursuant to the Base Closure and Realignment Act (BRAC); (2) construction of the flood control levee along the Santa Margarita River, and (3) diversion of treated effluent out of the Santa Margarita Basin.

The proposed project has the potential (to adversely affect several special status species that occur within or downstream of the general project area in the Camp Pendleton and Fallbrook areas. For instance, the federally endangered least bell's vireo (*Vireo bellii pusillus*), southwestern willow flycatcher (*Empidonax traillii eximius*), arroyo toad (*Bytho californicus*), California least tern (*Sterna antillarum brownii*), and tidewater goby (*Eucyclogobius newberryi*) are all closely associated with the Santa Margarita River.

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P-9	Response: 13. The impact analysis for biological resources is presented in Section 4.3. Separate Biological Assessments have been prepared and will be provided to the USFWS and NOAA Fisheries. The USFWS and NOAA Fisheries will each issue a Biological Opinion for the project. 14. Water quality is discussed in Section 4.2, <i>Water Resources</i>. 15. Sensitive aquatic sites are discussed under <i>Water Resources</i> and <i>Biological Resources</i>. 16. Monitoring programs are discussed in Section 4.2, <i>Water Resources</i> and Section 4.3, <i>Biological Resources</i>. 17. A cost analysis would be prepared as part of the project feasibility study.
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Response: 18. FPUD and MCB Camp Pendleton have developed and implemented Urban Water Management Plans and water conservation plans, respectively. Additional documentation of water conservation efforts beyond referencing the above documents will not be completed. Regarding “comprehensive” tracking of water use and efficiencies, this is not a requirement under CEQA or NEPA for inclusion in an EIS or EIR. 19. A discussion of baseline groundwater conditions and the analysis of groundwater impacts are provided in Sections 3.2 and 4.2, respectively, and Appendix B. 20. Surface water and groundwater quality impacts are evaluated in Section 4.2. Mitigation measures are also discussed under Section 4.2. Third party impacts are evaluated in Chapter 5, <i>Cumulative Impacts</i>. 21. A discussion of fish and wildlife impacts are provided in Section 4.3, <i>Biological Resources</i>. A discussion of changes in surface flow are provided in Section 4.2 and Appendix B.	P. 11 U 17 (cont) 18 19 20 21 7 3. The DEIS should provide comparative information on the costs and benefits under the various alternatives, distinguishing discrete features of an alternative (such as surface versus ground water supplies, and conveyance facilities costs) where possible. Identify the total cost, and costs allocated to water users under the various alternatives. Also provide comparative information on the costs and benefits of non-storage measures which serve water management objectives, including conservation and water acquired through transfers. With respect to environmental benefits and costs, such as environmental water, document benefits and clearly identify the magnitude and allocation (or incidence) of the costs for all alternatives, including no action. <i>Water Conservation</i> 1. Identify the current status of water conservation planning and practices in beneficiary areas. Identify current practices in the project area(s) for measuring surface and ground water use. Proposed project alternatives should evaluate one or more methods of measurement that will provide comprehensive and suitably accurate tracking of water use and efficiencies. <i>Groundwater</i> 1. The DEIS should fully document groundwater conditions and describe how, when, and by whom groundwater is used throughout the project area. Include information on groundwater levels and quality, identifying any long-term changes for with-project and without-project conditions. Identify information gaps, such as lack of direct groundwater measurements. Identify any existing conjunctive use of groundwater and surface water. Where applicable, the DEIS should document the relationship between current surface supplies, the proposed project surface supply, and groundwater. 2. In considering conjunctive use of groundwater and surface water supplies in the project alternatives, the DEIS should describe the specific objectives, requirements, and suitable locations for conjunctive use so that potential impacts can be fully evaluated. Analyze any water quality impacts to surface or groundwater associated with a proposed conjunctive use program. Document any changes in basin water balance, including amounts of seepage and return flows, and possible effects on the quantity, timing, and quality of water available. Analyze the potential for third party impacts under a conjunctive use program and, if impacts could occur, evaluate ways of avoiding or mitigating them. <i>Biological Resources</i> 1. The DEIS should evaluate direct, indirect, and cumulative impacts to fish and wildlife at the proposed new storage locations, in association with diversions and conveyance facilities, and in affected rivers and the Delta. This evaluation should “follow the impacts” and examine the impacts that may extend beyond the immediate location of the new storage and/or diversion facilities. Describe the potential timing and magnitude of diversions to offstream storage. What
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Response:	
22. Environmental requirements as they apply to each resource area are discussed under the <i>Regulatory Setting</i> for the corresponding resource area in Chapter 3.	are the effects of diversions on instream flows from the perspective of aquatic life and geo-fluvial processes? What changes in quantity, timing, and quality of instream flows might occur under the alternatives? 2. The DEIS should evaluate environmental requirements which affect flows—notably the Endangered Species Act and Clean Water Act. As implemented through the State Water Resources Control Board, consider flows, temperature needs, seasonality, and other water quality components and factors of critical importance to threatened and endangered species or other sensitive beneficial uses. Identify ways in which water managed through the proposed project might be used for environmental compliance. 3. We also recommend the DEIS evaluate the ability of the project to restore or enhance fish and wildlife habitat and wetlands which may have been affected by water diversions and by changes in flows, timing, and water quality as a result of earlier water supply development. <i>Air Quality</i> 1. The DEIS should provide a detailed discussion of air quality standards, ambient conditions, and potential air quality impacts, for the region. Include a description of current and proposed activities and their impacts on air quality. Cumulative and indirect impacts should be fully evaluated. For instance, development or modified use of surrounding lands (e.g., conversion to urban, different cropping patterns) could influence sources of particulate matter with a diameter of 10 micrometers and smaller (PM10). 2. Federal agencies are required by the Clean Air Act to assure that actions conform to an approved air quality implementation plan. If the proposed project area is in a nonattainment area, Reclamation may need to demonstrate compliance with general conformity requirements of the Clean Air Act [Section 176(e)]. General Conformity Regulations can be found in 40 CFR Parts 31 and 93 (58 Federal Register, page 63214, November 30, 1993). These regulations should be examined for applicability to the proposed actions. 3. EPA issued revised standards for ozone and fine particulate matter (PM2.5)(smog and soot) in July 1997. Nonattainment areas for fine particulate matter were designated in December 2004. San Diego County is designated as nonattainment for fine particulate matter and will need to implement these standards. The adverse health effects of ozone and PM2.5 are well known. The DEIS should evaluate the extent that the proposed project may release significant amounts of these pollutants. We recommend the Air Quality section of the "Affected Environment" chapter, include a description of the new ozone and PM2.5 standards, their health effects, and disclose what, if any, monitoring has been done in the project area for these pollutants. Possible sources that may contribute to high levels of ozone and PM2.5 emissions include construction equipment, mobile sources, and high volumes of diesel truck traffic.
23. The EIS/EIR is analyzing the action alternatives and the No-Action Alternative. The impact analysis is limited to the project components of each alternative and does not include an analysis of historical water supply development. Historical water use dates back to the mid-1800's, with the major base infrastructure (diversion, canal, and reservoir) being built in the 1880's. This infrastructure has been analyzed under the cultural resource sections of this EIS/EIR. Regarding biological resources and cumulative impacts, analyzing the impacts of water development projects over a century old with no baseline for assessing those impacts and no data collection from which to compare is not required under NEPA.	21 (cont) 22 23 24 25 26
24. Baseline air quality conditions are discussed in Section 3.5. Section 4.5, <i>Air Quality</i> , provides estimated emissions associated with the Proposed Action and alternatives.	
25. Air Quality concerns and General Conformity Applicability requirements are addressed in Sections 3.5 and 4.5.	
26. Please refer to Sections 3.5 and 4.5 for the requested information.	

