

RECLAMATION

Managing Water in the West

Draft Environmental Assessment

**One-Year Warren Act Contract with
Madera Irrigation District and
Additional Point of Delivery into
Fresno County Water Works #18
2008 Only
(SOQUEL WATER)
Central Valley Project
Madera County**

EA-07-107



U.S. Department of the Interior
Bureau of Reclamation
Mid Pacific Region
South Central California Area Office
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List of Acronyms, Abbreviations, and Definition of Terms

af	acre-feet
af/y	acre-feet per year
APE	area of potential effects
BO	Biological Opinion
Class 1	That supply of water stored in or flowing through Millerton Lake which, will be available for delivery from Millerton Lake and the Friant-Kern and Madera Canals. It is a dependable water supply during each year.
Class 2	Undependable water. Supplied when available. That supply of water which can be made available subject to the contingencies for delivery from Millerton Lake and the Friant-Kern and Madera Canals in addition to the supply of Class 1 water.
CVP	Central Valley Project
CVPIA	Central Valley Project Improvement Act
DBCP	1,2-Dibromo-3-chloropropane
EA	Environmental Assessment
ESA	Endangered Species Act
FCWW 18	Fresno County Water Works #18
FWCA	Fish and Wildlife Coordination Act
ITAs	Indian Trust Assets
M&I	municipal and industrial
MBTA	Migratory Bird Treaty Act
MID	Madera Irrigation District
NHPA	National Historic Preservation Act
NMFS	National Marine Fisheries Service
Reclamation Service	Bureau of Reclamation U.S. Fish and Wildlife Service

Section 1 Purpose and Need for Action

1.1 Background

Madera Irrigation District (MID) is a Central Valley Project (CVP) contractor. MID in the late 1880's as Madera Flume and Trading Company, obtained an appropriative right to divert the first 50 cubic feet per second of flow out of North Wouldow Creek at Soquel Meadow. North Wouldow Creek is a tributary to the San Joaquin River. This right was established prior to enactment of the California Water Commission Act of 1913 and is conducted independent of CVP operations. As such, the non-CVP water may be used at the discretion of MID, provided it complies with State water laws and does not harm other water users.

MID operated a flume to divert this non-CVP water to the Fresno River which connects to MID's service area. In 1976, MID entered into an agreement with PG&E to use this non-CVP water in the San Joaquin River system to generate power. Since 1979, the Bureau of Reclamation (Reclamation) has executed a series of one-year Warren Act Contracts that have allowed MID to convey this non-CVP water in CVP facilities. This water is diverted from Soquel Meadow near Yosemite National Park. It flows in Willow Creek and into the San Joaquin River through the Millerton Lake and into the Madera Canal to MID (Figure 1).

The Warren Act (Act as of February 21, 1911, ch. 141, 36 Stat.925) authorizes Reclamation to negotiate contracts to store and/or convey non-CVP water in federal Reclamation CVP facilities when excess capacity exists.

MID has requested an additional point of delivery for up to 40 acre-feet (af) of this non-CVP water to be delivered into Fresno County Water Works #18 (FCWW 18) facilities for ultimate delivery and use by Table Mountain Rancheria.

MID has requested a Warren Act Contract. The Warren Act Contract, if approved, would allow MID to convey up to 10,000 af of its non-CVP water in excess capacity of CVP Friant Division facilities. Reclamation determines excess capacity exists in the Friant Division facilities prior to accepting this non-CVP water. This one-year contract would begin on March 1, 2008 and terminate on February 28, 2009.

MID needs this contract to deliver the non-CVP water to its own customers. In addition, up to 40 af of the 10,000 af of non-CVP water would be delivered through existing facilities into FCWW 18 for ultimate delivery and use at the Table Mountain Rancheria.

Reclamation is not the approving authority for, nor does this Environmental Assessment (EA) analyze subsequent non-federal action(s). MID's right to this non-CVP water is separate from the CVP and could be utilized by MID without a Warren Act Contract. It is recognized that Reclamation's approval in the conveyance and delivery of this water to Fresno County Water Works #18 results in this water being used within Table Mountain Rancheria. Therefore, the use of 40 af of this water in Table Mountain Rancheria is evaluated in this EA.

