

Appendix A: Comment Letter and Reclamation's Response to Comments



Lewis, Jennifer <jllewis@usbr.gov>

Improvements Project at Millerton Lake SRA - Lesson Learned

1 message

Simmen, Eric <esimmen@usbr.gov>

Wed, Feb 8, 2017 at 11:55 AM

To: jllewis@usbr.gov

Jennifer,

Comment for Draft Environmental Assessment, California State Parks Accessibility Improvements Project at Millerton Lake State Recreation Area.

I submit for your design team's consideration, the addition of dog friendly drinking fountains to the design. Dog friendly drinking fountains accommodate working dogs, service dogs, and pets.

We incorporated one of these fountains in the design for the Sacramento River Trail bypass of the Keswick Dam Office Compound. The City of Redding, Department of Parks and Recreation received favorable response from the public. I have seen the general public use these fountains and they seem very appreciative. While individuals with service dogs usually have the means to provide water for their service dogs, the ability to allow the dog to drink from a fountain is simple demonstration of inclusion to the community. Simple gestures can have great impact.

I have attached an image of a fountain that closely resembles the type of fountain used. The addition of the service dog friendly fountain can add roughly \$200 to \$1,200 to the price of a standard 2 bowl free standing fountain.



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Eric Simmen

Civil Engineer

Mid-Pacific Construction Office

Bureau of Reclamation

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Response to Eric Simmen (Simmen) Comment Letter, February 8, 2017

Simmen-1 Comment noted. The proposed design consideration was forwarded onto California Department of Parks and Recreation for dog friendly drinking fountains.

Appendix B: United States Fish and Wildlife Service Biological Opinion



United States Department of the Interior




In Reply Refer to:
08ESMF00-
2016-F-0344

FISH AND WILDLIFE SERVICE
Sacramento Fish and Wildlife Office
2800 Cottage Way, Suite W-2605
Sacramento, California 95825-1846

AUG 30 2016

Memorandum

To: David E. Hyatt, Supervisory Biologist, Bureau of Reclamation, Mid-Pacific Region,
South-Central California Area Office, Fresno, California

From:  Field Supervisor, Sacramento Fish and Wildlife Office, Sacramento, California

Subject: Formal Consultation on the North Shore Millerton Lake State Recreation Area
Accessibility Improvements Project, Madera County, California

This memorandum is in response to the Bureau of Reclamation's (Reclamation) November 20, 2015, request for initiation of formal consultation with the U.S. Fish and Wildlife Service (Service) on the proposed North Shore Millerton Lake State Recreation Area Accessibility Improvements Project (proposed project) in Madera County, California. Your request, which included the *Biological Assessment for the California State Parks Accessibility Improvements Project at Millerton Lake State Recreation Area* (biological assessment) as prepared by Reclamation, was received by the Service on November 23, 2015. At issue are the proposed project's effects on the federally-listed as threatened central California distinct population segment of the California tiger salamander (*Ambystoma californiense*) (central California tiger salamander) (CTS). This response is provided under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), and in accordance with the implementing regulations pertaining to interagency cooperation (50 CFR 402).

The federal action on which we are consulting is Reclamation's authorization to the California Department of Parks and Recreation (State Parks) to make modifications to existing campground infrastructure within the North Shore Millerton Lake State Recreation Area (Millerton Lake SRA), in order to bring the facilities into compliance with the Americans with Disabilities Act (ADA). Pursuant to 50 CFR 402.12(j), you submitted a biological assessment for our review and requested concurrence with the findings presented therein. These findings conclude that the proposed project may affect, and is likely to adversely affect the central California tiger salamander. Reclamation has also determined that the proposed project will not affect critical habitat for any federally-listed species as none occurs within the proposed project area.

In considering your request, we based our evaluation on the following: (1) the November 20, 2015, letter initiating consultation; (2) the biological assessment, dated October 2015 and prepared by Reclamation; (3) the January 25, 2016, letter from Reclamation regarding the absence of cumulative effects; (4) the February 10, 2016, email from Reclamation regarding the inclusion of several additional conservation measures for CTS; (5) the March 15, 2016, site visit attended by Service, Reclamation, and State Parks staff; (6) the April 4, 2016, email from Reclamation documenting the number of burrows at each campground within 1.3 miles of the confirmed CTS breeding ponds; and

(7) the May 31, 2016, letter from Reclamation proposing CTS burrow excavation measures, including Reclamation's July 6, 2016, revisions to these measures.

Consultation History

<i>June 2015:</i>	Reclamation obtained an official species list from the Service (Consultation Code: 08ESMF00-2015-SLI-0620).
<i>November 2015:</i>	Reclamation submitted a request to initiate formal consultation on the project along with the October 2015 biological assessment.
<i>Jan-Feb 2016:</i>	The Service issued an insufficiency memo to Reclamation and later received additional project information from Reclamation.
<i>March 2016:</i>	Service biologists attended a site visit with Reclamation and State Parks staff.
<i>April 2016:</i>	Service, Reclamation, and State Parks biologists attended a conference call to discuss the consultation.
<i>May 2016:</i>	The Service received a memo from Reclamation stating that they have decided to continue with the formal consultation.
<i>July 2016:</i>	Reclamation and Service biologists discussed revisions to the project description.

BIOLOGICAL OPINION

Description of the Action

The proposed project is located within the Millerton Lake SRA Campgrounds on the north shore of Millerton Lake in Madera County, California. The site is located within the Millerton Lake West U.S. Geological Survey (USGS) 7.5-minute topographical quadrangle. Millerton Lake is a reservoir that is owned and operated by Reclamation; however, State Parks operates and maintains the Millerton Lake SRA on behalf of Reclamation pursuant to operating agreement 12-LC-20-0152. State Parks proposes, on behalf of Reclamation, to make the following modifications to existing campground infrastructure within the Millerton Lake SRA in order to bring the facilities into compliance with the ADA:

- At Meadows RV Campsites #120, 132, 133, and 144, water stations will be modified and concrete pads with drains and catch basins will be installed. The typical size for all water stations is 60 inches by 60 inches by 4 inches. Concrete pads will be installed at each of the electrical hook ups, fire rings will be relocated, as necessary, and concrete and raised tactile paving will be installed. The typical size of tactile paving for a fire ring is 11 feet by 11 feet.
- At Fort Miller Campsite #43, a 5-foot by 20-foot by 6-inch concrete walkway will be installed to provide access from the parking space to the table pad. The water station will be modified and a concrete pad with a drain and catch basin will be installed. The fire ring will be relocated and concrete and tactile paving will also be installed.