F2 – U.S. Environmental Protection Agency (page 11 of 11)

Environmental Justice 1. In keeping with Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (EO 12898), the DEIS should describe the measures taken by Reclamation to: 1) fully analyze the environmental effects of the proposed Federal action on minority or low-income populations, and 2) present opportunities for affected communities to provide input into the NEPA process. The intent and requirements of EO 12898 are clearly illustrated in the President's February 11, 1994 Memorandum for the Heads of all Departments and Agencies.	Response: 27. Compliance with EO 12898 is discussed under Chapter 3, <i>Socioeconomics and Environmental Justice</i> (for resources areas eliminated from detailed analysis).
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F3 – U.S. Fish and Wildlife Service and California Department of Fish & Game (page 1 of 6)

JAN 31 05 02:42P
01/31/2005 14:13 FAX 7509180638

U.S. FISH AND WILDLIFE

0002

P. 3



U.S. Fish and Wildlife Service
Durham Fish and Wildlife Office
6010 Hidden Valley Road
Carlsbad, California 92009
(760) 431-9440
1/AX (760) 918-0638



CA Dept. of Fish & Game
South Coast Regional Office
4949 Viewridge Avenue
San Diego, California 92123
(858) 467-4201
FAX (858) 467-4299

In Reply Refer To:
FWS-FWS-MCBCP/SD-2710.3

Bill Rohwer
Bureau of Reclamation
Southern California Area Office
27708 Jefferson Ave., Suite 202
Temecula, California 92590-2628

JAN 31 2005

Re: Notice of Intent (NOI) to Prepare an Environmental Impact Statement/Environmental Impact Report for the Santa Margarita River Conjunctive Use Project, County of San Diego, California

Dear Mr. Rohwer:

The California Department of Fish and Game (Department) and the U.S. Fish and Wildlife Service (Service), collectively the Wildlife Agencies, have reviewed the above referenced NOI which we received on November 1, 2004. The proposed project involves upgrading an existing groundwater recharge and recovery system on Marine Corps Base Camp Pendleton (MCBCP) and installing new wells, pump stations and a pipeline between MCBCP and Fallbrook Public Utilities District (Fallbrook) facilities. Potential alternatives could involve in-stream water retention structures, reclaimed wastewater, off-stream storage, and recharge of other groundwater basins on MCBCP. Another project purpose is to perfect water rights permits that have been assigned to the Bureau of Reclamation (Bureau). The NOI indicates that the water recharge yield from project implementation could increase from the current 7,000 acre-foot per year to 16,200 acre-foot per year. We offer the following comments and recommendations to the Bureau regarding project-associated biological impacts based on our review of the NOI and our knowledge of habitat types and species within the proposed project area.

The Department is identified as a Trustee Agency pursuant to the California Environmental Quality Act (CEQA) section 15386 and is responsible for the conservation, protection, and management of the State's biological resources. The Department is also responsible pursuant to the California Endangered Species Act, Fish and Game Code 2050 *et seq.*, for the protection of species listed by the State as endangered or threatened or identified as species of concern, and the habitats they require. Under section 3948 of the Fish and Game Code, no person shall cause or have caused, permit to exist, any artificial barrier (except a dam for the storage or diversion of water, public bridges and approaches thereto, groins, jetties, seawalls, breakwaters, bulkheads, wharves and piers permitted by law, and debris from mining operations), in any stream in this state, which will prevent the passing of fish up or down stream, or which is deleterious to fish as determined by the Fish and Game Commission, subject to review by the courts.



F3 – U.S. Fish and Wildlife Service and California Department of Fish & Game (page 2 of 6)

3471-33 U.S. 020-42P
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US FISH AND WILDLIFE

Q003

P-4

Mr. Bill Rehner (FWS/CDFG-MCH/CPWD-2710.3)

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The Service's mission is to work "with others to conserve, protect, and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people." Specifically, the Service administers the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*). Section 7 of the Act requires Federal agencies to consult with the Service, should it be determined that their actions may affect federally listed threatened or endangered species. The Service also provides comments on public notices issued by the U.S. Army Corps of Engineers (Corps) for a Federal permit or license affecting the Nation's waters pursuant to the Clean Water Act.

The proposed project has the potential to affect State and federally listed threatened and endangered species that occur within and/or downstream of the general project areas in the Camp Pendleton and Fallbrook, including the federally endangered Least Bell's vireo (*Vireo bellii pusillus*), southwestern willow flycatcher (*Empidonax traillii eximius*), arroyo toad (*Bufo californicus*), California least tern (*Sterna antillarum brownii*), light-footed clapper rail (*Rallus longirostris longirostris*), Stephens' kangaroo rat (*Dipodomys stephensi*), Pacific pocket mouse (*Perognathus longimembris pacificus*), tidewater goby (*Eucyclogobius newberryi*), southern steelhead (*Oncorhynchus mykiss*), Riverside fairy shrimp (*Streptocephalus woottoni*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), San Diego ambrosia (*Ambrosia pumila*), San Diego button celery (*Eryngium aridum* var. *parishii*) and the federally threatened coastal California gnatcatcher (*Psaltriparus californicus*), thread-leaved brodiaea (*Brodiaea filifolia*) and spreading navarretia (*Navarretia flexilis*). Least Bell's vireo, southwestern willow flycatcher, California least tern, light-footed clapper rail, San Diego button-celery, and thread-leaved brodiaea are also State endangered species; Stephens' kangaroo rat is also a State threatened species; and, southern steelhead is a State species of special concern.

We are concerned about impacts to listed or other sensitive species in uplands and streams from new permanent structures. Pipelines and off-stream storage structures in upland habitats could negatively affect sensitive habitats and species during construction, operation and maintenance. Instream structures will alter sediment transport within the Santa Margarita River (SMR) system, increase barriers to fish passage and other aquatic organisms, and change hydrology by increasing diversion and/or withdrawal from the surface flows or groundwater in the project area. Given the suggestion in the NOI that water yield could be increased by over two fold from current withdrawals, we have significant concerns about deleterious project-related changes to hydrology in the SMR or other groundwater basins, such as the San Mateo watershed, on MCBP. For example, steelhead in the SMR are included in the Southern California Steelhead Evolutionarily Significant Unit (ESU). Adequate instream flows, unimpeded fish passage, including access to suitable spawning and rearing habitat upstream and downstream of the project is essential to the conservation and recovery of steelhead in the southern portion of this ESU.

Therefore, we recommend that the Draft Environmental Impact Statement/Environmental Impact Report (DEIS/EIR) include a full summary and evaluation of the potential impacts of water withdrawal and/or diversion on the listed species that could potentially be affected by project implementation. To facilitate the evaluation of the proposed project from the standpoint of fish and wildlife protection, we request that the DEIS/EIR contain the following specific information:

F3 – U.S. Fish and Wildlife Service and California Department of Fish & Game (page 3 of 6)