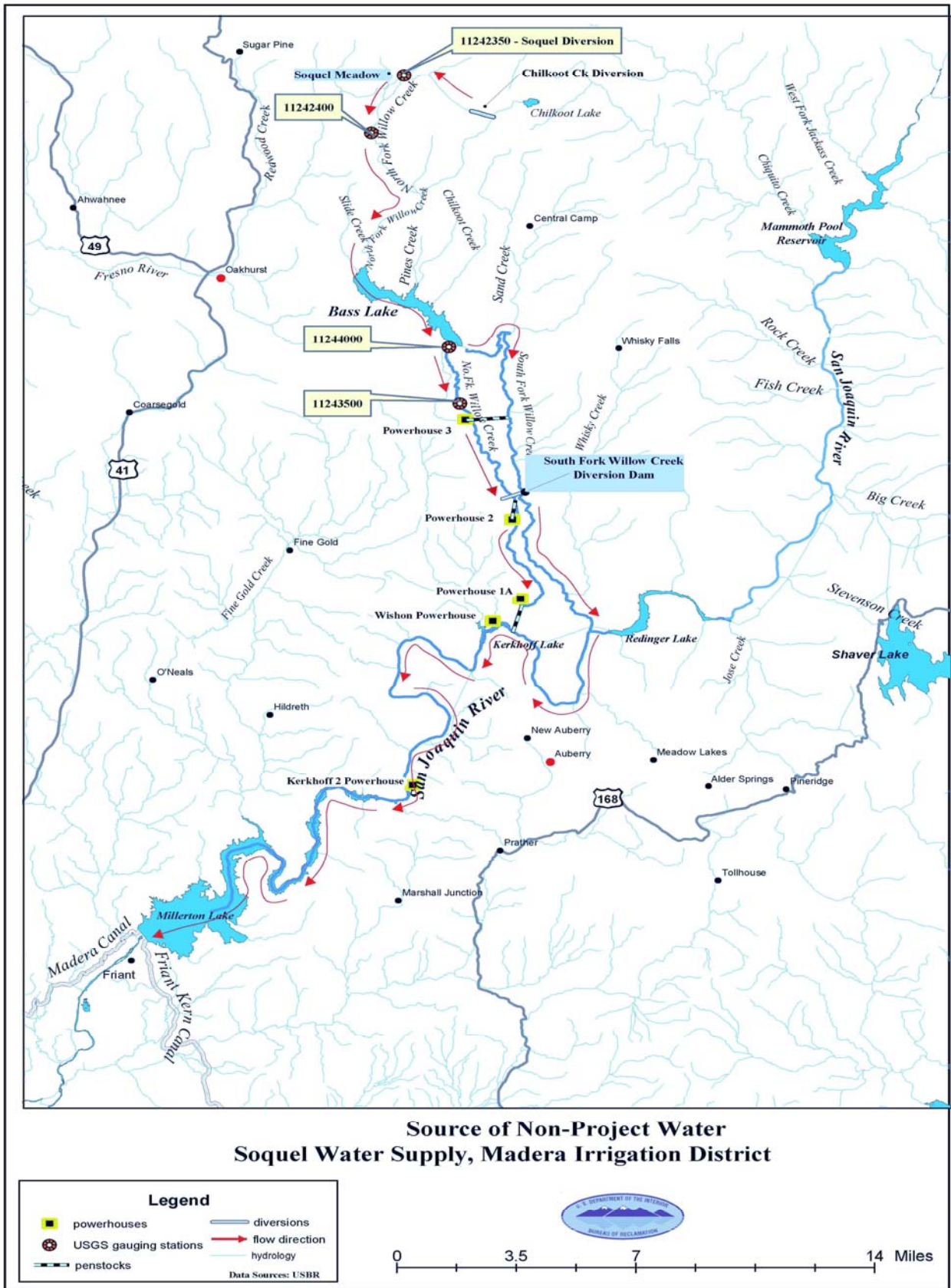


Figure 1 Source of Non-CVP Water Supply

1.2 Purpose and Need

The purpose of the contract is to allow MID to convey its non-CVP water through excess capacity in CVP Friant Division facilities. MID needs this contract to deliver their non-CVP water to its irrigation customers within MID. In addition, Table Mountain Rancheria needs water to supply their existing residential customers and businesses.

1.3 Potential Issues

- Water Resources
- Land Use
- Biological Resources
- Cultural Resources
- Indian Trust Assets
- Socioeconomic Resources
- Environmental Justice

Section 2 Alternatives Including Proposed Action

2.1 Alternative A – No Action

The No Action Alternative would consist of not executing the Warren Act Contract and not allowing the non-CVP water to be conveyed to MID through CVP facilities. In order to obtain this non-CVP water, MID would need to divert this non-CVP water to the Fresno River or construct facilities which would duplicate a portion of the CVP facilities. It might be possible for MID to sell this non-CVP to another water user. Furthermore, Table Mountain Rancheria would need to rely on groundwater and/or purchase water supplies to meet their demands. No willing sellers are identified at this time and groundwater resources are inadequate.

2.2 Alternative B - Proposed Action

Reclamation would execute a one-year Warren Act Contract with MID to convey up to 10,000 af of its non-CVP water in excess capacity in CVP facilities. The term of the contract would be the 2008 water year, ending February 28, 2009. In addition, Reclamation would convey up to 40 af of the 10,000 af of non-CVP water into FCWW 18 existing facilities for ultimate delivery to Table Mountain Rancheria for municipal and industrial (M&I) purposes. Up to 40 af of non-CVP water would be delivered through FCWW 18's existing point of delivery from Friant Dam.

In this Proposed Action the conveyance would:

1. Occur within a single water year (March 2008 through February 2009.)
2. Use existing facilities and operations.
3. Provide water for beneficial uses.
4. Comply with all other applicable Federal, state, local, or Tribal laws or requirements imposed for the protection of the environment and Indian Trust Resources.

Native lands that have never been tilled, irrigated or disturbed would not be tilled or disturbed using this non-CVP water in MID or Table Mountain Rancheria. For the purposes of this EA, native untilled lands is defined as lands that have never been tilled including grasslands, wetlands, vernal pools, shrublands, woodlands, and/or barren lands. Previously undisturbed land or agricultural lands that have been fallow for three or more consecutive years must be inspected

for the possible presence of endangered species prior to tilling or disturbance and such conversion may not proceed unless and until appropriate Endangered Species Act (ESA) compliance has determined that such actions will not likely affect protected species or that appropriate ESA compliance has been completed. If federally listed threatened and endangered species or their designated habitats are present, consultations under the ESA in accordance with Secretarial Order #3206 and Executive Order 13175 may be required.

It is anticipated that subsequent Warren Acts Contracts may be negotiated and executed over the next 20 years with similar terms and conditions in compliance with the applicable local, state and federal laws and final rulings from the courts.

2.3 Other Alternatives Considered but Eliminated from Further Consideration

Three possible options were considered for the Warren Act Contract. The first was the construction of a canal or pipeline. This option was dropped due to the considerable expense, potential environmental damage, and lack of flexibility to transport this non-CVP water. The second option was a new or enlarged reservoir, or a new groundwater recharge basin, to store surplus water during wet years. This potential alternative was removed from consideration due to timing constraints to meet existing demands in 2008. A third option, purchase by Reclamation of the non-CVP water for CVP purposes, was eliminated from consideration because of unknown costs, potential controversy, and water rights changes. These alternatives would be MID's responsibility and would not be implemented by Reclamation.

Table Mountain Rancheria could purchase water on the open market. However, no other willing sellers and delivery mechanisms have been identified.

Section 3 Affected Environment & Environmental Consequences

3.1 Water Resources

3.1.1 Affected Environment

Madera Irrigation District

MID received 85,000 af of Class 1 and 65,000 af of Class 2 water from the Friant Division of the CVP in 2006. MID has pre-1914 water rights of approximately 20,000 af/y from the Soquel-Big Creek based on a fluctuating annual yield. The Big Creek and Soquel diversions provide an annual average supply of 10,000 and 9,700 af, respectfully. Total water needs for MID are 260,000 af. MID pumps groundwater each year, and that is approximately 110,000 af.

The non-CVP water is diverted from the San Joaquin based on an appropriative water right that precedes the California Water Commission Law of 1913 and the CVP. The non-CVP water may be removed from the San Joaquin River basin under this right subject to California water law and without affecting other resources.

Reclamation's role in the Proposed Action is to convey this non-CVP water in CVP facilities. The San Joaquin River is the primary river draining the Sierra Nevada and San Joaquin Valley. East side tributaries including the Stanislaus, Tuolumne and Merced Rivers, account for most of the natural inflow into the lower San Joaquin River. During very wet years, flood water flows north from the Kings River and Tulare Lake basin. All of these tributaries have been affected by federal and private diversion projects.

