

19. Indian Trust Assets

19.1 Introduction

This chapter discusses the Indian Trust Assets (ITAs) in the study area and includes a discussion of the regulatory framework associated with ITAs. For this resource, there are three study areas analyzed.

The Extended Study Area is defined as the State Water Project (SWP) and Central Valley Project (CVP) service areas that could be affected by the Sites Reservoir Project (Project) operations, located within the following 33 counties: Alameda, Butte, Colusa, Contra Costa, El Dorado, Fresno, Glenn, Kern, Kings, Los Angeles, Madera, Merced, Napa, Orange, Placer, Plumas, Riverside, Sacramento, San Benito, San Bernardino, San Diego, San Joaquin, San Luis Obispo, Santa Barbara, Santa Clara, Shasta, Solano, Stanislaus, Sutter, Tehama, Tulare, Ventura, and Yolo.

The Secondary Study Area is defined as the area of potential operational effects, including SWP and CVP facilities that could experience water surface elevation fluctuations or stream flow changes. These facilities are located within the following 18 counties: Alameda, Butte, Colusa, Contra Costa, Del Norte, El Dorado, Glenn, Humboldt, Placer, Sacramento, Santa Clara, Shasta, Solano, Sutter, Tehama, Trinity, Yolo, and Yuba.

The Primary Study Area (in Glenn and Colusa counties) is considered to be the geographical area with the footprint of the proposed alternative plan features, the land immediately surrounding these features that could be affected by construction and/or maintenance activities (construction easement), and the land parcels surrounding those areas that would be purchased but not altered (the “take line,” also considered to be a buffer around the alternative plan facilities).

The Project focuses on offstream surface water storage alternatives located north of the Delta with water conveyance from the Sacramento River or one of its tributaries to the new reservoir location. The conveyance system could use either existing diversions and canals and/or new diversions and conveyance. Water would be diverted during periods of relatively higher flow through the conveyance system, into the new offstream storage reservoir, and stored until it is needed to meet the planning objectives, as described in Chapter 1 Introduction.

19.2 Regulatory Background for ITAs

The U.S. Government’s trust responsibility for Indian resources requires Reclamation and other agencies to take measures to protect and maintain trust resources. These responsibilities include taking reasonable actions to preserve and restore tribal resources.

Implementation of the action alternatives could affect ITAs located along rivers and reservoirs that would be affected by SWP or CVP operational changes, near lands served by SWP and CVP water supplies in the Extended Service Area, near or downstream from the SWP and CVP reservoirs in the Secondary Study Area, and within the construction footprint or downstream from the proposed facilities in the Primary Study Area. Actions located on federal lands, or implemented, funded, or approved by federal agencies, would need to be compliant with appropriate federal policies and regulations, including policies associated with ITAs.

ITAs are legal interests in property held in trust by the United States 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 instream flows associated with trust land. Beneficiaries of the Indian trust relationship are federally recognized Indian tribes with trust land; the United States is the trustee. By definition, ITAs cannot be sold, leased, or otherwise encumbered without approval of the United States. 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.

The federal government, through treaty, statute, or regulation, may take on specific, enforceable fiduciary obligations that give rise to a trust responsibility to federally recognized tribes and individual Indians possessing trust assets. Courts have recognized an enforceable federal fiduciary duty with respect to federal supervision of Indian money or natural resources, held in trust by the federal government, where specific treaties, statutes, or regulations create such a fiduciary duty.

Consistent with President William J. Clinton's 1994 memorandum, "Government-to-Government Relations with Native American Tribal Governments," the 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 when its actions affect ITAs (*Federal Register*, Vol. 59, No. 85, May 4, 1994, pages 22951-22952). The U.S. Department of the Interior (DOI) Departmental Manual Part 512.2 (1995) ascribes the responsibility for ensuring protection of ITAs to the heads of bureaus and offices. DOI is required to "protect and preserve Indian trust assets from loss, damage, unlawful alienation, waste, and depletion" (DOI, 2000). It is the general policy of DOI to perform its activities and programs in such a way as to protect ITAs and avoid adverse effects whenever possible.

Reclamation complies with procedures contained in Departmental Manual Part 512.2 guidelines, which protect ITAs. Reclamation carries out its activities in a manner that protects trust assets and avoids adverse impacts when possible. When Reclamation cannot avoid adverse impacts, it will provide appropriate mitigation or compensation. Reclamation is responsible for assessing whether the Project has the potential to affect ITAs.