- At the Rocky Point Campground Combo Building, two 5-foot by 15-foot by 6-inch concrete walkways will be poured to provide access from the campground road. Signs will be mounted on the strike side of the door and new door closures will be installed to improve operational pressure. The tiled bench in the shower room will be removed and the drinking fountain will be replaced with a high/low drinking fountain. A 60-inch by 60-inch concrete slab will be poured adjacent to and across from the existing fountain mounted on the restroom. The fountain will drain onto the slab or into a drain box. Approximately 6 inches of excavation will be required to match the existing sidewalk.
- At Rocky Point Campsite #3, a 4-foot by 18-foot by 6-inch concrete apron will be poured to tie in the existing parking space, and minor leveling will be performed throughout the site. The water station will be modified and a concrete pad with drain and catch basin will be installed. The fire ring will be relocated and concrete and tactile paving will be installed.
- Rocky Point Campsite #5 will be completely refurbished and releveled. The concrete slab will be removed and replaced by a 4-inch by 6-inch redwood border and backfilled with 18 feet by 18 feet of compacted road base and decomposed granite surface. A water station and fire ring will be installed within the existing disturbed area and a new parking pad (20 feet by 20 feet by 6 inches) and shade ramada will be installed. The installation of the shade ramada will require four holes, 24 inches in diameter by 36 inches deep.
- At Rocky Point Campsite #16, 18 feet by 20 feet by 6 inches of uneven asphalt and concrete will be replaced, the food locker will be relocated, and the water station will be modified, including installation of a concrete pad with a drain and catch basin. The fire ring will be relocated and concrete and tactile paving will be installed.
- North Shore Equestrian Camp will undergo minor leveling of the entire site. A new shade ramada will be installed next to the existing ramada. The ramada pad will consist of a 4-inch by 6-inch redwood border backfilled with 18 feet by 18 feet by 6 inches of compacted road base and decomposed granite surface topping. A table, fire ring, and water station will be installed and the chemical toilet will be replaced with an ADA compliant model. Also, an equestrian access ramp and mounting platform will be installed. This will require a 20-foot by 5-foot by 6-inch concrete walkway and alteration of the platform to accommodate 4-foot by 4-foot companion seating.
- At the Campfire Center the speaker's podium will be rebuilt and the benches and fire ring will be shortened. The concrete walkway will be extended to incorporate the North side bench and speaker's podium. A 5-foot by 20-foot by 6-inch concrete slab will be poured parallel to the front row of benches. For companion seating, a 4-foot by 4-foot by 6-inch slab will be poured and an additional bench will be installed. The area will be made level and firm by installing a 4-inch by 6-inch redwood border and placing Class II road base on the site as needed. The updates to this site will require excavation of up to 9 inches for the placement of borders, and up to 24 inches for any posts or signage.

Construction is anticipated to begin in the summer of 2017 and will take approximately 15-weeks to complete. Work will be conducted using a small skid steer tractor, hand compactors, vibraplates, a hand held post auger, and hand tools. Staging and stockpiling will occur solely on preexisting paved surfaces such as parking pads.

Conservation Measures

The following measures will be incorporated into the proposed project to avoid and minimize potential adverse effects to CTS:

1. At least 15 days prior to any ground disturbing activities, Reclamation or State Parks shall submit to the Service, for approval, the names and credentials of the biologists it wishes to conduct activities outlined in the Conservation Measures. Two levels of biologist will be approved for the proposed project: (1) a Qualified Biologist who holds or is an authorized individual under a Federal Recovery Permit [10(a)(1)(A)] for CTS or meets the qualifications necessary to obtain a species handling permit under section 10(a)(1)(A) and (2) a Monitoring Biologist who is familiar with the biology of CTS. Only the Qualified Biologist will be authorized to conduct measures which require handling, capturing, or relocating CTS, or excavating CTS burrows. Upon approval, both biologists will be given the authority to stop any work that may result in the take of listed species. If a CTS is found at any time, and is in danger of mortality or harm, the biologists will immediately order a halt to any construction activities that may result in mortality or harm. Work will not resume until the animal has left the area on its own, or has been relocated by the Qualified Biologist following the procedures outlined in Conservation Measures 7 and 8.
2. The Monitoring Biologist will be on-site during all ground-disturbing project-related activities. The Monitoring Biologist shall be identified during the employee education program and will be the contact for any employee or contractor who might inadvertently kill or injure a CTS, or anyone who finds a dead, injured, or entrapped CTS. State Parks and its contractors shall immediately notify the Monitoring Biologist if a listed species is taken or injured by a project-related activity, or if a listed species is otherwise found dead or injured within the vicinity of the project.
3. Prior to the initiation of any on-site preparation or construction activities, the Monitoring Biologist will conduct an education and training session for all individuals who will be involved in site preparation or construction. At a minimum, the training will include a description of the CTS and its habitat requirements. Additional information will include the measures that are being implemented to conserve the species and penalties for non-compliance with these measures. During construction, training sessions will be required for all new or additional personnel before they are allowed to access the project site. An attendance sheet identifying the attendees and the contractor/company they represent will be provided to Reclamation and the Service. To ensure that employees and contractors understand their roles and responsibilities, training may have to be conducted in languages other than English.
4. Each day, immediately prior to the commencement of construction activities, the Monitoring Biologist will survey the construction area for CTS in any potentially suitable upland habitat such as rodent burrows, cracks, holes, trenches, leaf litter, etc. Materials left onsite overnight shall be inspected by the Monitoring Biologist prior to being moved because CTS are attracted to cavity like structures and may seek refuge under construction equipment, vehicles, or debris where they may become trapped or injured if such materials are moved. If a CTS is found, construction will not commence until the animal has left the area on its own, or has been relocated by the Qualified Biologist following the procedures outlined in Conservation Measures 7 and 8.