Friant Dam, located approximately 25 miles northeast of Fresno, impounds or diverts nearly all of the Sierra headwaters of the San Joaquin River. A small quantity of CVP water is released from the dam into the river. Millerton Lake, created behind Friant dam has a capacity of 520,000 af of water. It is the last reservoir on the river for flood control. The land surrounding it is undeveloped wilderness managed by the State of California for day-use and overnight recreation. The Friant Division canals can convey the non-CVP water to turnouts or turnouts of MID or other Friant Division water users. MID asserts its rights to divert this non-CVP water from the San Joaquin River below Friant Dam.

MID and surrounding area is within a groundwater deficient area as designated by the State Department of Water Resources. Percolation ponds located throughout the district recharge water in MID. MID monitors the depth to static water level within the district although MID does not provide groundwater. Private landowners have constructed wells and extract groundwater when surface water supplies are not available. Reclamation calculated the safe

yield of the portion of the Madera groundwater basin that underlies MID to be 117,000 af/y. The groundwater quality is considered to be of excellent quality as it does not exceed any of the maximum contaminant levels for secondary drinking water standards. However, the groundwater in areas near Highway 99 and Avenue 12 developed a plume of 1, 2-Dibromo-3-chloropropane (DBCP) that flows southwesterly through the basin. Studies conducted in 1993 indicated the DBCP in the groundwater had decreased significantly. The groundwater in areas surrounding the Tri-Valley Growers olive plant (Oberti Olives) near Avenue 13 and Road 26 contains salt brine. Tri-Valley Growers are implementing remediation measures to correct this problem under the regulatory direction of the Regional Water Quality Control Board.

MID does not deliver water directly for M&I use; however, a portion of the City of Madera lies within the boundaries of MID. MID does indirectly provide some water related benefit to these lands. Since the City of Madera's water source is pumped groundwater, its lands in MID are assessed on a per square-foot basis and receive groundwater recharge benefit from canals that pass through the city.

Fresno County Water Works #18

Fresno County Water Works #18 (FCWW 18) has a long-term water service contract with Reclamation for up to 150 af of Class 1 water. A pipeline from the discharge works of the dam is FCWW 18's diversion point and connects the water stored behind Friant Dam to the water treatment plant nearby. FCWW 18 provides this water for M&I uses to the community of Friant, Millerton State Park and Reclamation employees at Friant Dam.

Table Mountain Rancheria

The Table Mountain Rancheria Band of Chukchansi/Mono Indians has lived in the Sierra Nevada foothills on the San Joaquin River watershed for centuries. Table Mountain Rancheria was established in 1916, terminated in 1951 and re-recognized in 1983.

Table Mountain Rancheria is located approximately 20 miles northeast of the City of Fresno above Millerton Lake. Table Mountain Rancheria has 709 acres under its control and is comprised mainly of a Tribal Government, Casino, Tribal residential community and its own police department. There is no Tribal fire department. The non-CVP water is used to support existing M&I uses including the fire suppression system for the Tribal Government and residential buildings on approximately 72.5 acres along the northern boundary. The rancheria uses reclaimed waste water for its chillers and fire suppression at the casino. Groundwater is used for human consumption.

3.1.2 Environmental Consequences

No Action

Under the No Action Alternative, pumping and conveyance of the non-CVP water would not occur. Left in the river systems, the water would not be directly available for use, and MID may have to construct new facilities.

Proposed Action

Under the Proposed Action, Reclamation would convey the non-CVP water for MID in the Friant Division facilities when capacity is available. The Warren Act Contract, if approved, would be limited to one-year. This would not alter water rights held by the United States to divert CVP water from the San Joaquin River.

The Proposed Action would not interfere with normal CVP operations. The introduction of this non-CVP water into the CVP facilities would not degrade the quality of CVP water. The quality of the non-CVP water would be tested prior to pumping into the FKC and compared with State of California standards for drinking water. Water quality tests occur within the FKC on a routine basis. The Contracting Officer could halt conveyance if it causes water quality problems.

The Proposed Action would not change the existing diversion points. No facilities would be constructed or modified. The Proposed Action does not increase or decrease water supplies that would result in additional homes to be constructed and served. No additional energy is needed to convey this non-CVP water.

Farmers compete in a highly variable market with fluctuating water supplies while striving to make a profit. The Proposed Action provides a more reliable supply of water in order for the farmers to continue to stay in business.

Conveying this non-CVP water could result in decreased groundwater pumping and energy usage providing a slight benefit to the groundwater quality and quantity. The amount of energy conserved by not pumping groundwater varies and is difficult to calculate due to fluctuating groundwater levels, available surface water supplies, type of crops grown, water demands, and energy costs.

3.2 Land Use

3.2.1 Affected Environment

MID is located in Madera County and is south of the City of Chowchilla and north of the City of Fresno. It has approximately 88,000 acres of farmed land of which 77,000 acres are permanent crops. The main crops in MID are grapes, almonds, cotton, cereals, and grasses.

3.2.2 Environmental Consequences

No Action

Reclamation would not approve a Warren Act Contract. Under the No Action Alternative, there are no changes to land use, as the water would continue to be delivered for existing agricultural use. In order to obtain this non-CVP water, though, MID would need to divert this non-CVP water to the Fresno River or construct facilities which would duplicate a portion of the CVP facilities. It is unknown, at this time, what facilities might be constructed. Furthermore, Table Mountain Rancheria would need to rely on groundwater and/or purchase water supplies to meet their demands. No willing sellers are identified at this time and groundwater resources are inadequate.

Proposed Action

The Proposed Action would not result in increased or decreased water supplies in MID that would induce growth or land use changes. The conveyance of the non-CVP water through CVP facilities would not contribute to changes in land use. It would be conveyed in existing facilities and canals to existing agricultural lands.

The conveyance of this non-CVP water would not have any adverse effects on unique geological or terrain features, such as wetlands, wild or scenic rivers, refuges, flood plains, rivers placed on the nationwide inventory, or prime and unique farmlands. The final end use of the non-CVP water would be applied to existing agricultural lands, residential and businesses at Table Mountain Rancheria, and would not result in major changes to any physical resources. The Proposed Action would not change the existing diversion points. No excavation or construction is required to convey the water and no untilled land would be cultivated with this water.

3.3 Biological Resources

3.3.1 Affected Environment

By the mid-1940's, prior to the CVP, most of the valley's native habitat had been altered and destroyed. The U.S. Fish and Wildlife Service (Service) estimated that more than 85 percent of the valley's wetlands had been lost by 1939 (USFWS 1989). When the CVP began operations, more than 30 percent of all natural habitats in the Central Valley and surrounding foothills had been converted to urban and agricultural land use.

