

governments. The rule would impose no requirements on any of these entities. We have already shown, in the previous paragraphs of this section of the preamble, that the change proposed in this rule would not have effects approaching \$100 million per year on the private sector. Therefore, BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*)

*Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)*

The proposed rule is not a government action capable of interfering with constitutionally protected property rights. The rule would allow BLM to contract out one step in the timber volume measurement process, and would not provide for the taking or reduction in value of, or any other effect on any private property. Therefore, the Department of the Interior has determined that the rule would not cause a taking of private property or require further discussion of takings implications under this Executive Order.

*Executive Order 13132, Federalism*

The proposed rule will not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. It would not apply to states or local governments or state or local governmental entities. Therefore, in accordance with Executive Order 13132, BLM has determined that this proposed rule does not have sufficient federalism implications to warrant preparation of a federalism assessment.

*Executive Order 12988, Civil Justice Reform*

Under Executive Order 12988, the Office of the Solicitor has determined that this proposed rule would not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order.

*Executive Order 13175, Consultation and Coordination With Indian Tribal Governments*

In accordance with Executive Order 13175, we have found that this proposed rule does not include policies that have Tribal implications. There are no substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of

power and responsibilities between the Federal Government and Indian Tribes. There will be some small economic benefit to scalers and scaling bureaus, and therefore to any American Indians that may be employed by or otherwise financially connected to such entities. There are, however, no policy implications that require consultation with Indian Tribes.

*Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

In accordance with Executive Order 13211, BLM has determined that the proposed rule will not have substantial direct effects on the energy supply, distribution, or use, including a shortfall in supply or price increase. The rule does not relate to energy supply, distribution, or use in any respect.

*Executive Order 13352, Facilitation of Cooperative Conservation*

In accordance with Executive Order 13352, BLM has determined that this proposed rule is purely administrative and does not affect cooperative conservation. This proposed rule takes appropriate account of and considers the interests of persons with ownership or other legally recognized interests in land or other natural resources because it does not interfere with such interests. The proposed rule solely affects a Federal responsibility not involving state or local participation, and has no impact on public health and safety.

*Paperwork Reduction Act*

These proposed regulations do not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

*Author*

The principal authors of this proposed rule are Kenny McDaniel, Manager, Gunnison Field Office, Colorado, Scott Lieurance, Forester—Senior Specialist, Washington Office, and Lyndon Werner, Forester, Oregon State Office, assisted by Ted Hudson, Senior Regulatory Specialist, Washington Office, Bureau of Land Management.

**List of Subjects in 43 CFR Part 5420**

Forests and forest products, Government contracts, Public lands, Reporting and recordkeeping requirements.

Dated: November 3, 2005.

**Chad Calvert,**

*Acting Assistant Secretary, Land and Minerals Management.*

Accordingly, for the reasons stated in the preamble and under the authorities stated below, BLM proposes to amend 43 CFR part 5420 as set forth below:

**PART 5420—PREPARATION FOR SALE**

1. The authority citation for part 5420 continues to read as follows:

**Authority:** 61 Stat. 681, as amended, 69 Stat. 367; Sec. 5, 50 Stat. 875; 30 U.S.C. 601 *et seq.*; 43 U.S.C. 1181e.

**Subpart 5422—Volume Measurements**

2. Amend section 5422.2 by revising paragraph (b) to read as follows:

**§ 5422.2 Scale sales.**

\* \* \* \* \*

(b) (1) BLM may order third party scaling after determining that all of the following factors exist:

(i) A timber disaster has occurred;

(ii) A critical resource loss is imminent; and

(iii) Measurement practices listed in § 5422.1 and paragraph (a) of this section are inadequate to permit orderly disposal of the damaged timber.

(2) BLM may also order third party scaling, only by scalers or scaling bureaus under contract to BLM, for the scaling of density management timber sales when the quadratic mean diameter of the trees to be cut and removed is equal to or less than 20 inches.

(3) Third party scaling volumes must be capable of being equated to BLM standards in use for timber depletion computations, to insure conformance with sustained yield principles.