5. To prevent inadvertent entrapment of CTS all excavated, steep-walled holes or trenches will be covered at the end of each work day with plywood or similar materials. If this is not possible, one or more escape ramps constructed of earth fill or wooden planks will be established in the hole. Before such holes or trenches are filled, they will be thoroughly inspected for CTS by the Monitoring Biologist. If at any time a salamander is found trapped in these holes, work shall cease until the animal has been relocated by the Qualified Biologist following the procedures outlined in Conservation Measures 7 and 8.
6. All burrows that provide upland habitat for CTS will be avoided to the maximum extent feasible, although complete avoidance is not possible. Areas with high concentrations of burrows to be avoided will be marked with high-visibility construction fencing, tape, or other means, and will be avoided by construction personnel.

Potentially occupied small mammal burrows, and other refugia suitable for CTS, that are located in portions of the action area falling within 1.3 miles of the confirmed CTS breeding ponds (i.e., burrows at Campfire Center, Fort Miller Site #43, and Rocky Point Campgrounds), and that are located within 5 feet of areas that will be concreted, filled-in, or otherwise destroyed, shall be excavated prior to construction under the supervision of the Qualified Biologist. All burrows will be excavated in such a way that the Qualified Biologist can readily identify when a salamander is located within. If a CTS is found within an excavated burrow, it will be captured and relocated by the Qualified Biologist following the procedures outlined in Conservation Measures 7 and 8.

If possible, each burrow excavation will be conducted by slowly removing the burrow (including any side tunnels) using hand tools (e.g., shovel, digging bar, garden trowel, masonry trowel, etc.). If hand tools cannot be used safely due to soil compaction and/or burrow depth extending greater than two feet from the surface, burrows may be excavated using mechanical methods. Mechanical methods will include either hand power tools or a backhoe and hand tools (e.g., shovel, garden trowel, masonry trowel, etc.). Cloth, cylinder, capped pipe, or similar material that would protect the integrity of the burrow will be pushed into the burrow approximately 12 to 16 inches to plug the burrow and prevent animals from exiting the burrow during excavation (i.e., to prevent injury or mortality). The excavation sequence will then continue as follows: (1) 6-12 linear inches of burrow will be removed at a time under the supervision of the Qualified Biologist, (2) the plug will be removed, (3) the burrow will be checked for evidence of CTS or other animals, (4) small hand tools will be used to reestablish the burrow opening (if necessary), (5) the burrow will again be checked for evidence of CTS or other animals (if necessary) and (6) the plug will be reinserted to start the process again.

If possible, all burrows (including side burrows) will be excavated to their endpoints and the excavation will then be backfilled, brought back to grade, and compacted using the same equipment that was used for excavation. It should be noted, however, that some small mammal burrows (particularly California ground squirrel burrows) can be up to 30 feet in length and have associated side tunnels that are also substantial in length. Therefore, if the end of the burrow cannot feasibly be reached, an egress route will be left such that any undetected animals do not become trapped. The design of any such egress route will be approved by Service staff before implementation.

7. CTS held for relocation will be placed individually in sterilized plastic containers possessing air holes and containing a moist sponge (moistened with distilled water) for immediate transport to a relocation site. The Qualified Biologist will minimize the duration of handling and captivity. Containers used for holding or transporting will not contain any standing water. Containers, sponges, and non-chlorinated water will be kept on-site and readily available for deployment. Each container and sponge will only be used once. The Qualified Biologist will not use soaps, oils, creams, lotions, repellents, or solvents of any sort on their hands within two hours before and during periods when they are capturing and relocating CTS. The post-construction monitoring report will contain a discussion of any CTS handled in this manner, and the Service, the California Department of Fish and Wildlife (CDFW), and Reclamation will be notified by telephone and electronic mail within one working day of the incident.
8. CTS will be released by the Qualified Biologist, outside of the disturbance footprint, but as near as possible to the point of capture in a manner that maximizes their survival. CTS will be released into the mouths of existing ground squirrel burrows and observed until they disappear from view. Following relocation the Qualified Biologist will check the burrows periodically for 2 hours to ensure the individuals stay in the burrow. If they come out, they will be relocated to an alternative burrow. Multiple captured individuals will not be released to the same repository.
9. Work will be avoided during or after significant rainfall. Work shall not begin during rain or when the forecast probability of rain for a workday is 30% or greater. If rainfall greater than 0.5 inches has occurred in the 24 hour period prior to any planned work activity, work shall not begin until the Monitoring Biologist has surveyed the work area for dispersing CTS and has found none present. If rainfall greater than 0.5 inches occurs after work has begun, the work shall be suspended until the rain stops and until after the Monitoring Biologist has resurveyed the work area for dispersing CTS and has found none present.
10. Work on the project shall begin no earlier than a half hour before sunrise and shall cease at least a half hour before sunset.
11. Plastic mono-filament matting will not be used for erosion control or other purposes at the project site to ensure that CTS do not get trapped. Instead, tightly woven fiber or similar material shall be used.
12. A litter control program shall be instituted at the entire project site. All workers shall ensure their food scraps, paper wrappers, food containers, cans, bottles, and other trash from the project area are deposited in covered or closed trash containers. The trash containers shall be removed from the project area at the end of each working day.
13. All project related vehicle traffic will be restricted to established roads and other designated areas.
14. All equipment will be maintained in accordance with the manufacturer's directions so there will be no leaks of fluids such as gasoline, oils, or solvents.