19.3 Environmental Setting/Affected Environment

Federally recognized tribes in the vicinity of the Extended, Secondary, and Primary study areas are summarized in Table 19-1.

Table 19-1 Federally Recognized Tribes in the Vicinity of the Extended, Secondary, and Primary Study Areas Organized by County

Federally Recognized Tribe	County	Study Area Designation	Nearby Communities
Enterprise Rancheria of Maidu Indians of California	Butte	Extended and Secondary	Oroville
Konkow Maidu of Mooretown Rancheria	Butte	Extended and Secondary	Oroville
Mechoopda Indian Tribe of Chico Rancheria	Butte	Extended and Secondary	Chico
Tyme Maidu of Berry Creek Rancheria	Butte	Extended and Secondary	Oroville
Cachil Dehe Band of Wintun Indians of the Colusa Indian Community of the Colusa Rancheria	Colusa	Extended, Secondary, and Primary	Colusa
Cortina Indian Rancheria of Wintun Indians of California	Colusa	Extended, Secondary, and Primary	Williams
Elk Valley Rancheria	Del Norte	Secondary	Crescent City
Resighini Rancheria Tribe	Del Norte	Secondary	Klamath
Tolowa Dee-Ni' Nation (Smith River Rancheria)	Del Norte	Secondary	Smith River
Yurok Tribe of the Yurok Reservation	Del Norte, Humboldt, and Trinity	Secondary	Klamath
Shingle Springs Band of Miwok Indians, including Shingle Springs Rancheria	El Dorado and Nevada County	Extended and Secondary	Shingle Springs
Big Sandy Rancheria of Mono Indians of California	Fresno	Extended	Auberry
Table Mountain Rancheria	Fresno	Extended	Friant
Cold Springs Rancheria of Mono Indians of California	Fresno	Extended	Tollhouse
Grindstone Indian Rancheria of Wintun-Wailaki Indians of California	Glenn	Extended, Secondary, and Primary	Elk Creek
Paskenta Band of Nomlaki Indians of California	Glenn and Tehama	Extended and Secondary	Corning and Orland
Bear River Band of the Rohnerville Rancheria	Humboldt	Secondary	Loleta
Big Lagoon Rancheria	Humboldt	Secondary	Arcata
Blue Lake Rancheria	Humboldt	Secondary	Blue Lake
Cher-Ae Heights Indian Community of the Trinidad Rancheria	Humboldt	Secondary	Trinidad

Federally Recognized Tribe	County	Study Area Designation	Nearby Communities
Hoop Valley Tribal Council	Humboldt and Trinity	Secondary	Hoop Valley
Wiyot Tribe (Table Bluff Rancheria)	Humboldt	Secondary	Loleta
Fort Yuma Quechan Tribe	Imperial	Extended	Yuma (Arizona)
Tejon Indian Tribe	Kern	Extended	Bakersfield
Santa Rosa Indian Community of Santa Rosa Rancheria	Kings	Extended	Lemoore
Northfork Rancheria of Mono Indians of California	Madera	Extended	North Fork
Picayune Rancheria of Chukchansi Indians of California	Madera	Extended	Coarsegold
Federated Indians of Graton Rancheria	Marin	Secondary	Rohnert Park
Tsi-Akum Maidu (Taylorsville Rancheria)	Nevada	Extended	Grass Valley
Nisenan Tribe of the Nevada City Rancheria	Nevada	Extended	Grass Valley
Miwok Maidu United Auburn Indian Community of the Auburn Rancheria	Placer	Extended and Secondary	Placer
United Auburn Indian Community of the Auburn Rancheria of California	Placer	Extended and Secondary	Auburn
Greenville Rancheria of Maidu Indians	Plumas and Tehama	Extended and Secondary	Greenville
Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation	Riverside	Extended	Palm Springs
Augustine Band of Cahuilla Indians	Riverside	Extended	Coachella
Cabazon Band of Mission Indians	Riverside	Extended	Indio
Cahuilla Band of Mission Indians of the Cahuilla Reservation	Riverside	Extended	Anza
Colorado River Indian Tribes of the Colorado River Indian Reservation	Riverside	Extended	Parker (Arizona)
Morongo Band of Mission Indians	Riverside	Extended	Banning

