

7.15 Indian Trust Assets

Potential impacts on Indian trust assets cannot be determined at a programmatic level of analysis; however, adverse impacts are not anticipated. Project-specific evaluations will disclose impacts on Indian trust assets and provide mitigation as needed. Ecosystem Restoration Program actions may benefit trust assets associated with water and fishing rights.

7.15.1	SUMMARY	7.15-1
7.15.2	AREAS OF CONTROVERSY	7.15-1
7.15.3	AFFECTED ENVIRONMENT/EXISTING CONDITIONS ...	7.15-2
7.15.4	ASSESSMENT METHODS	7.15-2
7.15.5	SIGNIFICANCE CRITERIA	7.15-3
7.15.6	NO ACTION ALTERNATIVE	7.15-3
7.15.7	CONSEQUENCES: PROGRAM ELEMENTS COMMON TO ALL ALTERNATIVES	7.15-3
7.15.8	PROGRAM ALTERNATIVES COMPARED TO EXISTING CONDITIONS	7.15-4
7.15.9	ADDITIONAL IMPACT ANALYSIS	7.15-4
7.15.10	MITIGATION STRATEGIES	7.15-5
7.15.11	POTENTIALLY SIGNIFICANT UNAVOIDABLE IMPACTS	7.15-5



7.15 Indian Trust Assets

7.15.1 SUMMARY

Indian trust assets are legal interests in assets held in trust by the federal government for Indian tribes or Indian individuals. Assets can be real property, physical assets, or intangible property rights. Indian trust assets cannot be sold, leased, or otherwise encumbered without approval of the federal government. A trust relationship is established through a congressional act or executive order, as well as through provisions identified in historical treaties.

The land associated with a reservation, rancheria, or public domain allotment could be examples of an Indian trust asset. The resources located within reservations, including trees, minerals, oil and gas, and others, also are considered trust assets. Water rights, as well as hunting and fishing rights, may be Indian trust assets.

The potential effects of the CALFED Bay-Delta Program (Program) on Indian trust assets are unknown and will be determined when specific projects are evaluated. Specific implementation projects for the Program have not yet been identified; but at the programmatic level, impacts on Indian trust assets appear unlikely. Ecosystem restoration actions may benefit trust assets associated with water or fishing rights. As specific implementation projects are evaluated, adverse impacts on Indian trust assets will be disclosed and mitigation provided, as needed.

The potential effects of the Program on Indian trust assets are unknown and will be determined when specific projects are evaluated.

7.15.2 AREAS OF CONTROVERSY

Areas of controversy as defined by CEQA involve differences of opinion among technical experts or information that is not available and cannot be readily obtained. According to this definition, no areas of controversy relate to Indian trust assets. In addition, no areas of concern are associated with Indian trust assets.



7.15.3 AFFECTED ENVIRONMENT/ EXISTING CONDITIONS

7.15.3.1 DELTA AND BAY REGIONS

No reservations or rancherias are located in the Delta or Bay Region. It is unlikely that any public domain allotments are located in the Delta Region, but some public domain allotments may be located in the Bay Region.

No reservations or rancherias are located in the Delta Region.

7.15.3.2 SACRAMENTO RIVER AND SAN JOAQUIN RIVER REGIONS

The Sacramento River Region includes approximately 26 reservations and rancherias, and an unknown number of public domain allotments. Approximately 11 reservations or rancherias are located in the San Joaquin River Region. The number of public domain allotments is unknown. Each Indian reservation, rancheria, and allotment represents an Indian trust asset unless it has been specifically dropped from trust status.

The Sacramento River Region includes approximately 26 reservations and rancherias, and approximately 11 reservations or rancherias are located in the San Joaquin River Region.

7.15.3.3 OTHER SWP AND CVP SERVICE AREAS

A number of Indian reservations, rancherias, and allotments are found in the Other SWP and CVP Service Areas. The region holds approximately 24 Indian reservations or rancherias. An unknown number of Public domain allotments also are found in this region.

The Other SWP and CVP Service Areas hold approximately 24 Indian reservations or rancherias.

7.15.4 ASSESSMENT METHODS

Identifying specific Indian trust assets is the first action to determine whether an undertaking will affect trust assets. Project planners will examine areas of potential effect for possible conflict with Indian lands and Indian trust assets. The nature of the trust asset will be determined in consultation with the specific Indian tribe, Bureau of Indian Affairs, and possibly the U.S. Department of the Interior Solicitor, and through examining government documents.

The primary potential impact on Indian trust assets stems from those actions, activities, or projects that would affect Indian lands. Construction activities associated with the implementation of Program elements or alternatives may affect individual reservations or rancherias. Indian land located along rivers or in the vicinity of upland reservoir sites may be affected. Development of storage facilities may affect Indian Trust Assets due to the size of such projects, but this likelihood is remote.



7.15.5 SIGNIFICANCE CRITERIA

An impact is considered potentially significant if implementation of a Program action would adversely affect water rights, water quality, or other rights associated with specific Indian trust assets.

7.15.6 NO ACTION ALTERNATIVE

A wide range of actions could result from the No Action Alternative projects listed in Attachment A. Some of these actions may affect Indian trust assets. Construction activities may affect lands located along rivers or in the vicinity of upland reservoir sites, water rights, water quality, or other rights associated with specific Indian trust assets. The potential effects on Indian trust assets will be evaluated as specific implementation projects are evaluated. Adverse impacts on Indian trust assets will be identified and mitigation will be provided, as needed.