Action Area

The action area is defined in 50 CFR § 402.02, as "all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action." For the proposed project,

the action area encompasses: (1) eleven discontinuous campground facilities covering a total area of approximately 0.77 acres and (2) any burrows located outside of the project footprint that are used as relocation sites for CTS encountered during burrow excavation.

Analytical Framework for the Jeopardy Determination

In accordance with policy and regulation, the jeopardy analysis in this biological opinion relies on four components: (1) the *Status of the Species*, which evaluates the CTS range-wide condition, the factors responsible for that condition, and its survival and recovery needs; (2) the *Environmental Baseline*, which evaluates the condition of the CTS in the action area, the factors responsible for that condition, and the relationship of the action area to the survival and recovery of the CTS; (3) *the Effects of the Action*, which determines the direct and indirect impacts of the proposed Federal action and the effects of any interrelated or interdependent activities on the CTS; and (4) *Cumulative Effects*, which evaluates the effects of future, non-Federal activities in the action area on the CTS.

In accordance with policy and regulation, the jeopardy determination is made by evaluating the effects of the proposed Federal action in the context of the CTS' current status, taking into account any cumulative effects, to determine if implementation of the proposed action is likely to cause an appreciable reduction in the likelihood of both the survival and recovery of the species in the wild.

The jeopardy analysis in this biological opinion places an emphasis on consideration of the range-wide survival and recovery needs of the CTS and the role of the action area in the survival and recovery of the CTS as the context for evaluating the significance of the effects of the proposed Federal action, taken together with cumulative effects, for purposes of making the jeopardy determination.

Status of the Species

For the most recent comprehensive assessment of the species' range-wide status, please refer to the *Draft Recovery Plan for the Central California Distinct Population Segment of the California Tiger Salamander* (*Ambystoma californiense*) (Draft Recovery Plan; Service 2016). No change in the species' listing status was recommended in the latest CTS 5-year review (*5-Year Review: Summary and Evaluation U.S. Fish and Wildlife Service* (Service 2014)). Threats evaluated during that review and discussed in the Draft Recovery Plan have continued to act on the species since the 2014 5-year review was finalized, with loss of habitat being the most significant effect. While there have been continued losses of CTS habitat throughout the various recovery units defined in the Draft Recovery Plan, including the Southern San Joaquin Valley Recovery Unit where the proposed project is located, to date no project has proposed a level of effects for which the Service has issued a biological opinion of jeopardy for the species. The Service is in the process of finalizing its most current 5-year review for the species.

Environmental Baseline

The action area is comprised of 11 discontinuous campground facilities located along the North Shore of Millerton Lake and bordered to the north by blue oak woodland and annual grasslands that are grazed by cattle. The campground facilities consist of gravel surfaces, areas of bare compacted dirt, concrete pads and walkways, and existing structures such as buildings, picnic tables, podiums, fire rings, and water fountains.

There are 12 CTS occurrences in the California Natural Diversity Database (CNDDB) (2016) within approximately three miles of the action area. The closest occurrences are observations of CTS

larvae in two stock ponds located 0.35 and 0.88 miles to the north of the Campfire Center (Live Oak Associates 2013); these are the only known occurrences of CTS within the 1.3-mile maximum known dispersal distance of the species. However, based on a review of aerial imagery, potential CTS breeding habitat within 1.3 miles of the action area includes three additional stock ponds, one located 1.1 miles northwest of the Campfire Center, and two located 0.69 and 1.2 miles west of the Rocky Point Campsite. The action area itself is devoid of suitable CTS breeding habitat.

There are several California ground squirrel burrows located throughout the action area. Burrows located at the North Shore Equestrian Camp and Meadows Campsites fall outside of the maximum known dispersal distance for CTS. However, burrows located at the Rocky Point Campsites, Rocky Point Combo Building, Fort Miller Campsite #43, and the Campfire Center lie within 1.3 miles of known CTS breeding habitat and therefore provide potential upland habitat for the species. Reclamation biologists conducted a reconnaissance level survey to document the number of burrows at the campground facilities located within 1.3 miles of the confirmed CTS breeding ponds and found a total of 37 burrows located amid 0.23 acres of potential CTS upland habitat (Table 1).

Table 1. Results of reconnaissance level surveys documenting the number of burrows at campground facilities located within 1.3 miles of the confirmed CTS breeding ponds. Surveys included a 20 foot buffer around the project footprint at each site.

Campground Facility	Number of burrows	Project footprint
Campfire Center	20 burrows	.088
Fort Miller Campsite #43	9 burrows	.006
Rocky Point Campsite #3	0 burrows	.070
Rocky Point Campsite #5	4 burrows	.049
Rocky Point Campsite #16	0 burrows	.012
Rocky Point Combo Building	4 burrows	.004
Total	37 burrows	0.23 acres

Effects of the Action

As noted previously in the Description of the Action section, the project proponent has proposed a set of conservation measures. These measures are intended to minimize the effect on the species of the proposed project's anticipated incidental take and temporary habitat modification as described above.

Project related activities, including leveling, excavation, installation of concrete pads and walkways, and installation and relocation of campground infrastructure will result in temporary disturbance to 0.23 acres of potential CTS upland habitat. However, project activities will occur in existing campground areas and will not result in the development or loss of undisturbed upland habitat. These 0.23 acres will be unavailable to individual CTS during and immediately after proposed project activities; however, the proposed project will not prevent California ground squirrels from reestablishing burrows on the site, as evidenced by the multiple burrows which currently pass directly underneath existing campground infrastructure. Loss of this habitat may disrupt essential patterns of behavior such as sheltering, foraging or dispersal; however, the loss would be short term and very small compared to the surrounding available upland habitat. Research by Trenham and Shaffer (2004) demonstrates that nearly all CTS (95%) aestivate within 0.4 miles of their breeding ponds; there is an abundance of undisturbed grassland habitat within 0.4 miles of the known and potential CTS breeding ponds in the proposed project area.