Federally Recognized Tribe	County	Study Area Designation	Nearby Communities
Pechanga Band of Luiseño Mission Indians of the Pechanga Reservation	Riverside	Extended	Temecula
Ramona Band of Cahuilla	Riverside	Extended	Anza
Santa Rosa Band of Cahuilla Indians	Riverside	Extended	Mountain Center
Soboba Band of Luiseño Indians	Riverside	Extended	San Jacinto
Torres-Martinez Desert Cahuilla Indians	Riverside	Extended	Thermal
Twenty-Nine Palms Band of Mission Indians of California	Riverside and San Bernardino	Extended	Coachella
Buena Vista Rancheria of Me-Wuk	Sacramento	Extended and Secondary	Sacramento
Wilton Miwok Indians of the Wilton Rancheria	Sacramento	Extended and Secondary	Elk Grove
Chemehuevi Indian Tribe of the Chemehuevi Reservation	San Bernardino	Extended	Needles, Havasu Lake
Pipa Aha Macav Fort Mojave Indian Tribe Reservation	San Bernardino	Extended	Needles
San Manuel Band of Mission Indians	San Bernardino	Extended	Highland
Campo Band of Diegueno Mission Indians of the Campo Indian Reservation	San Diego	Extended	Campo
Capitan Grande Band of Diegueno Mission Indians of California (Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation)	San Diego	Extended	Lakeside
Capitan Grande Band of Diegueno Mission Indians of California: Viejas (Barona Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation	San Diego	Extended	Alpine
Ewiiapaayp Band of Kumeyaay Indians	San Diego	Extended	Alpine
Iipay Nation of Santa Ysabel	San Diego	Extended	Santa Ysabel
Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation	San Diego	Extended	Escondido

Federally Recognized Tribe	County	Study Area Designation	Nearby Communities
Jamul Indian Village of California	San Diego	Extended	Jamul
La Jolla Band of Luiseño Indians	San Diego	Extended	Pauma Valley
La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation	San Diego	Extended	Boulevard
Los Coyotes Band of Cahuilla and Cupeno Indians	San Diego	Extended	Warner Springs
Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation	San Diego	Extended	Boulevard
Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation	San Diego	Extended	Santa Ysabel
Pala Band of Luiseño Mission Indians of the Pala Reservation	San Diego	Extended	Pala
Pauma Band of Luiseño Mission Indians of the Pauma & Yuima Reservation	San Diego	Extended	Pauma Valley
Rincon Band of Luiseño Mission Indians of the Rincon Reservation	San Diego	Extended	Valley Center
San Pasqual Band of Diegueno Mission Indians of California	San Diego	Extended	Valley Center
Sycuan Band of the Kumeyaay Nation	San Diego	Extended	El Cajon
California Valley Miwok Tribe	San Joaquin	Extended	Stockton
Santa Ynez Band of Chumash Mission Indians of Santa Ynez Reservation	Santa Barbara	Extended	Santa Ynez
Pit River Tribe	Shasta	Extended and Secondary	Burney
Redding Rancheria Tribe	Shasta	Extended and Secondary	Redding
Cloverdale Rancheria of Pomo Indians of California	Sonoma	Secondary	Cloverdale
Dry Creek Rancheria Band of Pomo Indians	Sonoma	Secondary	Geyserville
Kashia Band of Pomo Indians of the Stewarts Point Rancheria	Sonoma	Secondary	Santa Rosa

Federally Recognized Tribe	County	Study Area Designation	Nearby Communities
Koi Nation of Northern California (previously known as Lower Lake Rancheria)	Sonoma	Secondary	Santa Rosa
Lytton Rancheria	Sonoma	Secondary	Santa Rosa
Maidu Band of Strawberry Valley Rancheria	Sutter	Extended and Secondary	Marysville
Tule River Indian Tribe of the Tule River Reservation of the Yokut Indians	Tulare	Extended	Porterville
Chicken Ranch Rancheria of Me-Wuk Indians of California	Tuolumne	Extended	Jamestown
Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California	Tuolumne	Extended	Tuolumne
Yocha Dehe Wintun Nation	Yolo	Extended and Secondary	Brooks

19.4 Environmental Impacts/Environmental Consequences

This section addresses the concern of whether any ITA would be adversely or beneficially affected by any of the action alternatives.