[FR Doc. 05–22779 Filed 11–16–05; 8:45 am]

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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

**RIN 1018–AU23**

**Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Distinct Population Segment of the California Tiger Salamander in Sonoma County**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; reopening of comment period.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, announce the reopening of the comment period on the proposed designation of critical habitat for the Sonoma County population of the California tiger salamander. We are reopening the comment period to allow all interested parties an opportunity to comment simultaneously on the proposed rule and an alternative we are considering in our approach to this designation. We are considering a final designation of 21,298 ac (8,519 ha) or less due to an alternative methodology for designating critical habitat (see discussion below). The final critical habitat rule is due to the **Federal Register** on December 1, 2005. Comments previously submitted need not be resubmitted as they will be incorporated into the public record as part of this comment period, and will be considered in preparation of the final rule.

**DATES:** We will accept public comments until November 28, 2005.

**ADDRESSES:** Written comments and materials may be submitted to us by any one of the following methods:

1. You may submit written comments and information to the Field Supervisor, U.S. Fish and Wildlife Service, 2800 Cottage Way, Suite W-2605, Sacramento, CA 95825;

2. You may hand-deliver written comments and information to our Sacramento Fish and Wildlife Office, at the above address, or fax your comments to 916/414-6713; or

3. You may send comments by electronic mail (e-mail) to: [fwsonoma\\_tiger\\_salamander@fws.gov](mailto:fwsonoma_tiger_salamander@fws.gov). For directions on how to file comments electronically, see the "Public Comments Solicited" section. In the event that our Internet connection is not functional, please submit your comments by the alternate methods mentioned above.

Copies of the proposed rule and draft economic analysis for critical habitat designation are available on the Internet at <http://www.fws.gov/sacramento> or from the Sacramento Fish and Wildlife Office at the address and contact numbers above.

**FOR FURTHER INFORMATION CONTACT:** Arnold Roessler, Sacramento Fish and Wildlife Office, at the address above (telephone 916/414-6600; facsimile 916/414-6713).

**SUPPLEMENTARY INFORMATION:**

**Public Comments Solicited**

We will accept written comments and information during this reopened comment period. We solicit comments on the original proposed critical habitat

designation (70 FR 44301; August 2, 2005), on our draft economic analysis of the proposed designation, and on the alternative included with this notice. We will consider information and recommendations from all interested parties. We are particularly interested in comments concerning:

(1) The reasons why any habitat should or should not be determined to be critical habitat, as provided by section 4 of the Act, including whether the benefit of designation will outweigh any threats to the species due to designation;

(2) Specific information on the amount and distribution of California tiger salamander (CTS) habitat proposed to be designated in this alternative, what areas should be included in the designation or which should not compared to the original proposed critical habitat;

(3) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed habitat;

(4) Any foreseeable economic, national security, or other potential impacts resulting from the proposed designation and this alternative and, in particular, any impacts on small entities; and

(5) Whether our approach to designating critical habitat could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concern and comments.

(6) The local governments of Sonoma County including the county itself are considering adopting a county-wide conservation plan preceded by an interim operating agreement to protect the salamander until the local plan can be finalized and formally adopted. If the interim implementation agreement can be finalized in time, the Service will include the existence of the plan in its determination of critical habitat for both the purposes of a 3(5)(A) determination and a 4(b)(2) determination. We are continuing to request comment on the Santa Rosa Plain Conservation Strategy, as requested in the proposed rule, the interim agreement and whether the Service should consider them in determinations under 4(b)(2) under the Act.

An area may be excluded from critical habitat if it is determined that the benefits of such exclusion outweigh the benefits of including the particular area as critical habitat, unless the failure to designate such area as critical habitat will result in the extinction of the species. We may exclude an area from designated critical habitat based on

economic impacts, national security, or any other relevant impact.

All previous comments and information submitted during the initial comment period on the August 2, 2005, proposed rule (70 FR 44301) and the reopened comment period following the October 25, 2005, notice of availability of the draft economic analysis (70 FR 61591) need not be resubmitted. If you wish to comment, you may submit your comments and materials concerning the draft economic analysis and the proposed rule by any one of several methods (see **ADDRESSES** section). Our final designation of critical habitat will take into consideration all comments and any additional information we received during both comment periods. On the basis of public comment on this analysis and on the critical habitat proposal, and the final economic analysis, we may, during the development of our final determination, find that areas proposed do not meet the definition of critical habitat, are appropriate for exclusion under section 4(b)(2) of the Act, or are not appropriate for exclusion.