The Central Valley Project Improvement Act (CVPIA) established an environmental restoration fund maintained through the imposition of a surcharge on each acre-foot of CVP water delivery. The CVPIA dedicates 800,000 af annually of CVP yield to environmental purposes and further mandates the delivery of supplies of water to wetland habitat areas.

Land within the Friant Division historically provided habitat for a variety of plants and animals. With the advent of irrigated agriculture and urban development over the last 100 years, many

species have become threatened and endangered because of habitat loss. Of approximately 5.6 million acres of valley grasslands and San Joaquin saltbush scrub, the primary natural habitats across the valley, less than 10 percent remain today. Much of the remaining habitat consists of isolated fragments supporting small, highly vulnerable populations. Data compiled by the California Energy Commission indicates that only 15 percent of the Southern San Joaquin Valley remains in some form of natural condition.

Federally listed species occurring within MID can be found in Appendix A. The Table 1 below depicts the threatened, endangered species and federally designated critical habitats within MID, as well as, within 2 miles of the district:

Table 1 Threatened, Endangered, and Federally Designated Critical Habitats

Common Name	Scientific Name	Quads	Listing Status	Critical Habitat
Within MID				
California tiger salamander	<i>Ambystoma californiense</i>	Friant, Kismet, Madera	T	Yes
blunt-nosed leopard lizard	<i>Gambelia sila</i>	Madera	E	
vernal pool fairy shrimp	<i>Branchinecta lynchi</i>	Kismet, Friant	T	Yes
hairy orcutt grass	<i>Orcuttia pilosa</i>	Madera	E	
San Joaquin Valley orcutt grass	<i>Orcuttia inaequalis</i>	Lanes Bridge, Kismet	E	Yes
Within 2 miles of MID				
California tiger salamander	<i>Ambystoma californiense</i>	Lanes Bridge, Daulton, Kismet, Raynor Creek, Friant,	T	Yes
San Joaquin kit fox	<i>Vulpes macrotis mutica</i>	Gravelly Ford	E	
blunt-nosed leopard lizard	<i>Gambelia sila</i>	Firebaugh NE	E	
vernal pool fairy shrimp	<i>Branchinecta lynchi</i>	Lee Vining, Lanes Bridge, Raynor Creek, Friant, Gregg, Berenda	T	Yes
valley elderberry longhorn beetle	<i>Desmocerus californicus dimorphus</i>	Herndon, Lanes Bridge	T	
Hartweg's golden sunburst	<i>Pseudobahia bahiifolia</i>	Friant	E	
succulent owl's-clover	<i>Castilleja campestris ssp. succulenta</i>	Lanes Bridge, Friant, Daulton, Berenda	T	
hairy orcutt grass	<i>Orcuttia pilosa</i>	Gregg, Herndon, Lanes Bridge, Daulton, Kismet, Madera	E	
San Joaquin Valley orcutt grass	<i>Orcuttia inaequalis</i>	Lanes Bridge, Kismet, Fresno North, Daulton, Friant	E	Yes
Greene's tuctoria	<i>Tuctoria greenei</i>	Kismet	E	

Federally listed species occurring within the FCWW 18 (Table Mountain Rancheria) are on the attached listing and map (Appendix A). These species are located in remote areas away from the residential dwellings, Casino, and public access.

The Service issued its October 15, 1991 (USFWS 1991) and January 18, 2001 (USFWS 2001) Biological Opinion (BO) on the effects of renewal of Friant Division water service contracts. The Service determined that the long-term renewal of the contracts would not jeopardize the continued existence of 15 listed species inhabiting the Friant service area and the San Joaquin Valley. However, Reclamation committed to implement a Valley-wide endangered species conservation program to protect these species from harmful effects of land-use conversion, agricultural pesticide use, and related activities. There are several legal challenges and studies on the operation of the CVP and diversion of water from the San Joaquin River.

The Friant Division requested a formal consultation with the Service pursuant to section 7 of the Endangered Species Act of 1973, as amended, as part of renewal of 28 long-term water service contracts. Reclamation committed to initiating consultation on another aspect of the CVP so that interrelated and interdependent impacts and cumulative impacts on species outside the San Joaquin Valley could be fully addressed. With that in mind, the Service issued its Opinion on October 15, 1991 and an Amendment of the Opinion on May 14, 1992. In their Opinion, the Service stated that renewal of the 28 long-term Contracts would not likely jeopardize the continued existence of 15 threatened and endangered species found within the Friant Division service area, provided Reclamation implement short and long-term endangered species conservation programs to mitigate the adverse impacts of continued CVP water delivery to the Friant Division. This program also committed the Service to participate by providing technical assistance and developing revised recovery plans for the San Joaquin Valley species needed for the timely resolution of listed species concerns. With Contract renewal, the Friant Division would continue to fulfill CVP purposes, while avoiding adverse impact to threatened and endangered species.

Because development of a long-term program would take several years to fully implement, Reclamation implemented an interim program to protect listed species within the Friant service area. This short-term program would be in effect until the long-term conservation program is developed. The short-term program has four components:

- a) The Service, with Reclamation's cooperation, developed a Critical Needs Plan that identified those species requiring immediate protection to assure their continued existence in the San Joaquin Valley. The Critical Needs Plan was incorporated into the Recovery Plan.
- b) The Service developed a comprehensive recovery plan that includes upland listed endangered species in the San Joaquin Valley. Reclamation assisted in development of the recovery plan, and is also committed to implementation of the recovery plan to the extent of their authority.

c) Reclamation is, as a component of a broader program, implementing items identified in the recovery plan that are Reclamation's responsibility. Reclamation cooperated in conducting the population variability analysis.

d) Reclamation has developed and implemented a Cooperative Agreement to include entities whose activities affect listed species in the San Joaquin Valley. Cooperative efforts have resulted in cost savings for participating entities and a more uniform and coordinated effort toward species recovery.