There are several (up to 37) burrows located within 1.3 miles of the confirmed CTS breeding ponds that cannot be avoided during construction; these burrows will be excavated under the supervision of the Qualified Biologist. If a CTS is detected, all work in the immediate vicinity will cease, and the animal will be relocated to the entrance of a burrow outside of the disturbance footprint. Measures implemented during burrow excavation and CTS relocation within the work area prior to construction will eliminate the risk of injury and mortality to individuals due to ground-disturbing activities. However, CTS are likely to be harassed during excavation and capture, and may be harmed as a result of relocation if they experience competition for the burrows, or attempt to disperse from the relocation area into unsuitable habitat where their survival or reproduction would be reduced. Furthermore, if individuals are relocated to occupied burrows, any CTS presently occupying those burrows may also be harmed and/or harassed as a result of competition for resources. Improper excavation technique, handling, lack of disease prevention measures, or improper transport of individuals will be prevented by use of a Qualified Biologist with species-specific experience, requiring proper excavation techniques, and limiting the duration of handling and the distance of relocation.

Cumulative Effects

Cumulative effects include the effects of future State, Tribal, local, or private actions that are reasonably certain to occur in the action area considered in this biological opinion. Future Federal actions that are unrelated to the proposed action are not considered in this section because they require separate consultation pursuant to section 7 of the Act. During this consultation, the Service did not identify any future non-federal actions that are reasonably certain to occur in the action area of the proposed project.

Conclusion

After reviewing the current status of the CTS, the environmental baseline for the action area, the effects of the proposed North Shore Millerton Lake State Recreation Area Accessibility Improvements Project, and the cumulative effects, it is the Service's biological opinion that the North Shore Millerton Lake State Recreation Area Accessibility Improvements Project, as proposed, is not likely to jeopardize the continued existence of the CTS. The Service reached this conclusion because the project-related effects to the species, when added to the environmental baseline and analyzed in consideration of all potential cumulative effects, will not rise to the level of precluding recovery or reducing the likelihood of survival of the species based on the following: (1) the action area is less than one acre and project related activities will result in disturbance to only 0.23 acres of potential CTS upland habitat; (2) all impacts to habitat will be temporary and burrowing animals are expected to repopulate the disturbed area, thereby providing suitable upland habitat for CTS in the years following the proposed project; (3) all project activities will occur in existing campground areas and will not result in the development or loss of undisturbed upland habitat; (4) no breeding habitat will be disturbed; and (5) the Conservation Measures implemented with the proposed project, including pre-construction surveys, environmental awareness training, monitoring, and burrow excavation, among others, will reduce the effects of the proposed project on the species.

INCIDENTAL TAKE STATEMENT

Section 9 of the Act and Federal regulation pursuant to section 4(d) of the Act prohibit the take of endangered and threatened species, respectively, without special exemption. Take is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. Harass is defined by FWS regulations at 50 CFR 17.3 as an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as

to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding, or sheltering. Harm is defined by the same regulations as an act which actually kills or injures wildlife. Harm is further defined to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavior patterns, including breeding, feeding, or sheltering. Incidental take is defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Under the terms of section 7(b)(4) and section 7(o)(2), taking that is incidental to and not intended as part of the agency action is not considered to be prohibited taking under the Act provided that such taking is in compliance with the terms and conditions of this Incidental Take Statement.

The measures described below are non-discretionary, and must be undertaken by Reclamation so that they become binding conditions of any authorization issued to the applicant, as appropriate, for the exemption in section 7(o)(2) to apply. Reclamation has a continuing duty to regulate the activity covered by this incidental take statement. If Reclamation (1) fails to assume and implement the terms and conditions or (2) fails to require the applicant to adhere to the terms and conditions of the incidental take statement through enforceable terms that are added to the authorization document, the protective coverage of section 7(o)(2) may lapse. In order to monitor the impact of incidental take, Reclamation must report the progress of the action and its impact on the species to the Service as specified in the incidental take statement [50 CFR §402.14(i)(3)].

Amount or Extent of Take

The Service anticipates that incidental take of CTS will be difficult to detect due to its life history and ecology. In addition, the number of individuals in the action area is unknown and estimates of population density in the action area are unavailable. When this amphibian is not in breeding ponds, or foraging, migrating, or conducting other surface activity, it inhabits the burrows of ground squirrels or other rodents; the burrows may be located a distance from the breeding ponds; the migrations occur during a limited period during or after rainy nights or during periods of high relative humidity in the fall, winter, or spring; and finding an injured or dead individual is unlikely because of their relatively small body size. Losses of this species also may be infeasible to quantify due to seasonal fluctuations in their numbers and random environmental events. There is a risk of harassment or capture to/of CTS as a result of the proposed construction activities and relocation measures. However, proper implementation of the Conservation Measures will eliminate the risk of injury or mortality to individuals due to ground-disturbing activities. Therefore, the Service anticipates take incidental to the proposed action as the harassment and capture of all CTS within the 0.23 acres at the locations described in Table 1, in addition to any CTS which occupy burrows that are used for relocation. The Service does not anticipate any lethal take or harm of/to CTS as a result of this project.

Upon implementation of the following reasonable and prudent measures, incidental take in the form of harassment or capture of CTS associated with the proposed project will become exempt from the prohibitions described in section 9 of the Act. No other forms of take are exempted under this opinion.

Effect of the Take

In the accompanying biological opinion, the Service determined that this level of anticipated take is not likely to result in jeopardy to the species or destruction or adverse modification of critical habitat.

Reasonable and Prudent Measures

All necessary and appropriate measures to avoid or minimize effects on CTS resulting from implementation of this project have been incorporated into the project's proposed conservation measures. Therefore, the Service believes the following Reasonable and Prudent Measure is necessary and appropriate to minimize incidental take of CTS:

1. All conservation measures, as described in the biological assessment and restated here in the Description of the Action section of this biological opinion, shall be fully implemented and adhered to. Further, this reasonable and prudent measure shall be supplemented by the Terms and Conditions below.