John B. DE 02:42 P 01/31/2005 14:14 FAX 7609140434 US FISH AND WILDLIFE 0004 P.15 Mr. Bill Rohrer (TWS/CDFG-MCB/CPSD-2710.3)	Response: 1. Please refer to Chapter 1 and Chapter 2 of the EIS/EIR for purpose and need and alternatives development. 2. Please refer to Sections 3.3 and 4.3, <i>Biological Resources</i> for the requested information. 3. Please refer to Sections 3.3 and 4.3, <i>Biological Resources</i> for the requested information. 4. Cumulative impacts with respect to Biological Resources is presented in Section 5.4.3.
01/31/2005 14:14 FAX 7609140434 US FISH AND WILDLIFE 0004 P.15	3 1. A complete description of the purpose and need of the proposed project, including all practicable alternatives that have been considered to avoid or significantly reduce project impacts to listed and other sensitive plant and animal species and vegetation types (e.g., stream habitat, riparian, scrublands, grasslands, woodlands). 2. Detailed descriptions of the types of sensitive habitats, both terrestrial and aquatic, that may be affected by the proposed project or project alternatives. Maps and tables should be included to summarize such information. 3. A description of the biological resources associated with each habitat type. These descriptions should include both qualitative and quantitative assessments of the resources present and potentially occurring on the proposed project site and alternatives. The description should also include complete species lists for all sensitive or rare biological resources onsite. We recommend that protocol or focused surveys be conducted prior to circulation of the DEIS/EIR, and their results included in the DEIS/EIR, for the public to adequately assess impacts to Federal and State-listed species and other natural resources. Because we generally consider protocol surveys for listed species to be current for up to one year, updated surveys should be conducted within one year prior to project approval. a. The arroyo toad surveys should be conducted in appropriate habitat within all areas that may be directly or indirectly affected by the proposed project. For example, the footprint of operations, as well as all areas that would potentially be affected by artificial night lighting and changes (up- and down-stream) in hydrology, water quality, and fluvial geomorphology of the stream system should be surveyed. Please note that the toad is known to use both streambeds and drainages for breeding and dispersal (Service 2001), and the adjacent uplands for foraging and burrowing (Griffin et al. 1999; Griffin and Case 2001; Service 2001) up to 1.2 kilometers away from the occupied streambed (Holland and Sisk 2000). Additional information suggests that toads may move as much as five miles up- or down-stream within a drainage (U.S. Forest Service, unpublished data). Because of the documented biology of this species, it is the Service's policy to consider all suitable upland habitat within one kilometer of occupied streams as occupied. b. We recommend that a site assessment be conducted to determine whether there is suitable habitat for Southwestern pond turtle (<i>Emys marmorata pallida</i>, pond turtle), a California species of special concern, within the project footprint and area of potential effect. If there is suitable habitat, we recommend that surveys be conducted for pond turtle, and the results included in the DEIS/EIR, and avoidance, minimization, and mitigation be included in the DEIS/EIR if there pond turtles are present. 4. An assessment of direct, indirect, and cumulative impacts from the proposed project to fish and wildlife species and associated habitats. Direct impacts are the immediate effects of the project on the species or its habitat, and include the effects of interrelated and interdependent actions that would not occur but for the proposed project. All facets of the project (e.g., construction, operation and maintenance) should be included in this assessment. Indirect impacts are caused by or result from the proposed action, are later in time, and are reasonably certain to occur. These impacts may occur outside of the area directly affected by the proposed project. We recommend that you make your cumulative impacts analysis broad 13

F3 – U.S. Fish and Wildlife Service and California Department of Fish & Game (page 4 of 6)

Jan 31 05 02:42P 01/31/2005 14:15 FAX 7609186838	U.S. FISH AND WILDLIFE 2005	P. 6. 2005
Mr. Bill Roliver (FWS/CDFG-MCHCT/SD-2710.3) enough to include the effects of future State, Tribal, local, or private actions that are reasonably certain to occur in the area affected by your project.	4	Response:
5. Include specific plans for avoiding, minimizing, and mitigating project-related impacts, including cumulative impacts of direct and indirect habitat loss, degradation, or modification. These plans should be prepared by persons with specific expertise on southern California wildlife, native plants, and ecosystems. Each plan should include a detailed monitoring program with provisions for assessing the success of mitigation efforts and contingency plans to be implemented if initial efforts are unsuccessful. The plans should also discuss funding assurances and responsible parties that will guarantee the successful implementation of mitigation and monitoring programs and ensure the protection in perpetuity of conservation sites. Issues that should be addressed include restrictions on vehicle and human access, proposed land dedications, monitoring and management programs, control of illegal dumping, and restrictions on lighting near conservation areas.	4 (cont)	5. Please refer to Section 4.3, <i>Biological Resources</i> for a description of special conservation and mitigation measures.
6. An assessment of potential impacts to wetlands and jurisdictional waters of the United States. Section 404 of the Clean Water Act prohibits the unauthorized discharge of dredged or fill material into such waters, including wetlands. This section also provides that the Corps may issue permits for discharges of dredged or fill material into jurisdictional waters and wetlands. Potential areas of Corps jurisdiction should be evaluated and wetlands should be delineated using the methodology set forth in the Corps' Wetland Delineation Manual (Environmental Laboratory, 1987). The DEIS/EIR should disclose all impacts to jurisdictional waters and wetlands, and propose measures to be taken to avoid and minimize impacts, and mitigate unavoidable impacts. If it is determined that wetlands or jurisdictional waters of the United States will be affected by the proposed project, then a section 404 permit from the Corps and/or a streambed alteration agreement from the Department under section 1600 of the Fish and Game Code may be required.	6	6. Please refer to Sections 3.3 and 4.3, <i>Biological Resources</i> for the requested information.
7. If the project is subject to the Department's jurisdiction under section 1600, the Department will require, and the technical appendices of the CEQA document should include, a jurisdictional delineation of the affected wetlands pursuant to the U.S. Fish and Wildlife Service definition (Cowardin 1979) adopted by the Department. Please note that wetland and riparian habitats subject to the Department's authority may extend beyond the jurisdictional limits of the Corps.	7	7. Please refer to Section 4.3 <i>Biological Resources</i>, for the requested information.
7. In order to comply with Fish and Game Code Section 5937, which requires that sufficient water be released below a dam to allow fish downstream to be maintained in good condition, the DEIS/EIR should provide an analysis of the instream flows necessary to protect steelhead migration, spawning and rearing habitat in the Santa Margarita River. To establish the relationship between instream flow and habitat availability for different life stages of steelhead, the DEIS/EIR must include an instream flow incremental methodology (IFIM) analysis. IFIM is the Department's accepted standard for assessing instream flow needs for steelhead throughout California.	7	7. Please refer to Section 4.3 <i>Biological Resources</i>, for the requested information.

F3 – U.S. Fish and Wildlife Service and California Department of Fish & Game (page 5 of 6)

Jan 31 05 02:48P 01/31/2005 14:16 FAX 7609180939 U.S. FISH AND WILDLIFE 01008 P. 2	Mr. Bill Rohrer (PWS/CDFG-M/CBCP/SD-2710.3) 8. A discussion of potential adverse impacts from any increased inundation and/or decreased surface flows on streams and watercourses and associated resources within the watershed of the proposed project. 9. An analysis of how implementation of water diversion, storage and groundwater recharge plans may facilitate or induce additional development and growth in the project area. 10. Identification of methods to be employed (i.e., Best Management Practices) to prevent the discharge and disposal of toxic and/or caustic substances, including oil and gasoline, on the project site especially during construction. 11. An analysis of impacts to listed and other sensitive species from expected noise, pollution, night lighting, erosion, sedimentation, roads, and measures to be taken to minimize any of these adverse impacts. 12. An analysis of how the project would affect hydrologic and hydraulic processes such as base flow, attenuation of peak flows, and sediment transport and retention should also be included in the DEIS/ERR. 13. A detailed description of the current groundwater recharge program on Camp Pendleton and the relationship of the proposed project with recently authorized activities to dredge O'Neil Lake and refurbish recharge ponds 6 and 7. 14. A detailed description of existing obligations of the U.S. Marine Corps under the terms of the settlement with the Rancho Calaveras Water District on the Change and Time Extensions Permit 7032, Application 11518, and how those obligations have been or are being met. Please include specifics of the water supply, water quality, sensitive species and riparian habitat monitoring program that was required from the settlement and the current status of the monitoring program. We appreciate the opportunity to comment on the referenced NOI. We are available to work with project proponent(s) to avoid, minimize, and/or mitigate impacts to listed and sensitive species and their habitats. If you have any questions or comments regarding this letter, please contact John O'Brien or Mary Larson (Department) at (562) 342-7173 and Jill Terp (Service) at (760) 431-9440. Sincerely, <i>Jill Terp</i> for Karen A. Gudiel Assistant Field Supervisor U.S. Fish and Wildlife Service <i>Donald R. Chadwick</i> Donald R. Chadwick Habitat Conservation Planning Supervisor California Department of Fish and Game
Response:	8. Please refer to Section 4.2, <i>Water Resources</i> for the requested information. 9. Please refer to Section 6.1 for a discussion of Growth Inducement factors. 10. Please refer to Section 2.3.1 for Special Conservation Measures that would be implemented to avoid significant hazardous materials and waste impacts associated with construction activities. 11. Please refer to Section 4.3, <i>Biological Resources</i> for a complete analysis of potential impacts to sensitive species. 12. Please refer to Section 4.2, <i>Water Resources</i> for the requested information. 13. Please refer to Section 4.2, <i>Water Resources</i> for the requested information. 14. Please refer to Section 1.4, Project Background for a discussion of historical and existing water rights obligations.