In 2001, Service issued its biological opinion (BO) on the long-term contract renewal for the Friant Division and included the federal water from Hensley Lake and Hidden Dam. A list of the commitments is located in the 2001 BO for the renewal of the Contracts for the Friant and Cross Valley Units in Appendix B of the *Biological Opinion on U.S. Bureau of Reclamation Long-Term Contract Renewal of Friant Division and Cross Valley Unit Contracts*, dated January 19, 2001, File Number 1-1-01-F-0027. Reclamation is committed to implementing the measures in the BO. This non-CVP water would not be used on native lands or on lands that have been fallowed for more than three consecutive years. Such actions would require subsequent environmental review and consultation with the Service prior to application of this water. Reclamation's approval is not required for the transfer of the non-CVP water from MID to Table Mountain Rancheria since MID is transferring water diverted under its own water rights. Moreover, Reclamation and MID do not have approval authority for land use changes on private or sovereign lands. Table Mountain Rancheria was not included in the January 2001 BO; however, Table Mountain Rancheria is committed to the protection and conservation of biological resources on their lands.

Construction activities or disturbances on native lands would undergo biological surveys. If federally listed threatened and endangered species or their designated habitats are present, consultations under the ESA in accordance with Secretarial Order #3206 and Executive Order 13175, may be required.

3.3.2 Environmental Consequences

No Action

Under the No Action Alternative, Reclamation would not approve a one-year Warren Act Contract. Reclamation is under no obligation to approve a Warren Act Contract in any year or subsequent years. The No Action Alternative may reduce the water supply for certain lands within MID and affect local agriculture in addition to affecting the businesses, residences and fire fighting ability at Table Mountain Rancheria. Construction of independent facilities could harm some types of habitat. Without a specific proposal and details of the facilities the impacts are difficult to assess. Reclamation does not have approval authority for the construction of private facilities unless Reclamation provided federal funding.

MID and Table Mountain Rancheria are responsible for managing and providing water to their customers. It is likely other sources of water would be sought including groundwater or purchases of other surface water supplies to supply water to meet demands. MID relies on the taxes and assessments from the landowners for the staffing and operation of the district, as well as, maintaining facilities. MID strives to provide water at the lowest cost to encourage the farmers to continue to farm and contribute to the local agricultural economy. The existing agricultural economy and structure results in continued cooperation and coordination among the water district managers and landowners. Thus, efforts are pursued to support and maintain the agricultural lands with available water supplies with or without the Proposed Action. Similarly, Table Mountain Rancheria manages its resources to support the existing Casino and other businesses. Therefore, the existing environment would not change substantially and there would be no impact upon biological resources in the project area whether or not the Warren Act Contracts are approved.

Proposed Action

Reclamation has determined the Proposed Action would have no affect on federally listed threatened or endangered species or their federally listed critical habitat. This determination is supported by the following:

The non-CVP water would be conveyed in existing facilities and no new construction would occur.

No additional diversions of water supplies would occur from creeks, rivers or reservoirs beyond historical amounts. This water would be diverted with or without Reclamation's approval.

This non-CVP water would be applied to existing agricultural lands in MID, residential dwellings, and businesses at Table Mountain Rancheria.

The Warren Act Contract would be approved with the understanding that irrigation activities not affect the presence of threatened or endangered species. Previously untilled and undisturbed land must not be cultivated or converted using this non-CVP water without surveys and consultations under the Endangered Species Act, if applicable.

The Endangered Species Notice to the Friant Division water service contractors indicated some types of surface disturbing activities would require consultation with the Service. The intent is that irrigation activities not affect the presence of threatened or endangered species. No native untilled land would be placed into production as a result of the delivery of this non-CVP water within MID. For the purposes of this EA, native untilled lands is defined as lands that have never been tilled including grasslands, wetlands, vernal pools, shrublands, woodlands, and/or barren

lands. If the land has been fallow for three or more consecutive years, it must be inspected for the possible presence of endangered species. Lands fallowed for three or more consecutive years would require biological surveys conducted by a qualified biologist prior to approvals for delivery of CVP and/or non-CVP water to these lands. Further environmental review and determinations would be required under the ESA, as applicable.

The conveyance of up to 40 af associated with the additional point of delivery for this water would be through existing facilities. The small amount of water would be used to support existing conditions and would not lead to major changes or disturbances to biological resources. The biological resources are located away from residences, Casino and public access at Table Mountain Rancheria. Therefore, the Proposed Action would have no affect on federally listed species or their designated habitats and no consultation is required with Service. Construction activities and new facilities at the Table Mountain Rancheria are separate actions from the Proposed Action. Appropriate environmental reviews and consultations are required in compliance with applicable laws. Consultation with the National Marine Fisheries Service (NMFS) is not required since no species under NMFS's jurisdiction occur in the project area or would be affected by the action.

The diversions, conveyance, deliveries and application (end use) of this water would not undergo major changes from historical practices. Reclamation and MID have entered into Warren Act Contracts since 1979. The Proposed Action would continue to provide this water rights water at a reasonable cost to maintain existing agricultural lands in MID and facilities at Table Mountain Rancheria. Providing this affordable water would likely result in incentives for farmers in MID to stay in business rather than selling their lands to developers. The Warren Act Contract would be reviewed for consistency with this EA and compliance with applicable local, state and federal laws prior to approval.

3.4 Cultural Resources

3.4.1 Affected Environment

Cultural resources is a broad term that includes prehistoric, historic, architectural and traditional cultural properties. The *Final Friant Division Long-Term Renewal Contract Environmental Assessment*, 2001, contains a more complete description of the cultural resources within MID and is incorporated by reference. Prior to the 18th Century, many Native American tribes inhabited the Central San Joaquin Valley. Table Mountain Rancheria is rich in historical and pre-historic cultural resources.

The CVP is currently being nominated to the National Register of Historic Places. As an integral part of the CVP, Friant Dam, the Friant-Kern Canal, and the Madera Canal have been determined eligible for listing on the NRHP.

3.4.2 Environmental Consequences

No Action

Under the No Action Alternative, Reclamation would not approve a one-year Warren Act Contract. The No Action Alternative may reduce the water supply for certain lands within MID and affect local agriculture in addition to affecting the businesses, residences and fire fighting ability at Table Mountain Rancheria. Construction of independent facilities may occur that could affect cultural resources. Without a specific proposal and details of the facilities, the impacts are difficult to assess. Reclamation does not have approval authority for the construction of private facilities unless Reclamation provided federal funding.

Proposed Action

The conveyance of this non-CVP water would not impact any historic properties because the non-CVP water would be conveyed in existing facilities and canals to established agricultural land, residences and businesses. No excavation or construction is required to convey the non-CVP water and no changes in land uses are proposed. Therefore, there is no potential to affect historic properties (36 CFR 800.3(a)(1)).