Terms and Conditions

In order to be exempt from the prohibitions of section 9 of the Act, Reclamation must ensure compliance with the following Terms and Conditions, which implement the Reasonable and Prudent Measure described above. These Terms and Conditions are nondiscretionary.

The following Terms and Conditions implement Reasonable and Prudent Measure #1:

1. Reclamation shall require that all personnel associated with this project are made aware of the conservation measures and the responsibility to implement them fully.
2. In order to monitor whether the amount or extent of incidental take anticipated from implementation of the project is approached or exceeded, Reclamation shall adhere to the following reporting requirements. Should this anticipated amount or extent of incidental take be exceeded, Reclamation must immediately reinstate formal consultation as per 50 CFR 402.16.
 - a. For those components of the action that will result in habitat degradation or modification whereby incidental take in the form of harm is anticipated, Reclamation will provide monthly updates to the Service with a precise accounting of the total acreage of habitat impacted. Updates shall also include any information about changes in project implementation that result in habitat disturbance not described in the Project Description and not analyzed in this Biological Opinion.
 - b. For those components of the action that may result in direct encounters between listed species and project workers and their equipment whereby incidental take in the form of harassment or harm is anticipated, Reclamation shall immediately contact the Service's Sacramento Fish and Wildlife Office (SFWO) at (916) 414-6544 to report the encounter. If the encounter occurs after normal working hours, Reclamation shall contact the SFWO at the earliest possible opportunity the next working day. When injured or killed individuals of the listed species are found, Reclamation shall follow the steps outlined below in Term and Condition #3.
 - c. For those components of the action that will require the capture and relocation of any listed species, Reclamation shall immediately contact the Service's Sacramento Fish and Wildlife Office (SFWO) at (916) 414-6544 to report the action. If capture and relocation need to occur after normal working hours, Reclamation shall contact the SFWO at the earliest possible opportunity the next working day.

3. Reclamation must report to the Service within one calendar day any information about take or suspected take of federally-listed species not exempted in this opinion. Notification must include the date, time, and location of the incident or of the finding of a dead or injured animal. In the case of an injured animal, the Service shall be notified of events within one day and the animals handled only by the Qualified Biologist. Injured CTS shall be cared for by a licensed veterinarian. In the case of a dead animal, the individual animal shall be preserved and held in a secure location until instructions are received from the Service regarding the disposition of the specimen or until the Service takes custody of the specimen. The Service contact is Thomas Leeman, Division Chief, San Joaquin Valley, at (916) 414-6544.

CONSERVATION RECOMMENDATIONS

Section 7(a)(1) of the Act directs Federal agencies to utilize their authorities to further the purposes of the Act by carrying out conservation programs for the benefit of endangered and threatened species. Conservation recommendations are discretionary agency activities to minimize or avoid adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or to develop information. The Service recommends the following actions:

1. The Service has published the *Draft Recovery Plan for the Central California Distinct Population Segment of the California Tiger Salamander (Ambystoma californiense)* (Service 2016). Reclamation should work with the Service to assist us in meeting the goals of the recovery plan once that plan is final.
2. To avoid transferring disease or pathogens while handling amphibians, Reclamation should encourage all applicants to follow the Declining Amphibian Populations Task Force Fieldwork Code of Practice (Service 2005).
3. Sightings of any listed or sensitive animal species should be reported to CDFW's California Natural Diversity Database. A copy of the reporting form and a topographic map clearly marked with the location the animals were observed should also be provided to the Service.

In order for the Service to be kept informed of actions minimizing or avoiding adverse effects or benefiting listed species or their habitats, the Service requests notification of the implementation of any conservation recommendations.

REINITIATION—CLOSING STATEMENT

This concludes formal consultation on the North Shore Millerton Lake State Recreation Area Accessibility Improvements Project in Madera County, California. As provided in 50 CFR §402.16, reinitiation of formal consultation is required and shall be requested by the Federal agency or by the Service where discretionary Federal agency involvement or control over the action has been retained or is authorized by law and:

- (a) If the amount or extent of taking specified in the incidental take statement is exceeded;
- (b) If new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered;
- (c) If the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the biological opinion; or

- (d) If a new species is listed or critical habitat designated that may be affected by the identified action.

If you have any questions regarding this biological opinion, please contact Dana Herman, Fish and Wildlife Biologist, by telephone at (916) 414-6683 or by email at (dana_herman@fws.gov), or Thomas Leeman, Chief, San Joaquin Valley Division, by telephone at (916) 414-6544, by email at (thomas_leeman@fws.gov), or by mail at the letterhead address.

cc:

Julie Vance, Regional Manager, California Department of Fish and Wildlife

LITERATURE CITED

California Natural Diversity Database. 2016. Biogeographic Data Branch, Department of Fish and Wildlife, Sacramento, California. Accessed June 2016.

Live Oak Associates. 2013. Biological Assessment: Endangered Species Act Section 7 Consultation North Shore at Millerton Lake, Madera County, California. Prepared for Friant Development Corporation. pp. 56-60.

Trenham, P.C. and H.B. Shaffer. 2005. Amphibian upland habitat use and its consequences for population viability. *Ecological Applications* 15: 1158-1168.

U.S. Fish and Wildlife Service. 2014. California Tiger Salamander Central California Distinct Population Segment (*Ambystoma californiense*) 5-year Review: Summary and Evaluation. Sacramento, CA: Sacramento Fish and Wildlife Office.

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Appendix C: Cultural Resources Determination

CULTURAL RESOURCE COMPLIANCE
Mid-Pacific Region
Division of Environmental Affairs
Cultural Resources Branch

MP-153 Tracking Number: 15-SCAO-154

Project Name: Accessibility Improvements Project at Millerton Lake State Recreation Area (SRA) Project

NEPA Document: EA-15-019

MP 153 Cultural Resources Reviewer: Mark Carper

NEPA Contact: Jennifer Lewis

Determination: No Adverse Effect to Historic Properties

Date: October 3, 2016

This proposed undertaking by Reclamation is to construct Americans with Disabilities Act (ADA) compliant improvements at five recreation locations on the north shore of the Millerton Lake SRA in Madera County, California . The Recreation Area is Reclamation owned but managed by California State Parks. Reclamation determined that authorization of the proposed project is an undertaking as defined in 36 CFR § 800.16(y) and a type of activity that has the potential to cause effects on historic properties under 36 CFR § 800.3(a).