F3 – U.S. Fish and Wildlife Service and California Department of Fish & Game(page 6 of 6)

Jan 31 05 02:50P
01/21/2005 14:16 FAX 7609180638
US FISH AND WILDLIFE
2007
P. 2

Mr. Bill Rohrer (FWS/CDFG-MCB/PSD-2710.3)

Literature Cited

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Griffin, P.C., T.J. Case, and R.N. Fisher. 1999. Radio telemetry of *Bufo californicus*: arroyo food movement patterns and habitat preferences. Contract report to California Department of Transportation Southern Biology Pool. 66 pp.

Griffin, P.C., T.J. Case. 2001. Terrestrial habitat preferences of adult arroyo southwestern toads. Journal of Wildlife Management. 65(4): 633-644.

Holland, D.C., and N.R. Sisk. 2000. Habitat use and population demographics of the arroyo toad (*Bufo californicus*) on MCB Camp Pendleton, San Diego County, California. Final Report for 1998, 2000. 25pp + appendix.

U.S. Fish and Wildlife Service. 2001. Federal Register Vol 66, No. 26. Final Designation of Critical Habitat for the Arroyo Toad; Final Rule. Pp. 9414-9432.

S1 – California Department of Fish and Game (page 1 of 1)	
The California Department of Fish and Game submitted a joint letter with the U.S. Fish and Wildlife Service. This joint letter is addressed in Comment F3 above.	Response: See responses to comments under F3 above.

S2 – Native American Heritage Commission (page 1 of 3)

Jan 31, 05 04:23p
01/07/2005 15:45 760726623

STATE OF CALIFORNIA
NATIVE AMERICAN HERITAGE COMMISSION
915 CAPITAL Mall, ROOM 304
SACRAMENTO, CA 95834
(916) 657-5290 - FAX

Mr. Joe Jackson
Fallbrook Public Utility District
P.O. Box 2290
Fallbrook, CA 92042-2290

Re: NOP- Proposed Santa Margarita River Conjunctive Use Project
SCM# 2004121085

Dear Mr. Jackson

Thank you for the opportunity to comment on the above referenced Notice of Preparation. The Commission was able to perform a record search of its Sacred Lands File for the project area. This record search failed to indicate the presence of Native American cultural resources in the immediate project area; however, the absence of specific site information in the Sacred Lands File does not guarantee the absence of cultural resources in any project area. Other sources of cultural resources should also be collected for information regarding known and recorded sites.

Section 6002 of the Federal Section 106 process (36 CFR PART 800) requires that agencies carrying out projects using federal funding or located on federal lands consult with Native American tribes in order to provide them with "a reasonable opportunity to identify (their) concerns about historic properties, values on the land, and evaluation of historic properties, including those of traditional religious and cultural importance; and to identify views on the undertaking's effects on such properties, and participate in the resolution of adverse effects." Enlisted is a list of Native American individuals/organizations who may have knowledge of cultural resources in the project area. The list should provide a starting place in locating areas of potential adverse impact within the proposed project area. The Commission makes no recommendation of a single individual or group over another. By contacting all those on your organization's list, your organization will be better prepared to address claims of failure to consult with the appropriate tribe or groups. A period of two weeks must be allowed for responses following notification. If there has been no response following the two week period, we recommend that you follow-up by telephone to ensure that the information was received.

Prior to project approval, the NACHC recommends that you conduct an archaeological records search at the Information Center at San Diego State University. The records search will identify whether or not recorded cultural resources exist on the project site, whether or not an archaeological survey has been conducted at the site, and provide guidance on whether further archaeological study of the area is warranted.

Least of surface evidence of archaeological resources does not preclude the existence of archaeological resources. Lead agencies should include provisions for accidentally discovered archaeological resources during construction per California Environmental Quality Act (CEQA), Public Resources Code §15064.5 (f), Health and Safety Code §7050.5, and Public Resources Code §3097.98 mandate the process to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery and should be included in all environmental documents. If you have any questions, please contact me at (916) 653-6251.

Sincerely,

Carol Garbutt
Program Analyst
cc: State Clearinghouse

Page 2

Page 3

Response:

1. As suggested the enclosed Native American Contacts have been added to the EIS/EIR distribution list.
2. Please refer to Sections 3.4 and 4.4, *Cultural Resources* for a complete discussion of records review and surveys performed for the Proposed Project.
3. Please refer to Section 4.4, *Cultural Resources* for the a discussion of the specific protocols that would be followed in the event that archeological resources are discovered during project implementation.

S2 – Native American Heritage Commission (page 2 of 3)

Jan 31 05 04:33P
01/01/2005 15:45 768720629 P-3

TALLERON PUBLIC UTI
Native American Contacts
San Diego County
December 23, 2004

Cupa Cultural Center (Pala Band)
William J. Contreras, Archaeology and Cultural Res.
P.O. Box 455 , CA 92069
Pala
(760) 742-3784

Pauma & Yuima
Juanita Dixon, Environmental Coordinator
P.O. Box 369
Pauma Valley , CA 92061
(760) 742-1289
(760) 742-3422 Fax

La Jolla Band of Mission Indians
Mr. Terri Hughes, Chairperson
22000 Highway 76
Pauma Valley , CA 92061
(760) 742-3771/72
(760) 742-1701 Fax

Luiseno

Pechanga Band of Mission Indians
Paul Macario, Cultural Resource Center
P.O. Box 2183
Temecala , CA 92593
(951) 308-9205
(951) 506-9481 Fax

Pala Band of Mission Indians
Robert Smith, Chairperson
P.O. Box 50
Pala
(760) 742-3784
(760) 742-1411 Fax

Luiseno
Cupeno

Pechanga Band of Mission Indians
Mark Macario, Chairperson
P.O. Box 2183 , CA 92593
Temecala
(951) 308-9205
(951) 506-9481 Fax

Pauma & Yuima
Christobal C. Devors, Chairperson
P.O. Box 369
Pauma Valley , CA 92061
(760) 742-3422
(760) 742-3422 Fax

Luiseno

Rincon Band of Mission Indians
Culture Committee
P.O. Box 88
Valley Center , CA 92082
(760) 749-1051
(760) 749-8901 Fax

Pauma & Yuima
Bernice Gallic, Cultural Resource Coordinator
P.O. Box 369
Pauma Valley , CA 92061
(760) 802-1611
(760) 742-3422 Fax

Luiseno

Rincon Band of Mission Indians
John Currier, Chairperson
P.O. Box 68
Valley Center , CA 92082
(760) 749-1051
(760) 749-8901 Fax

This list is current only as of the date of this document.
Distribution of this list does not relieve any person of liability responsibility as defined in Section 7050.2 of the Health and Safety Code, Section 50071 of the Public Resources Code and Section 26072 of the Public Resources Code.
This list is only applicable for distribution and shall not be used for any other purpose.
Santa Margarita River Conjunctive Use Project, SCUP 2001-121066, San Diego County.