3.5 Indian Trust Assets

3.5.1 Affected Environment

Indian Trust Assets (ITAs) are legal interests in property held in trust by the U.S. for federally-recognized Indian tribes or individual Indians. An Indian trust has three components: (1) the trustee, (2) the beneficiary, and (3) the trust asset. ITAs can include land, minerals, federally-reserved hunting and fishing rights, federally-reserved water rights, and in-stream flows associated with trust land. Beneficiaries of the Indian trust relationship are federally-recognized Indian tribes with trust land; the U.S. is the trustee. By definition, ITAs cannot be sold, leased, or otherwise encumbered without approval of the U.S. The characterization and application of the U.S. trust relationship have been defined by case law that interprets Congressional acts, executive orders, and historic treaty provisions.

Consistent with President William J. Clinton's 1994 memorandum, "Government-to-Government Relations with Native American Tribal Governments," Bureau of Reclamation (Reclamation) assesses the effect of its programs on tribal trust resources and federally-recognized tribal governments. Reclamation is tasked to actively engage federally-recognized tribal governments and consult with such tribes on government-to-government level (59 Federal Register 1994) when its actions affect ITAs.

The U.S. Department of the Interior (DOI) Departmental Manual Part 512.2 ascribes the responsibility for ensuring protection of ITAs to the heads of bureaus and offices (DOI 1995). Part 512, Chapter 2 of the Departmental Manual states that it is the policy of the Department of the Interior to recognize and fulfill its legal obligations to identify, protect, and conserve the trust

resources of federally recognized Indian tribes and tribal members. All bureaus are responsible for, among other things, identifying any impact of their plans, projects, programs or activities on ITAs; ensuring that potential impacts are explicitly addressed in planning, decision, and operational documents; and consulting with recognized tribes who may be affected by proposed activities.

The nearest ITA to the Proposed Action is approximately four miles East and it is the Table Mountain Rancheria.

Environmental Consequences

No Action

Under the No Action Alternative there are no impacts to ITAs, since conditions would remain the same as existing conditions.

Proposed Action

ITAs are known to exist within the Friant Division service area, however, none occur within MID. Therefore, impacts to them would not occur under the Proposed Action.

Table Mountain Rancheria is an ITA. The conveyance, additional point of delivery and use of this water would not interfere with other water rights for Indian tribes. Providing 40 af of water in 2008 to Table Mountain Rancheria would maintain existing conditions and would not result in adverse impacts to ITAs. Therefore, impacts to ITAs would not occur under the Proposed Action.

3.6 Socioeconomic Resources

3.6.1 Affected Environment

The service area of Friant Division and MID is primarily rural agricultural land. Farm workers reside in homes in surrounding communities. There are many small businesses that support agriculture like feed and fertilizer sales, machinery sales and service, pesticide applicators, transport, packaging, marketing, etc. Table Mountain Rancheria facilities and businesses provide job opportunities and viable contributions to the local economy.

3.6.2 Environmental Consequences

No Action

Under the No Action Alternative, MID could construct additional conveyance facilities. However the cost and timing would likely result in alternative solutions. It is possible MID would purchase higher priced water, or groundwater would be pumped by the landowners. Farmers may fallow lands resulting in less crop production and reduction in the agricultural economy. Table Mountain Rancheria would seek other sources of water and/or rely on groundwater resulting in higher costs. Fire suppression capabilities could be slightly reduced.

Proposed Action

The Proposed Action would not adversely affect socio-economical resources, public health or safety. The non-CVP water would be conveyed in existing facilities and no new construction with associated costs would be required. This water would be provided to maintain existing croplands and the vital economy and structure. MID is responsible for obtaining and managing water for the benefit of its members in consideration of local economic conditions and employment. Seasonal labor requirements would not change, and businesses that support agriculture would not be financially harmed. Similarly, Table Mountain Rancheria is responsible for providing water to its customers to maintain residences, fire suppression capabilities, Casino, and businesses. Labor and business practices would not change from the past, therefore there would be no affect on socio-economic resources.

3.7 Environmental Justice

3.7.1 Affected Environment

The February 11, 1994 Executive Order requires federal agencies to ensure that their actions do not disproportionately impact minority and disadvantaged populations. The market for seasonal workers on local farms draws thousands of migrant workers, commonly of Hispanic origin from Mexico and Central America, into the San Joaquin Valley. The agricultural industry in MID provides jobs for many migrant workers.

The population of some small communities typically increases during late summer harvest, overwhelming local water and sewage facilities and causing public health problems. The area around City of Madera has a stable economy based on local citrus, olive, and grape products.

Table Mountain Rancheria provides employment opportunities for Native American Indians and other population groups.

3.7.2 Environmental Consequences

No Action

The No Action Alternative would make it difficult, but not impossible, for MID to use this non-CVP water. Without supplemental non-CVP water, some field crops may not be planted or orchards may be stressed resulting in a slight decrease in employment opportunities for migrant workers. MID could seek other sources of water supplies resulting in higher prices for the farmers and decreased opportunities to employ migrant workers. Likewise, Table Mountain Rancheria would seek other sources of water and/or rely on groundwater to meet demands. Alternative current employment and housing trends would remain unchanged with the No Action Alternative.

Proposed Action

The Proposed Action would not cause any harm to minority or disadvantaged populations within MID. A Warren Act Contract would allow MID to use its non-CVP water for irrigation in its service area. The availability of this non-CVP water for the district would maintain agricultural production and employment. A dependable water supply allows farmers to maintain permanent orchards that require much field labor for pruning and harvest. The Proposed Action would maintain existing facilities at Table Mountain Rancheria and support employment opportunities for Native American Indians and other population groups.

3.8 Cumulative Effects

Reclamation has conveyed non-CVP water in CVP facilities for MID since 1979. The Proposed Action and annual approvals for Warren Act Contracts in subsequent years would maintain existing environmental conditions including economical benefits and associated jobs. The annual approvals of Warren Act Contracts in future years would not establish a precedent for future actions. Reclamation has approved similar contracts to transport non-CVP water. The conveyance of this water is contingent upon available capacity including Warren Act contracts for others. The conveyed non-CVP water over the next 20 years may lead to some increase in crop yield and agricultural production from presently tilled lands. Contract execution would not have highly controversial or uncertain environmental effects or involve unique or unknown environmental risks. Current Reclamation policy only permits temporary Warren Act Contracts at its discretion. Reclamation is under no legal obligation to execute these contracts.