The proposed modifications to existing infrastructure will be conducted at five locations within the SRA: Fort Miller Campground, Rocky Point Campground, Equestrian Area, Campfire Center, and Meadows RV Campground. Project activities will include an array of activities for compliance with the ADA. Examples include installation of catch basins, concrete pads, and concrete walkways. Actions will also include modifications to existing fire rings, replacement of broken asphalt and erection of a shade ramada.

In an effort to identify historic properties within the APE, State Parks conducted a cultural resources inventory for the proposed project. State Parks referred to two record searches conducted in 2007 and 2008 that encapsulated the current proposed project area, conducted a pedestrian survey of the APE, and assembled a report of findings. No cultural resources were identified within the APE. However, the SRA itself was not considered as a cultural resource. Reclamation considers the SRA as possibly representative of a California

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Mid-Pacific Region
Division of Environmental Affairs
Cultural Resources Branch

reservoir recreation tradition that began with the Central Valley Project at the Millerton Reservoir location

SRA resources constructed from 1944 to 1966 are associated with a California reservoir and Fresno/Madera County recreation. Further, these resources would potentially be contributing and non-contributing elements to a historic district. Almost 70 years of maintenance, upgrades, and modifications, undocumented for all but the most modern occurrences, create questions regarding the integrity of the resources. Due to the limited scope of the present undertaking and the small scale of the project relative to the entirety of the potential historic district, an evaluation of the entire district for eligibility to the National Register of Historic Places (National Register) was not completed. Reclamation assumes, for the purposes of this undertaking only, that the campgrounds are eligible for listing on the National Register under Criterion A, as defined in 36 CFR § 60.4, for association with a theme of recreation at the local level.

Pursuant to the regulations at 36 CFR § 800.3(f)(2), Reclamation identified the Big Sandy Rancheria, the Cold Springs Rancheria of Mono Indians, and the North Fork Mono Tribe as Indian tribes who might attach religious and cultural significance to historic properties within the APE. Reclamation sent letters to the tribes on January 20, 2016, inviting their participation in the Section 106 process, and requesting their assistance in the identification of sites of religious and cultural significance or historic properties that may be affected by the proposed undertaking pursuant to 36 CFR § 800.4(a)(4). Reclamation also sent letters to the Sierra Nevada Native American Coalition, Kings River Choinumni Farm Tribe, Dumna Wo-Wah Tribal Government, and the Dunlap Band of Mono Historical Preservation Society as Native American organizations likely to have knowledge or concerns with historic properties in the area, requesting their assistance in identifying historic properties which may be affected by the proposed undertaking pursuant to 36 CFR § 800.4(a)(3). To date Reclamation has not received any responses from the aforementioned tribes or groups. Reclamation will work to address any concerns that arise for this undertaking and will notify your office as appropriate.

Reclamation applied the criteria of adverse effect of the undertaking to the campgrounds, pursuant to 36 CFR § 800.5, and finds there would be no adverse effects. The undertaking involves modifications consistent with the current existing conditions, continual upgrades, and uses of the campgrounds. The impact will not affect any of the characteristics which potentially make the campgrounds and SRA eligible for listing on the National Register.

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Reclamation initiated consultation with California the State Historic Preservation Officer (SHPO) by Letter on September 2, 2016 with a notification of a determination of no adverse effect to historic properties for the proposed project. SHPO concurred with the determination in a letter dated October 30, 2016.

The proposed action would have no significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places.

This memorandum is intended to convey the completion of the NHPA Section 106 process for this undertaking. Please retain a copy in the administrative record for this action. Should changes be made to this project, additional NHPA Section 106 review, possibly including consultation with the State Historic Preservation Officer, may be necessary. Thank you for providing the opportunity to comment.

**OFFICE OF HISTORIC PRESERVATION
DEPARTMENT OF PARKS AND RECREATION**

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September 30, 2016

In reply refer to: BUR_2016_0902_002

Ms. Anastasia T. Leigh, Regional Environmental Officer
U.S. Bureau of Reclamation, Mid-Pacific Regional Office
2800 Cottage Way, Sacramento, CA 95825-1898

Subject: Section 106 Consultation for the California State Parks (State Parks) Accessibility Improvements Project at Millerton Lake State Recreation Area SRA, Madera County, CA (Project # 15-SCAO-154)

Dear Ms. Leigh:

The Office of Historic Preservation (OHP) received on September 02, 2016 your letter initiating consultation on the above referenced undertaking under Section 106 of the NHPA, and its implementing regulations found at 36 CFR Part 800. The undertaking involves proposed Americans with Disabilities Act (ADA) compliant improvements at five recreation locations on the north shore of Millerton Lake State Recreation Area (SRA) in Madera County, California. Reclamation owns the land and has an agreement with State Parks for ongoing management of the recreational facilities. Reclamation requests concurrence on a finding of no adverse effects to historic properties. This documentation was included with the submittal:

- *Figure 1: Project Location with sheets L-1 through L-3 for specifics (4 pp);*
- *Cultural Resources Survey Report for Millerton Lake State Recreation Area Accessibility Improvements Project, Madera County, California by: California State Parks; S. Hilton, Associate State Archaeologist, May, 2016. [Hilton 2016]*
- *Supplemental National Register of Historic Places Evaluation Cultural Resources Survey Report for Millerton Lake State Recreation Area Accessibility Improvements Project, Madera County, CA (15-SCAO-154) by: Bureau of Reclamation Mid-Pacific Region, Sacramento, CA; K. Palmer, Architectural Historian, August 2016. [Palmer 2016]*

The proposed modifications to existing infrastructure will be conducted at five locations within the North Shore Area of the SRA: Fort Miller Campground, Rocky Point Campground, North Shore Equestrian Camp, Campfire Center, and Meadows RV Campground. Project activities will include an array of activities for compliance with the ADA. Examples include campsite leveling and installation of water faucet catch basins, concrete pads, parking areas, concrete walkways and replacement of broken asphalt. Actions will also include various accessible modifications to existing comfort stations, paving around fire rings, erection of a new shade ramada and accessible improvements to eight (8) campsites. Seating will be improved at the Campfire Center with concrete bench companion seating and an equestrian wooden access ramp and accessible mounting platform will be installed at the Equestrian Camp.