Construction activities may affect lands located along rivers or in the vicinity of upland reservoir sites, water rights, water quality, or other rights associated with specific Indian trust assets.

7.15.7 CONSEQUENCES: PROGRAM ELEMENTS COMMON TO ALL ALTERNATIVES

Presently, no impacts have been identified for any alternative under the Conveyance element that would adversely affect Indian trust assets. Possible conflicts will be evaluated when specific projects are developed. Adverse impacts will be disclosed and mitigation provided, as needed.

7.15.7.1 DELTA AND BAY REGIONS

All Programs

No reservations or rancherias are located in the Delta or Bay Region.

Although some public domain allotments with Indian trust protection may be located in the Bay Region, it is unlikely that the location of proposed projects would conflict with these allotments. It is also unlikely that any Program actions would affect Indian trust assets in these regions; however, an examination of records held by the Bureau of Indian Affairs needs to be completed when projects to implement the Preferred Program Alternative are analyzed in order to determine the potential for impacts.

Changes in project operations would not cause construction-related ground disturbance or affect water levels to the extent of causing impacts on Indian trust assets in any region.

Although some public domain allotments with Indian trust protection may be located in the Bay Region, it is unlikely that the location of proposed projects would conflict with these allotments.



7.15.7.2 SACRAMENTO RIVER AND SAN JOAQUIN RIVER REGIONS

All Programs

Few of the reservations and rancherias, if any, in the Sacramento River and San Joaquin River Regions would be affected by Program actions. The potential conflict between Indian trust assets, including public domain allotments, needs to be determined on a project-specific basis. Some Program actions, particularly those involved with ecosystem restoration, may benefit trust assets associated with water or fishing rights. Storage projects have a limited potential to affect Indian trust assets due to the size of larger reservoirs, but even these impacts are unlikely.

Few of the reservations and rancherias, if any, in the Sacramento River and San Joaquin River Regions would be affected by Program actions.

7.15.7.3 OTHER SWP AND CVP SERVICE AREAS

All Programs

It is unlikely that any Indian trust assets would be affected by Program actions since no structures, conveyance facilities, storage projects, or habitat improvement projects are planned for the Other SWP and CVP Service Areas.

No structures, conveyance facilities, storage projects, or habitat improvement projects are planned for the Other SWP and CVP Service Areas.

7.15.8 PROGRAM ALTERNATIVES COMPARED TO EXISTING CONDITIONS

This section presents the comparison of existing conditions to the Preferred Program Alternative and Alternatives 1, 2, and 3. This programmatic analysis indicates that Indian trust assets must be evaluated on a project-specific basis in accordance with legal requirements. Therefore, the comparison of the Program alternatives to existing conditions is the same as the comparison of Program alternatives to the No Action Alternative.

7.15.9 ADDITIONAL IMPACT ANALYSIS

Cumulative Impacts. For a summary of cumulative impacts of all resource categories, please refer to Chapter 3. For a description of the projects and programs considered in this analysis of cumulative impacts, please see Attachment A.



A wide range of actions could result from the projects listed in Attachment A, and some of these actions may affect Indian trust assets. Such impacts range from implementation of the American River Water Resource Investigation to the EBMUD Supplemental Water Supply Project. The potential effects on Indian trust assets remain unknown and will be determined when specific projects are evaluated. Specific implementation projects for the Program have not yet been identified; but at the programmatic level, impacts on Indian trust assets appear unlikely. As specific implementation projects are evaluated, adverse impacts on Indian trust assets will be disclosed and mitigation provided, as needed.

Growth-Inducing Impacts. If any water supply is increased by Program actions, the increase most likely would not occur on lands or affect resources that are Indian trust assets. Actions that increase the in-stream fishery in regions would, in general, benefit potential trust resources.

Short- and Long-Term Relationships. None of the Program elements appear to directly affect Indian trust assets. The potential effects on Indian trust assets remain unknown and will be evaluated as specific projects are evaluated.

Irreversible and Irrecoverable Commitments. The potential effects on Indian trust assets remain unknown and will be evaluated as specific projects are evaluated.

Actions that increase the in-stream fishery in regions would, in general, benefit potential Indian trust resources.

7.15.10 MITIGATION STRATEGIES

The first strategy in mitigating a potentially significant adverse impact on an Indian trust asset is avoiding or minimizing the impact. If avoidance is not possible, any form of mitigation must be developed in consultation with the Indian tribe or individual who possesses the trust asset. Specific mitigation depends on the type of Indian trust asset and the nature of the impact. Agreements between federal action agencies and Indian trust owners may require approval from Congress or the Bureau of Indian Affairs. Projects proposed to carry out the Preferred Program Alternative will be analyzed for impacts on Indian trust assets; and mitigation measures will be implemented, should potentially significant adverse impacts be identified.

7.15.11 POTENTIALLY SIGNIFICANT UNAVOIDABLE IMPACTS

No potentially significant unavoidable impacts on Indian trust assets have been identified from implementing the Preferred Program Alternative. Project-specific analysis is needed to determine potential impacts.

No potentially significant unavoidable impacts on Indian trust assets have been identified.