S2 – Native American Heritage Commission (page 3 of 3)

Jan 31 05 04:34p 01/07/2005 15:45 760726029 FALLBROTHER PUBLIC UTI PAGE 03 P. 4

Native American Contacts
San Diego County
December 23, 2004

Rincon Band of Mission Indians
Rob Shaffer, Tribal Administrator
P.O. Box 68 Luiseno
Valley Center, CA 92082
(760) 749-1051
(760) 749-8901 Fax

San Luis Rey Band of Mission Indians
Carmen Mojado, Co-Chair
1889 Sunset Dr. Luiseno
Vista, CA 92081 Cupeno

Rincon Band of Mission Indians
Kristie Orsco, Environmental Coordinator
P.O. Box 68 Luiseno
Valley Center, CA 92082
(760) 749-1051
(760) 749-8901 Fax

San Luis Rey Band of Mission Indians
Mark Mojado, Cultural Resources
P.O. Box 1 Luiseno
Pala, CA 92059
(760) 742-4488
(760) 586-4858 (cell)

Rincon Band of Mission Indians
Ruth Caliac, President, Rincon Heritage Commission
P.O. Box 68 Luiseno
Valley Center, CA 92082
(760) 749-1051
(760) 749-8901 Fax

Soboba Band of Mission Indians
Robert J. Salgado, Sr., Chairperson
P.O. Box 487 Luiseno
San Jacinto, CA 92581
(909) 654-2765
Fax: (909) 654-4198

San Luis Rey Band of Mission Indians
Henry Contreras, Most Likely Descendant
1783 Chapulin Lane Luiseno
P.O. Box 92028 Cupeno
(760) 738-6722 - Home
(760) 207-3618 - Cell

Twenty-Nine Palms Band of Mission Indians
Dean Mike, Chairperson
46-200 Harrison Place Luiseno
Coachella, CA 92236 Chemochevi
(760) 775-5566
(760) 775-4639 Fax

San Luis Rey Band of Mission Indians
Russell Romo, Chairman
12064 Old Pomarado Road Luiseno
Poway, CA 92064 Cupeno
(658) 748-1586

This list is current only as of the date of this document.
Bibliography of this list does not relieve any person of liability responsibility as defined in Section 10065 of the Health and Safety Code, Section 60071 of the Public Resources Code, and Section 60071.7 of the Public Resources Code.
This list is only applicable for conducting field work with regard to cultural resource assessment for the proposed Santa Margarita River Conjunctive Use Project. For more information, contact the project staff at 2004121000, San Diego County.

S3 – State Water Resources Control Board (page 1 of 5)

Mar 28 05 02:27p

Alan C. Lloyd, Ph.D.
Agency Secretary

State Water Resources Control Board

Division of Water Rights
1001 I Street, 14th Floor • Sacramento, California 95814 • 916.341.5300
Mailing Address: P.O. Box 2000 • Sacramento, California 95812-2000
FAX: 916.341.5400 • www.waterright.ca.gov

MAILED MARCH 15, 2005

U.S. Bureau of Reclamation
William J. Steele
27708 Jefferson Avenue, Suite 202
Temecula, CA 92590

Dear Mr. Steele:

SANTA MARGARITA RIVER CONJUNCTIVE USE PROJECT – PERMITS 8511, 11357 AND 15000 (APPLICATIONS 11587, 12179 AND 31471) OF U.S. BUREAU OF RECLAMATION (RECLAMATION)

It was a pleasure meeting with representatives of the Bureau, Fallbrook Public Utilities District (Fallbrook) and Marine Corps Base Camp Pendleton on February 1, 2005 to discuss the Santa Margarita River Conjunctive Use Project. Reclamation is in the process of preparing an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the project. At this time, 22 alternatives are being studied. Reclamation plans to narrow the alternatives to roughly the nine most feasible alternatives for further study.

During the meeting, I expressed my concerns regarding the lack of progress in developing a project pursuant to the permits listed above. Permit 8511 (priority date October 11, 1946) authorizes collection to storage of 10,000 acre-feet per annum (afa) throughout the year for domestic, municipal and irrigation purposes of use. The State Water Resources Control Board (State Water Board) has granted ten time extensions for this permit, extending the complete use date to December 31, 2008. Permit 11357 (priority date November 28, 1947) authorizes collection to storage of 10,000 afa throughout the year for domestic, municipal and irrigation purposes of use. The State Water Board has granted six time extensions for this permit, extending the complete use date to December 31, 2008. Permit 15000 (priority date September 23, 1965) authorizes collection to storage of 165,000 afa throughout the year for domestic, municipal, irrigation and military purposes of use. The State Water Board has granted three extensions of time for this permit, extending the date to complete use to December 31, 2008. The project has not been built, because Congress did not approve the project's funding.

At the meeting, it was evident that Reclamation is attempting to start construction prior to the permits' expiration date in 2008. Even if Reclamation finishes construction in 2008, it will not have an opportunity to complete full, beneficial use of water unless it obtains additional time to do so. Accordingly, Reclamation will need to submit time extension petitions for these filings. At the meeting, Division staff advised Reclamation that it is uncertain whether the State Water Board will grant additional time. The requirements for approval of any time extension are found in section 844, title 23, California Code of Regulations and are repeated in part below:

P. 2

Arnold Schwarzenegger
Governor

RECEIVED: Mar 24, 2005

3/25	4/18	7/20	1/5/06
In Reply Refer to 334-KDM-266.0			

1

California Environmental Protection Agency
Recycled Paper

Response:

1. Please refer to Chapter 1 for a discussion of the legal and institutional framework and regulatory setting for the proposed project.

S3 – State Water Resources Control Board (page 2 of 5)

Mar 28 05 02:27p	P. 3 U.S. Bureau of Reclamation -2- An extension of time within which to complete an application, to commence or complete construction work or apply water to full beneficial use will be granted only upon such conditions as the board determines to be in the public interest and upon a showing to the board's satisfaction that due diligence has been exercised, that failure to comply with previous time requirements has been occasioned by obstacles which could not reasonably be avoided, and that satisfactory progress will be made if an extension of time is granted. Lack of finances, occupation with other work, physical disability, and other conditions incident to the person and not to the enterprise will not generally be accepted as good cause for delay. Reclamation expressed concern about expending funds prior to knowing whether the State Water Board will approve additional time extensions for the permits. Division staff recommended that time extension petitions be timely filed in order to address this issue prior to initiating project construction. Reclamation is currently studying 22 alternative projects. All of the proposed projects are for less water than authorized by the three permits. During the meeting, we discussed the fact that the permits should probably be reduced in size to reflect the actual project(s) that are eventually built. We also discussed the fact that any projects that involve changing the points of diversion, place of use or purpose of use will require change petitions. Pursuant to California Code of Regulations, title 23, section 794, the State Water Board requires a change petition to include certain information. The EIR/EIS should include the information required by section 794 for all proposed change petition actions. Due to lack of detail regarding the proposed projects, Division staff cannot state with certainty the type of water right actions that are needed. All of the proposed projects would serve Fallbrook and the Naval Weapons Station. Change petitions are required to serve Fallbrook, because it is not in the authorized place of use. Division staff has not reviewed the permit maps to determine whether the Naval Weapons Station is within the place of use. If it is not, change petitions are required to serve this area. One of the more likely projects is a groundwater recharge project. This project requires a petition to redistribute storage from the unconstructed De Luz Dam and Reservoir to the groundwater storage basin. An underground storage supplement is required for this project. Some of the proposed projects include offstream storage. Unless conditions are established to assure that these storage facilities do not capture and store any water from any streams, including ephemeral streams, that flow into these storage facilities (other than temporary impoundment for flood control purposes followed by controlled releases after the flood event) these facilities will appropriate water from new water sources. New water sources cannot be added to the existing permits. Therefore, new appropriate water rights are required to initiate a basis of right to divert additional water sources for any offstream storage elements located on surface streams (including unnamed, seasonal streams). Moreover, the Santa Margarita River is identified as a fully appropriated stream system. (Wal. Code, § 1205 et seq., SWRCB Order WR 98-08.) To acquire a new water right, the project proponents must file	Response: 2. Please refer to Chapter 1 for the requested information. 3. Please refer to Chapter 1 for the requested information. 4. Please refer to Chapter 1 for the requested information. 5. Other than Lake O'Neill, offstream storage is no longer being considered.
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S3 – State Water Resources Control Board (page 3 of 5)