The area of potential effects (APE) consists of twelve discontinuous locations situated within the five above identified recreation locations. The project area covers less than 0.5 acre, which includes all construction. Staging will be on existing paved and graveled locations. The vertical APE will vary but will generally be 6 inches or less for light grading

and pouring of concrete foundations and slabs with the maximum vertical APE at about 48 inches for the shade ramada footings, water faucet station drainage and fire rings (Hilton 2016: 12-13).

In an effort to identify historic properties within the APE, on behalf of Reclamation, State Parks conducted a cultural resources inventory for the proposed project. State Parks referred to two record searches conducted in 2007 and 2008 that encapsulated the current proposed project area, conducted a pedestrian survey of the APE, and assembled a report describing the results and findings. No cultural resources were identified within the APE. However, fourteen recorded archaeological sites including three habitation midden sites (one with known burials) and eleven milling stations and bedrock outcropping mortar sites are located within a half mile of the construction locale and some quite near several of the campsites slated to be modified. Therefore the immediate area encompassing the discontinuous APE is considered to be highly sensitive for the presence of prehistoric, and potentially protohistoric, archaeological sites and thus also for the presence of potential subsurface information-bearing deposits. It is noted that no cultural resources were identified within the boundaries of any of the twelve APE loci at the five previously identified recreation locations and that these loci have all been previously modified for facilities installation and maintenance. The provisions of 36 CFR 800.13(b) should be instituted in the event of encountering subsurface information bearing archaeological deposits during any of the ground-disturbing construction work.

For historic era resources, Reclamation states that the SRA itself was not considered as a cultural resource in the initial report. Reclamation did its own evaluation and considers the SRA as possibly representative of a California reservoir recreation tradition that began with the first Central Valley Project at the Millerton Reservoir location with recreation features originally designed by the National Park Service (Palmer 2016).

The SRA built resources associated with a California reservoir and Madera/Fresno County recreation tradition were constructed from 1944 to 1966. These built resources are potential contributing and non-contributing elements to a historic district. A district recreation complex consists of campgrounds and their small elements, day use areas, parking areas, boat ramps, picnic shelters, restrooms, road and trail systems, and visitor centers. Key character-defining features in these areas include the SRA visitor center, road circulation systems, campgrounds with a wagon-wheel layout, street furniture consisting of picnic tables and fire rings, and incorporation of these features with existing land forms to create a recreation designed landscape or historic district. Almost 70 years of maintenance, upgrades, and modifications, undocumented for all but the most modern occurrences, create questions regarding the integrity of the existing resources. However, because of the limited scope of the present undertaking and the small scale of the project relative to the entirety of the potential historic district, an evaluation of the entire district for eligibility to the National Register of Historic Places (NRHP) was not completed. Instead, Reclamation assumes, for the purposes of this undertaking only, that the campgrounds are eligible for listing in the NRHP under Criterion A, for association with a theme of a California Reservoir recreation tradition of the Central Valley Project at the state level and for Madera County recreation development at the local level. The period of significance would be from 1944 with the building of the Friant Dam creating Millerton Lake to the build-out of the balance of recreation components in 1966.

Tribal consultation was initiated, by letters requesting their assistance in the identification of sites of religious and cultural significance or historic properties that may be affected by the proposed undertaking, with the cultural resources staff of the tribes, organizations and individuals identified by the Native American Heritage Commission (NAHC) as having an interest in and knowledge of this area. No responses have been received to date, however Reclamation will take appropriate steps to address any future concerns that might arise and make notifications as required.

Based on the above discussion and information provided in the enclosed reports, Reclamation has reached a finding of no adverse effect on historic properties. While the undertaking involves alterations to existing resources, Reclamation considers that these modifications are consistent with the current existing conditions, continual upgrades, and uses of the subject campgrounds and concludes that the impact will not affect any of the characteristics which potentially make the campgrounds and SRA eligible for listing in the NRHP.

Reclamation is requesting review and comment on the delineation of the APE, efforts to identify historic properties, and is seeking concurrence with the no adverse effect to historic properties finding for this undertaking.

Following OHP staff review of the documentation, the following comments are offered.

- Pursuant to 36 CFR 800.4(a)(1), there are no objections to the APE as defined;
- Pursuant to 36 CFR 800.4(b), Reclamation has documented a reasonable and good faith effort to identify historic properties within the area of potential effects.
- **I do not object**, for the purposes of this undertaking only, that the SRA campgrounds are eligible for listing in the NRHP under Criterion A, for association with a theme of a California Reservoir recreation tradition of the Central Valley Project at the state level and for Madera/Fresno County recreation development at the local level. The period of significance would be from 1944 with the building of the Friant Dam creating Millerton Lake to the build-out of the balance of recreation components in 1966.
- Reclamation has determined that the proposed undertaking will result in no adverse effects to historic properties. Pursuant to 36 CFR 800.5(b), **I concur**.

Please be advised that under certain circumstances, such as unanticipated discovery or a change in project description, Reclamation may have additional future responsibilities for this undertaking under 36 CFR Part 800 (as amended). Should you require further information, please contact Jeanette Schulz at Jeanette.Schulz@parks.ca.gov or (916) 445-7031.

Sincerely,



Julianne Polanco
State Historic Preservation Officer