Non-CVP water would be transported pursuant to a Warren Act Contract and would be distributed using existing diversion and conveyance facilities. During initial construction of transporting facilities, and during the first use of them, there may have been some slight adverse effects to physical and biological resources. It is anticipated the continued delivery of this non-CVP water would continue over the next 20 years in existing facilities to support existing croplands. The cumulative impacts to physical and biological resources would be minimal since no additional construction activities are required or anticipated. MID would continue to be subject to the 2001 Biological Opinion issued by the Service. Previously undisturbed land or agricultural lands that have been fallow for three consecutive years must be inspected for the possible presence of endangered species prior to tilling or disturbing. If federally listed threatened and endangered species or their designated habitats are present, consultations under the ESA in accordance with Secretarial Order #3206 and Executive Order 13175 may be required.

The Proposed Action limits the use of this water to support existing agricultural lands and facilities at Table Mountain Rancheria. If new land use changes are proposed, subsequent environmental review including appropriate consultation under the ESA would be required.

Current trends in the San Joaquin Valley indicate increased population growth over the next 20 years. It is reasonable and foreseeable that agricultural lands would be sold to developers as land becomes more valuable. It is likely that changes of water usage would occur including requests for changes in water district boundaries, permanent changes of agricultural water to M&I use, contract assignments, changes in land uses, and permanent water transfers. Reclamation does not have authority over land use changes or changes in water district boundaries. In the case of changes in district boundaries, Reclamation is notified for the purpose of determining whether the change would impact repayment under the terms and conditions of the water service contracts in addition to compliance with applicable laws including but not limited to the ESA. It is likely the agricultural lands would be replaced with urbanization. These land use changes are the result of economical pressures. Each land use change must undergo environmental review and approvals by the appropriate approving agencies including city and county officials, as well as, the Local Area Formation Committee. Once approved, requests for changes in how, where and when water is applied could occur. These requests for changes are not the result of conveyance or deliveries of federal or non-federal water. Most of the existing water supplies are subject to reductions in annual allocations based on hydrological or environmental conditions. CVP and non-CVP water could be used in the future to meet the demands of the growth that is likely to occur. The reliability of a stable amount of water available on a long-term basis is uncertain and does not promote growth or long-term land use changes. Unless new reservoirs or storage facilities are constructed, no new water supplies would be created. The construction of new reservoirs or storage facilities is subject to approvals and appropriate environmental reviews. Therefore, the Proposed Action, when added to these other actions would not contribute to the cumulative effects or changes in land use trends or water service transactions.

Conveying MID's non-CVP water at affordable rates may provide an incentive for farmers to continue to farm their lands and maintain existing conditions. Reclamation does not encourage or discourage contract assignments, transfers, or changes in purpose of uses of water. Reclamation encourages the conservation and reasonable and beneficial use of the available water supplies. The Proposed Action does not contribute to or prohibit other water service actions. Therefore, the Proposed Action would not result in cumulative effects to environmental resources as a result of the transport and delivery of the non-CVP water on a planned basis.

MID is conducting studies for additional recharge basins to improve the groundwater conditions underlying the district. MID has several miles of unlined canals that also provide some groundwater recharge. The continued conveyance of the non-CVP water to MID and application of this water to crops would provide a slight improvement to the groundwater quality and quantity. The City of Madera maintains several percolation ponds. MID is conducting studies to connect the district's system to the city of Madera's ponds to provide maximum opportunities for groundwater recharge. As stated earlier, population growth within the San Joaquin Valley is

likely to increase over the next couple of decades. Urbanization could result in less recharge to the groundwater.

MID has proposed and is preparing a Draft Environmental Impact Statement to bank CVP water outside of the MID service area and expand existing facilities. It is not known, at this time, if non-CVP water would be conveyed in future facilities.

The Proposed Action would not contribute to cumulative effects to resources or the human environment.

Section 4 Environmental Commitments

Other than proper consultation and coordination with listed agencies, there are no specific activities and measures that are required from this action to improve or enhance the environment. The availability of this non-CVP water would not result in the cultivation of native untilled land in MID.

Section 5 Consultation and Coordination

5.1 Fish and Wildlife Coordination Act (16 USC . 651 et seq.)

The Fish and Wildlife Coordination Act (FWCA) requires that Reclamation consult with fish and wildlife agencies (federal and state) on all water development projects that could affect biological resources. No construction is involved to convey and transport this Non-CVP water. Therefore, the FWCA does not apply.

5.2 Endangered Species Act (16 USC. 1521 et seq.)

Section 7 of the Endangered Species Act requires federal agencies, in consultation with Service, to ensure that their actions do not jeopardize the continued existence of endangered or threatened species, or result in the destruction or adverse modification of the critical habitat of these species. This water would likely be diverted with or without the Proposed Action. The conveyance of this non-CVP water would maintain existing environmental conditions within MID and Table Mountain Rancheria. Table Mountain Rancheria is committed to the protection and conservation of biological resources on their lands. Biological surveys would be required if this non-CVP water would support construction activities or disturbances on native lands for new uses or facilities. If federally listed threatened and endangered species or their designated habitats are present, consultations under the Endangered Species Act in accordance with Secretarial Order #3206 and Executive Order 13175 may be required.

Reclamation has determined the Proposed Action would have no affect on threatened and endangered species or their designated habitats. Therefore, no consultation is required for the Proposed Action. MID is included in the existing Friant Biological Opinions which provide for the protection of federally listed threatened and endangered species and their federally designated critical habitats.

5.3 National Historic Preservation Act (15 USC 470 et seq.)

The National Historic Preservation Act (NHPA) of 1966, as amended (16 USC 470 *et seq.*), requires that federal agencies give the Advisory Council on Historic Preservation an opportunity

to comment on the effects of an undertaking on historic properties, properties that are eligible for inclusion in the National Register of Historic Places. The 36 CFR Part 800 regulations implement Section 106 of the NHPA.

Compliance with Section 106 follows a series of steps that are designed to identify interested parties, determine the area of potential effects (APE), conduct cultural resource inventories, determine if historic properties are present within the APE, and assess affects on any identified historic properties. No construction, new land use, or new ground disturbing activities would occur as a result of the Proposed Action. Therefore, the Proposed Action has no potential to affect historic properties (36 CFR 800.3(a)(1)).