Mar 28 05 02:28P	P - 4 U.S. Bureau of Reclamation -3- an application to appropriate water and successfully petition the SWRCB for amendment of the declaration of fully appropriated streams. (Cal. Code Regs., tit. 23, § 871.) The NOP proposals include construction of the Puente Canyon Treatment Wetland, the DET Fallbrook Treatment Wetland, the DET Fallbrook Storage site, the spreading basin, the Red Mountain Reservoir, Rehabilitation Ponds 1-5, Site 6 Offstream Storage, the Enhanced Extraction Pipeline, and the Newton Treatment Wetland. Division staff is uncertain whether these projects can be pursued via change petitions since the Division has not yet received information on whether these facilities are located on surface streams. New sources cannot be added by petition; therefore, a change petition can only be accepted if the inflow from the new source is bypassed. If the facilities are not located on surface streams, Reclamation may petition to change the place of storage for its permits. In order to approve change petitions for the offstream storage projects, Reclamation will need to demonstrate that there is no change in the rate or timing of diversions, as compared to the permitted project. The EIS/EIR should include an evaluation of this issue in order to facilitate petition processing. The NOP describes construction of an Instream Check Structures project. A water right is required for any dam that will collect surface water to seasonal storage (including underground storage). If Reclamation petitions to add this project to its permits, it should state whether this is an element of the groundwater storage project on the petitions. Another proposed project is direct diversion at new production wells on the Santa Margarita River. Direct diversion is not an authorized method of diversion under the permits. Any petition to change the method of diversion from storage to direct diversion should be accompanied by documentation on whether the petition will change the rate and timing of diversions, as compared to operation of the permitted project. In order to approve change petitions for the offstream storage projects, Reclamation will need to demonstrate that there is no change in the rate or timing of diversions, as compared to the permitted project. Lake O'Neill rehabilitation is a proposed project element. Lake O'Neill is not located on the Santa Margarita River. The EIR/EIS should identify the existing basis of right for storage in Lake O'Neill. If this project element involves silt removal from Lake O'Neill, the EIR/EIS should identify when the reservoir capacity was lost due to siltation. Portions of a water right may be lost through five or more years of non-use. If additional water will be diverted from the Santa Margarita River, or other sources, for storage in an enlarged Lake O'Neill, an appropriate water right is required. If Reclamation plans to redistribute De Luz Reservoir storage to Lake O'Neill, Reclamation should petition to redistribute storage to this facility. The petition review (and consequently, the environmental review) will require evaluation of whether diversion to offstream storage changes the rate and timing of diversions, as compared to the operation of the permitted project. Division staff is uncertain whether diversions can be implemented throughout the year, as authorized by Reclamation's permits, due to fish and wildlife concerns. The EIS/EIR should evaluate the impacts of the proposed changes on instream beneficial uses and identify the
	Response: 6. Instream Check Structures are no longer being considered. 7. Please refer to Section 1.4 and 1.6 for a discussion of permits required for project implementation. 8. The dredging of Lake O'Neill is no longer a part of the Conjunctive Use Project. 9. Please refer to Section 1.4 and 1.6 for a discussion of permits required for project implementation. 10. Annual and seasonal reductions of flow within the Santa Margarita River are provided in Section 4.2 and Appendix B. Impacts to beneficial uses have been evaluated in Sections 4.2 and 4.3.

S3 – State Water Resources Control Board (page 4 of 5)

Mar 28 05 02:28p

P. 5

U.S. Bureau of Reclamation

-4-

appropriate diversion season for the permits, or appropriate bypass, based on environmental and water availability considerations.

10 (cont)

A water availability analysis should be included in the EIS/EIR. The analysis should provide monthly data on water availability, for above normal, normal, below normal and critically dry water year types. The analysis should also include an evaluation of how much water must be left in the stream to keep fish in good condition.

11

Finally, Camp Pendleton is diverting water in excess of the amount authorized under License 10494 (A21471A) or any other water right acquired under California law.¹ The EIS/EIR should discuss the relationship between the project and Camp Pendleton's unauthorized diversions. Is the project intended to provide a legal basis under California law for Camp Pendleton's currently unauthorized diversions? If not, will Camp Pendleton discontinue those unauthorized diversions? If not, EIS/EIR will need to include a cumulative impacts analysis that includes consideration of present and reasonably foreseeable future unauthorized diversions by Camp Pendleton. Thank you for the opportunity to comment on the NOP. If you require further assistance, I can be contacted at (916) 341-5363.

12

Sincerely,

ORIGINAL SIGNED BY:

Katherine Mrowka, Chief
Watershed Unit #3

cc:

Joe Jackson
Fallbrook Public Utility District
P.O. Box 2290
Fallbrook, CA 92088-2290

William Rohrer
U.S. Bureau of Reclamation
22708 Jefferson Avenue, Suite 202
Temecula, CA 92590

Chad P. Seher
Building 1254 WACO
Marine Corps Base
Camp Pendleton, CA 92054-5013

¹ Camp Pendleton has no federal reserved water rights, and Congress has directed that Camp Pendleton comply with California water right law.

Response:

11. Analysis of project impacts on surface water in the Santa Margarita River is provided in the *Santa Margarita River Conjunctive Use Project: Final Technical Memorandum No. 1 and 2.2* (surface water availability and surface/groundwater model, respectively). These reports were updated and include analysis to steelhead migration in the *Southern California Steelhead Passage Assessment, Lower Santa Margarita River, California and CUP Surface Water Availability Analysis (TM 1.1)*. Results from these studies are presented and evaluated in Sections 4.2 and 4.3 of this EIS/EIR.

12. MCB Camp Pendleton has three water "rights:" riparian, pre-1914, and license 21471. The license is perfected at 4,000 acre-feet. The pre-1914 is quantified at 1,200 acre-feet (excluding evaporative or other system losses). The riparian right has not been quantified. MCB Camp Pendleton has at no time exceeded their legal right to water and does not have any unauthorized diversions. For additional information, refer to the California State Water Resources Control Board, the Santa Margarita River Watermaster and/or the 70 years of documented legal briefs, adjudications, interlocutory judgments, etc.