Changes in SWP and CVP operation under the action alternatives as compared to the Existing Conditions/No Project/No Action Condition could change water elevations within the SWP and CVP reservoirs, flow patterns in the rivers downstream of SWP and CVP reservoirs, and SWP and CVP water deliveries. Impacts on existing ITAs would be considered adverse if the action:

- Interferes with the exercise of a federally reserved water right, or degrades water quality where there is a federally reserved water right.
- Interferes with the use, value, occupancy, character, or enjoyment of an ITA, including impacts on fish and wildlife where fishing and hunting rights exist.
- Fails to protect ITAs from loss, damage, waste, depletion, or other negative effects, including from disturbances such as noise or changes to visual resources.

19.4.1 Evaluation Criteria and Significance Thresholds

To address environmental consequences related to ITAs, the following issues have been evaluated to determine potential impacts and their level of significance:

- Are ITAs present in or adjacent to the areas that use SWP or CVP water, within SWP and CVP water facilities or rivers downstream of these facilities, or in the Sites Reservoir facilities development area?
- If an ITA is present, would any of the action alternatives impede, change, or potentially benefit current activities within the ITA?

19.4.2 Impact Assessment Assumptions and Methodology

19.4.2.1 Assumptions

The following assumptions were made regarding Project-related impacts (construction, operation, and maintenance impacts) to ITAs:

- Direct Project-related construction, operation, and maintenance activities would occur in the Primary Study Area.
- Direct Project-related operation activities would occur in the Secondary Study Area.
- The only direct Project-related construction activity that would occur in the Secondary Study Area is the installation of two additional pumps into existing bays at the Red Bluff Pumping Plant.
- The only direct Project-related maintenance activity that would occur in the Secondary Study Area is the sediment removal and disposal at the intake location (Red Bluff Pumping Plant).
- No direct Project-related construction or maintenance activities would occur in the Extended Study Area.
- Direct Project-related operational effects that would occur in the Extended Study Area are related to San Luis Reservoir operation and increased reliability of water to supply to agricultural, municipal, and refuge users. Indirect effects on the operation of certain facilities that are located in the Extended Study Area, and indirect effects on the consequent water deliveries made by those facilities, would occur as a result of implementing the action alternatives.
- No additional channel stabilization and/or grade control measures in the Sacramento River at or upstream of the Delevan Pipeline Intake/Discharge Facilities would be required.

19.4.2.2 Methodology

Reclamation maintains geographic information system (GIS) coverage of Indian reservations and rancherias for the State of California. The impact assessment for ITAs was based on this GIS coverage and maps of ITAs for the three study areas.

19.4.3 Topics Eliminated from Further Analytical Consideration

No Project facilities or topics that are included in the significance criteria listed in Section 19.4.1 were eliminated from further consideration in this chapter.

19.4.4 Impacts Associated with Alternatives A, B, C, and D

19.4.4.1 Extended Study Area

There are no ITAs in the areas that would directly receive water from SWP or CVP facilities in the Extended Service Area. CVP water from Millerton Lake is used to serve water to Table Mountain Rancheria in Fresno County; however, this area would not be affected by Project operations. There are also ITAs that receive water from municipalities that use SWP or CVP water. However, as described in Chapter 6 Surface Water Resources, SWP and CVP water deliveries to municipal water users are not anticipated to decline due to the implementation of Alternative A, B, C, or D, when compared to the Existing Conditions/No Project/No Action Condition. Therefore, there would be no changes to ITAs

under Alternative A, B, C, or D when compared to the Existing Conditions/No Project/No Action Condition.

19.4.4.2 Secondary Study Area

There are no ITAs near the SWP or CVP facilities or along the rivers downstream of SWP or CVP reservoirs within the Secondary Study Area. However, changes in river flow patterns in the Trinity River could indirectly affect several ITAs, including those of the Hoopa Valley Tribe, Resighini Rancheria Tribe, and Yurok Tribe of the Yurok Reservation. Changes in the river flow patterns could affect use of the Trinity River for boats, access to adjacent lands, and fish in the Trinity River that are important to the tribes. However, as described in Chapter 6 Surface Water Resources, implementation of Alternative A, B, C, or D when compared to the Existing Conditions/No Project/No Action Condition is not anticipated to substantially change Trinity River flows. Therefore, there would not be any effect on these ITAs.

19.4.4.3 Primary Study Area

There are no ITAs within or adjacent to the potential areas of disturbance for the facilities to be constructed and operated under Alternative A, B, C, or D. Therefore, there would be no changes to ITAs under Alternative A, B, C, or D as compared to the Existing Conditions/No Project/No Action Condition.

19.5 Mitigation Measures

Because no potentially significant impacts were identified, no mitigation is required or recommended.

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