5.4 Migratory Bird Treaty Act (16 USC Sec. 703 et seq.)

The Migratory Bird Treaty Act (MBTA) implements various treaties and conventions between the U.S. and Canada, Japan, Mexico and the former Soviet Union for the protection of migratory birds. Unless permitted by regulations, the MBTA provides that it is unlawful to pursue, hunt, take, capture or kill; attempt to take, capture or kill; possess, offer to or sell, barter, purchase, deliver or cause to be shipped, exported, imported, transported, carried or received any migratory bird, part, nest, egg or product, manufactured or not. Subject to limitations in the MBTA, the Secretary of the Interior may adopt regulations determining the extent to which, if at all, hunting, taking, capturing, killing, possessing, selling, purchasing, shipping, transporting or exporting of any migratory bird, part, nest or egg will be allowed, having regard for temperature zones, distribution, abundance, economic value, breeding habits and migratory flight patterns.

The Proposed Action would have no affect on birds protected by the MBTA.

5.5 Executive Order 11988 – Floodplain Management and Executive Order 11990 - Protection of Wetlands

Executive Order 11988 requires federal agencies to prepare floodplain assessments for actions located within or affecting flood plains, and similarly, Executive Order 11990 places similar requirements for actions in wetlands. The Proposed Action would deliver water to existing irrigated agricultural lands and would not impact wetlands or floodplains.

Section 6 List of Preparers and Reviewers

Patti Clinton, Natural Resources Specialist, SCCAO
Judi Tapia, Natural Resources Specialist, SCCAO
Mike Kinsey, Wildlife Biologist, SCCAO
Barbara Hidleburg, Repayment Specialist, SCCAO
Patricia Rivera, ITA, MP

Section 7 References

- Executive Order 13175. November 2000. Consultation and Coordination with Indian Tribal Governments.
- Secretarial Order #3206. June 1997. American Indian Tribal Rights, Federal-Tribal Trust Responsibilities and Endangered Species Act.
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- U.S. Bureau of Reclamation. April 1997. Environmental Assessment, 1997 Approval of a Warren Act Contract with Madera Irrigation District (Soquel)
- USFWS. 2001. Biological Opinion for the Friant Division Long-term Contract Renewals, Sacramento, California, January 19, 2001.
- USFWS. October 1991. Biological Opinion for the Friant Division Water Contract Renewals, Sacramento, California
- USFWS. June 1989. Wetlands of the California Central Valley: Status and Trends – 1939 to Mid-1980's – 28 pgs.

APPENDIX – Federal Endangered and Threatened Species (Official Lists)

Madera Irrigation District Species List

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

Document Number: 070913015915

Database Last Updated: August 16, 2007

Quad Lists

Listed Species

Invertebrates

- Branchinecta conservatio
 - Conservancy fairy shrimp (E)
 - Critical habitat, Conservancy fairy shrimp (X)
- Branchinecta lynchi
 - Critical habitat, vernal pool fairy shrimp (X)
 - vernal pool fairy shrimp (T)
- Desmocerus californicus dimorphus
 - valley elderberry longhorn beetle (T)
- Lepidurus packardi
 - Critical habitat, vernal pool tadpole shrimp (X)

Fish

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

Amphibians

- Ambystoma californiense

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

Reptiles

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

Mammals

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

Plants

- *Castilleja campestris* ssp. *succulenta*
 - Critical habitat, succulent (=fleshy) owl's-clover (X)
 - succulent (=fleshy) owl's-clover (T)
- *Orcuttia inaequalis*
 - Critical habitat, San Joaquin Valley Orcutt grass (X)
 - San Joaquin Valley Orcutt grass (T)
- *Orcuttia pilosa*
 - Critical habitat, hairy Orcutt grass (X)
 - hairy Orcutt grass (E)
- *Pseudobahia bahiifolia*
 - Hartweg's golden sunburst (E)
- *Tuctoria greenei*
 - Critical habitat, Greene's tuctoria (=Orcutt grass) (X)

Quads Containing Listed, Proposed or Candidate Species:

FRIANT (378B)

LANES BRIDGE (379A)

GREGG (379B)

HERNDON (379C)

MADERA (380A)

BONITA RANCH (380B)

GRAVELLY FORD (380C)

BIOLA (380D)

FIREBAUGH NE (381A)

DAULTON (399C)

RAYNOR CREEK (400A)

BERENDA (400C)

KISMET (400D)

CHOWCHILLA (401D)

County Lists

No county species lists requested.

Key:

- (E) Endangered - Listed as being in danger of extinction.
- (T) Threatened - Listed as likely to become endangered within the foreseeable future.
- (P) Proposed - Officially proposed in the Federal Register for listing as endangered or threatened.
- (NMFS) Species under the Jurisdiction of the [National Oceanic & Atmospheric Administration Fisheries Service](#). Consult with them directly about these species.
- Critical Habitat - Area essential to the conservation of a species.
- (PX) Proposed Critical Habitat - The species is already listed. Critical habitat is being proposed for it.
- (C) Candidate - Candidate to become a proposed species.
- (V) Vacated by a court order. Not currently in effect. Being reviewed by the Service.

(X) Critical Habitat designated for this species

Fresno County Water Works #18 Species List

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

Document Number: 070913020606

Database Last Updated: August 16, 2007

Quad Lists

Listed Species

Invertebrates

- Branchinecta conservatio
 - Conservancy fairy shrimp (E)
- Branchinecta lynchi
 - Critical habitat, vernal pool fairy shrimp (X)
 - vernal pool fairy shrimp (T)
- Desmocerus californicus dimorphus
 - valley elderberry longhorn beetle (T)

Fish

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

Amphibians

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

Reptiles

- Gambelia (=Crotaphytus) sila

- blunt-nosed leopard lizard (E)
- *Thamnophis gigas*
 - giant garter snake (T)

Mammals

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

Plants

- *Castilleja campestris* ssp. *succulenta*
 - Critical habitat, succulent (=fleshy) owl's-clover (X)
 - succulent (=fleshy) owl's-clover (T)
- *Orcuttia inaequalis*
 - Critical habitat, San Joaquin Valley Orcutt grass (X)
- *Pseudobahia bahiifolia*
 - Hartweg's golden sunburst (E)

Quads Containing Listed, Proposed or Candidate Species:

FRIANT (378B)

County Lists

No county species lists requested.

Key:

- (E) Endangered - Listed as being in danger of extinction.
- (T) Threatened - Listed as likely to become endangered within the foreseeable future.
- (P) Proposed - Officially proposed in the Federal Register for listing as endangered or threatened.
- (NMFS) Species under the Jurisdiction of the [National Oceanic & Atmospheric Administration Fisheries Service](#). Consult with them directly about these species.
- Critical Habitat - Area essential to the conservation of a species.
- (PX) Proposed Critical Habitat - The species is already listed. Critical habitat is being proposed for it.
- (C) Candidate - Candidate to become a proposed species.

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

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