S3 – State Water Resources Control Board (page 5 of 5)

Mar 28 05 02:29p

U.S. Bureau of Reclamation

-5

Marty Kaiser
U.S. Bureau of Reclamation
2800 Cottage Way
Sacramento, CA 95825

Amy Aufdenberg
U.S. Bureau of Reclamation
2800 Cottage Way
Sacramento, CA 95825

bcc: Megan Sheely
Kate Gaffney
Steve Herrera
Erin Mahaney
John O'Hagan

KDMrowka:kdm/xrivera:3-14-05
U:\PERDRV\Kathy Mrowka\santa margarita letter2.doc

P. 6

L1 – Endangered Habitats League / Conservation Biology Institute (page 1 of 4)

03/05 01:19p

ENDANGERED HABITATS LEAGUE
DEDICATED TO ECOSYSTEM PROTECTION AND SUSTAINABLE LAND USE

January 29, 2005

VIA FACSIMILE AND US MAIL

Fallbrook Public Utility District
ATTN: Joe Jackson
P.O. Box 2290, 990 E. Mission Road
Fallbrook, CA 92088-2290

RE: Santa Margarita River Conjunctive Use Project

Dear Mr. Jackson:

The Endangered Habitats League (EHL) appreciates the opportunity to comment on the Notice of Preparation for the above-referenced project. Please find enclosed a letter from the Conservation Biology Institute providing this information.

Please retain EHL on all distribution and notification lists for this project.

Sincerely,



Dan Silver
Executive Director

cc: Bill Rohwer, U.S. Bureau of Reclamation

1824 A Santa Monica Blvd., #502, Los Angeles, CA 90025-4287 • WWW.EHL.ORG • TEL: 310.441.8047 FAX: 310.441.8048

L1 – Endangered Habitats League / Conservation Biology Institute (page 2 of 4)

Jan 31 05 01:20p

P-3



Conservation Biology Institute

651 Catalina Drive • Encinitas, California 92024
Phone/Fax: (760) 634-1590
<http://www.conbio.org>

January 26, 2005

Mr. Bill Rohwer
U.S. Bureau of Reclamation
Southern California Area Office
27708 Jefferson Ave., Suite 202
Temecula, CA 92590

Subject: Notice of Intent to Prepare an Environmental Impact
Statement/Environmental Impact Report for the Santa Margarita River
Conjunctive Use Project, San Diego County, CA

Dear Mr. Rohwer:

The Conservation Biology Institute (CBI) is a non-profit, conservation science organization, with expertise in habitat conservation planning, environmental impact studies, and special status species conservation and recovery efforts. We have prepared these comments on behalf of the Endangered Habitats League. The Santa Margarita River system is a regionally important resource, supporting a variety of high quality and sensitive habitats and species. Protection of these resources is an important responsibility of the Bureau of Reclamation (BR), Marine Corps Base (MCB) Camp Pendleton, and Fallbrook Public Utility District (FPUD). We recommend that the following issues be addressed as part of the Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the subject project.

- A thorough analysis of surface and ground water dynamics and the potential effects of the proposed project on these dynamics should be conducted. The integrity or health of riverine ecosystems is dependent on their natural flow regimes. A natural flow regime includes a number of components, such as magnitude, frequency, timing, and rate of change. The flow regime of the Santa Margarita River exhibits a high degree of intra- and inter-annual variability, which resident organisms have adapted to and which is important to the long-term integrity of this ecosystem. In addition, surface and ground waters are likely to be strongly coupled in this system, particularly in the lower alluvial reaches of the river. Thus, extraction of groundwater from the alluvial aquifer of the lower basin has the potential of modifying the natural flow regime of the river which, in turn, has the potential to adversely affect the quality of habitats associated with the river and the species that rely on these habitats.

Response:

1. Sections 3.2 and 4.2, *Water Resources* includes a discussion of baseline and potential impacts on surface and groundwater resources. Potential impacts to Biological Resources with implementation of the action alternatives are discussed in Section 4.3.

L1 – Endangered Habitats League / Conservation Biology Institute (page 3 of 4)

Jan 31 05 01:20p

Mr Bill Rohrer, January 26, 2005
Pg. 2

- The potential for the project to adversely affect riparian vegetation communities should be addressed. The Santa Margarita River supports extensive high quality riparian habitat that supports a number of sensitive species. Riparian habitat depends both on periodic disturbances from flooding and high ground water levels.
- The effects of the proposed project on ephemeral pools and backwaters should be assessed. Several sensitive species rely on ephemeral pools and backwaters that form within and adjacent to the river channel during periods of high surface discharges and groundwater elevations for breeding and foraging habitat. Species such as the arroyo toad and southwestern pond turtle use these habitats for breeding. These habitats also are a source of invertebrate production, which is an important food source for breeding riparian birds such as the least Bell's vireo and southwestern willow flycatcher.
- The potential for the project to affect steelhead habitat and upstream and downstream migrations should be assessed. The Santa Margarita River is one of the last remaining rivers in Southern California that can potentially support southern steelhead. Steelhead rely on adequate flows to allow passage of adults and juveniles in upstream and downstream directions. High flow events are important to periodically opening the mouth of the Santa Margarita River estuary and to maintaining high water quality in the estuary.
- The potential for the proposed project to alter lagoon system dynamics should be analyzed. The Santa Margarita River estuary supports the endangered tidewater goby and sensitive salt marsh habitat. This tidewater goby has evolved in dynamic lagoon systems, where lagoon mouths close and are periodically opened by high flows and storm events. Maintaining the dynamic nature of these systems is crucial to the long-term viability of this species. Salt marsh habitats are also dependent on the balance of seawater circulation and freshwater inflows, and altering this balance could adversely affect this habitat and associated sensitive species.
- Growth inducing impacts of the proposed project must be adequately analyzed. Developing additional municipal supplies of water is potentially growth-inducing in that it facilitates increasing residential population within the service area of FVUD. Expanding residential housing density and the associated infrastructure on the service area creates significant direct, indirect, and cumulative impacts to natural resources, including terrestrial resources in areas removed from the river corridor.

P - 4

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Response:

2. Please refer to response to comment #1 on previous page.
3. Please refer to response to comment #1 on previous page.
4. Please refer to response to comment #1 on previous page.
5. Please refer to response to comment #1 on previous page.
6. Growth inducement factors are discussed in Section 6.1

L1 – Endangered Habitats League / Conservation Biology Institute (page 4 of 4)

Jan 31 05 01:20p

Mr. Bill Rohrer, January 26, 2005
Pg. 3

Please feel to contact me if you require clarification or wish to discuss these issues further.

Sincerely,



Michael D. White, Ph.D.
Senior Ecologist

Cc: Mr. Joe Jackson, Fallbrook Public Utility District

P. 5

L2 – Jane Comella (page 1 of 1)

Written Comment Form**Santa Margarita River Conjunctive Use Project**

Department of the Navy, Marine Corps Base Camp Pendleton
Bureau of Reclamation
Fallbrook Public Utility District

Your input is important to us; please use this comment sheet to provide input on issues to be evaluated in the Draft EIS/EIR. Your comments will be addressed in the Draft EIS/EIR. Please include your name and address below to receive a copy of the Draft EIS/EIR.

Members of the Fallbrook Land Conservancy Trails Council. I am concerned that the Santa Margarita River Valley from the San Diego State Santa Margarita Ecological Reserve to the Sardinia Creek/Del Norte Road intersection remain open to passive recreational use.

Name*

Address

City/State/Zip Code

Jane Comella

1446 Hillcrest Lane

Fallbrook, CA 92028

* Comments, including names and home addresses of respondents, will be made available for public review. Individual respondents may request their home address be withheld from public disclosure. Please prominently state at the beginning of your comment if you wish your name and/or address withheld from public disclosure.

Please submit your comments to the court stenographer at the Sign-In Station or mail your comments to:

Bureau of Reclamation, Southern California Area Office

Attention: Bill Rohwer, Planning Officer

27708 Jefferson Avenue, Suite 202

Temecula, CA 92590

Or comments can be faxed to: (951) 695-5319

To ensure that your comments are considered in the Draft EIS/EIR, comments must be received by January 31, 2005.

Response:

1. The preservation of the OMSZ is an important component of the Conjunctive Use Project and can occur through more than one route or mechanism. The Proposed Action involves a transfer of the land into Federal or other third party ownership as conservation land. In both cases, all existing passive recreational activities would be maintained.

L3 – Joe Comella (page 1 of 1)

Written Comment Form
Santa Margarita River Conjunctive Use Project

Department of the Navy, Marine Corps Base Camp Pendleton
Bureau of Reclamation
Fallbrook Public Utility District

Your input is important to us; please use this comment sheet to provide input on issues to be evaluated in the Draft EIS/EIR. Your comments will be addressed in the Draft EIS/EIR. Please include your name and address below to receive a copy of the Draft EIS/EIR.

I am a member of the Father's Land Movement
Track Council. I am concerned that as the
project progresses through the various stages to
completion that there is consideration for persons
recreation, use of the trails through the watershed
and especially for the Indian and of the
Santa Barbara Ecological Reserve to the border
of Camp Hill.

The Santa Barbara has been maintaining
the trail to the Santa Margarita water shed and
it would be beneficial for everyone to continue the
relationship (in part) allowing the full time
and increasing trail use to continue with
their volunteer track maintenance to provide
proper recreational use of this area. The benefit
to all parties is obvious.

Additional space.⁹ Please use other side.

Name* Sue Comella
Address 1446 N. Chestnut Ln
City/State/Zip Code Elkhart IN 47928

* Comments, including names and home addresses of respondents, will be made available for public review. Individual respondents may request their home address be withheld from public disclosure. Please prominently state at the beginning of your comment if you wish your name and/or address withheld from public disclosure.

Please submit your comments to the court stenographer at the Sign-In Station or mail your comments to:

Bureau of Reclamation, Southern California Area Office
Attention: Bill Rohwer, Planning Officer
27708 Jefferson Avenue, Suite 202

Femecula, CA 92590

Or comments can be faxed to: (951) 695-5319

To ensure that your comments are considered in the Draft EIS/EIR, comments must be received by January 31, 2005.

PUBLIC COMMENTS

L4 - Donna Gebhart (page 1 of 1)

Feb 02 05 02:01P 02/01/2005 12:58 7607319513 GEBHART & ASSOC. INC. PAGE 01/01 P.2



Your input is important to us; please use this comment sheet to provide input on issues to be evaluated in the Draft EIS/EIR. Your comments will be addressed in the Draft EIS/EIR. Please include your name and address below to receive a copy of the Draft EIS/EIR.

We appreciate the opportunity to be able to comment. I chair the Fallbrook and Conservation Trails Council. We maintain the trails on the Santa Margarita River. We have approx 10 miles of trails. They are an integral part of the trail system in Fallbrook which has the Oak Block Open Space. The County 5M Hack which is not open yet but we do have an agreement with the county for. Our maps of trails & pathways have almost been accepted. All the City of San Diego is part of the S.D. Co. Trails Master Plan. Which the County has an agreement to develop all would play much appreciate being able to have input as far as hiking trails for passive recreation use for the community. As far as closer to the end, we would be happy to meet with you to discuss how we can accomplish these goals. Additional input: Please use other side.

Name* Donna Gebhart 760-731-9441
Address 1609 Santa Margarita Dr
City/State/Zip Code Fallbrook, Ca 92028 dgebhart@pacbell.net

* Comments, including names and home addresses of respondents, will be made available for public review. Individual respondents may request their home address be withheld from public disclosure. Please prominently state at the beginning of your comment if you wish your name and/or address withheld from public disclosure.

Please submit your comments to the court stenographer at the Sign-In Station or mail your comments to:
Bureau of Reclamation, Southern California Area Office
Attention: Bill Robner, Planning Officer
27708 Jefferson Avenue, Suite 202
Torrance, CA 90509
Or comments can be faxed to: (951) 695-5319
To ensure that your comments are considered in the Draft EIS/EIR, comments must be received by January 31, 2005.

Response:

1. The preservation of the OMSZ is an important component of the Conjunctive Use Project and can occur through more than one route or mechanism. The Proposed Action involves a transfer of the land into Federal or other third party ownership as conservation land. In both cases, all existing passive recreational activities would be maintained.

I1 – Barbara Hayden (page 1 of 1)

Written Comment Form**Santa Margarita River Conjunctive Use Project**

Department of the Navy, Marine Corps Base Camp Pendleton
Bureau of Reclamation
Fallbrook Public Utility District

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*if am very concerned that the public
have restricted access to the 1400
acres for hiking, horse back riding,
and fishing, etc.*

Name*

Address

City/State/Zip Code

Additional space? Please use other side.

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Please submit your comments to the court stenographer at the Sign-In Station or mail your comments to:

Bureau of Reclamation, Southern California Area Office

Attention: Bill Rohwer, Planning Officer

27708 Jefferson Avenue, Suite 202

Temecula, CA 92590

Or comments can be faxed to: (951) 695-5319

To ensure that your comments are considered in the Draft EIS/EIR, comments must be received by January 31, 2005.

Response:

1. The preservation of the OMSZ is an important component of the Conjunctive Use Project and can occur through more than one route or mechanism. The Proposed Action involves a transfer of the land into Federal or other third party ownership as conservation land. In both cases, all existing passive recreational activities would be maintained.

I2 – Alberta Jane Parker (page 1 of 1)

Written Comment Form

Santa Margarita River Conjunctive Use Project

Department of the Navy, Marine Corps Base Camp Pendleton
Bureau of Reclamation
Fallbrook Public Utility District

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I have a question pertaining to the purity & safety of the water pumped out of the aquifers. Much of the water entering the Santa Margarita River (particularly in summer) is aqueduct runoff, & as such includes both fertilizers & pesticides. How much of these contaminants are removed in the aquifer? Won't the effect of these contaminants increase over time (years)? Monitoring is a passive activity. What can be actively done to preserve purity?

Name*

Address

City/State/Zip Code

Alberta Jane Parker

1694 Santa Margarita

Fallbrook 92028

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Please submit your comments to the court stenographer at the Sign-In Station or mail your comments to:

Bureau of Reclamation, Southern California Area Office

Attention: Bill Rohrer, Planning Officer

27708 Jefferson Avenue, Suite 202

Temecula, CA 92590

Or comments can be faxed to: (951) 695-5319

To ensure that your comments are considered in the Draft EIS/EIR, comments must be received by January 31, 2005.

Response:

1. Water quality concerns are addressed under Section 4.2, Water Resources.

I3 – James E. Pigg (page 1 of 1)

Jan 31 05 04:34p

P. 5

James E. Pigg
4851 Quail Run
Las Cruces, NM 88011

1 November 2004

Bureau of Reclamation
Southern California Area Office
Attn: Bill Rohwer
27708 Jefferson Ave, Suite 202
Tennessee, CA 92590

EIS/EIR Mailing List

Please include me on the mailing list for the EIS/EIR for the Santa Margarita River
Conjunctive Use Project. Electronic format is preferred, if available.

Mailing address:

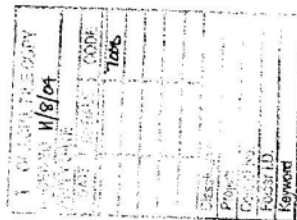
James Pigg
4851 Quail Run
Las Cruces, NM 88011

Email address:

jfpigg@mindspring.com

Thank you:


James Pigg



Response:

1. Individual has been added to the EIS/EIR mailing list as requested.

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