Please submit electronic comments in an ASCII file format and avoid the use of special characters and encryption. Please also include "Attn: RIN 1018-AU23" and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home addresses from the rulemaking record, which we will honor to the extent allowable by law. In some circumstances, we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish for us to withhold your name and/or address, you must state this prominently at the beginning of your comments. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Comments and materials received, as well as supporting documentation used in preparation of the proposal to designate critical habitat, will be available for inspection, by appointment, during normal business

hours, at the Sacramento Fish and Wildlife Office (see **ADDRESSES**).

Copies of the proposed rule and draft economic analysis are available on the Internet at: <http://www.fws.gov/sacramento/>. You may also obtain copies of the proposed rule and economic analysis from the Sacramento Fish and Wildlife Office (see **ADDRESSES**), or by calling 916/414-6600.

## Background

### Previous Federal Actions

The Sonoma County Distinct Population Segment (DPS) of the California tiger salamander was emergency listed as endangered on July 22, 2002 (67 FR 47726). On March 19, 2003, we made a final determination of endangered status for the Sonoma County DPS of the California tiger salamander (68 FR 13498).

On August 2, 2005, we proposed to designate a total of 74,223 acres (30,037 hectares) as critical habitat in Sonoma County, California (70 FR 44301). The majority of the proposed designation occurs on privately owned lands. No known Tribal lands have been included in the proposed designation.

### Alternative Under Consideration

#### Current Proposal

We are considering a final designation of 21,298 ac (8,519 ha) or less due to an alternative methodology for identifying critical habitat and mapping refinements. We are also requesting information regarding possible exclusions under section 4(b)(2) of the Endangered Species Act (Act). See discussion below. Pursuant to court order, the final critical habitat rule is due to the **Federal Register** on December 1, 2005.

For information on the primary constituent elements (PCEs) for the California tiger salamander Sonoma County DPS, see the proposed rule (August 2, 2005; 70 FR 44301). The PCEs remain the same as in the proposed rule.

#### Methodology/Criteria To Identify the Alternative Under Consideration

In the proposed critical habitat rule for the Sonoma population of the California tiger salamander, we identified the historical and potential

range of the species in Sonoma County, utilizing all known breeding and adult locality data and GIS resources available to this office. We are currently taking into consideration comments received from the public and beginning to outline possible exclusions from habitat containing features essential to the conservation of the species as outlined below. In the course of these refinements, we have developed an alternative that we are now considering for designation.

Conserving California tiger salamanders over the long term requires a three-pronged approach: (1) Protecting the hydrology and water quality of breeding pools and ponds; (2) retaining or providing for connectivity between breeding locations for genetic exchange and recolonization; and (3) protecting sufficient upland habitat around each breeding location to allow for enough adult survival to maintain a breeding population over the long term. We have developed this alternative to focus on providing sufficient breeding and upland habitat to maintain and sustain existing populations of salamanders in documented breeding sites (vernal pool complexes) identified within Sonoma County.

The final listing rule identified the Sonoma County DPS California tiger salamander as occupying at least eight known breeding sites consisting of vernal pools, seasonal wetlands, and other water bodies surrounded by supporting upland and dispersal habitats (i.e., vernal pool complexes) with varying levels of fragmentation due to urban development. These complexes are generally described as the (1) Hall Road Preserve; (2) FEMA/ Broadmore North Preserve; (3) Engel Preserve; (4) Northwest Air Center; (5) Southwest Air Center; (6) North Air Center; (7) Wright Avenue; and (8) South Ludwig Avenue (68 FR 13498, March 19, 2003). These eight breeding sites (vernal pool complexes) are distributed in the City of Santa Rosa, and the immediate associated unincorporated areas, an area approximately 5 mi (8 km) by 4 mi (6 km) wide. California tiger salamanders were also known to occur south to the Cotati area. Four additional known breeding sites were converted into unsuitable habitat in the two years prior to listing, and a fifth breeding site near

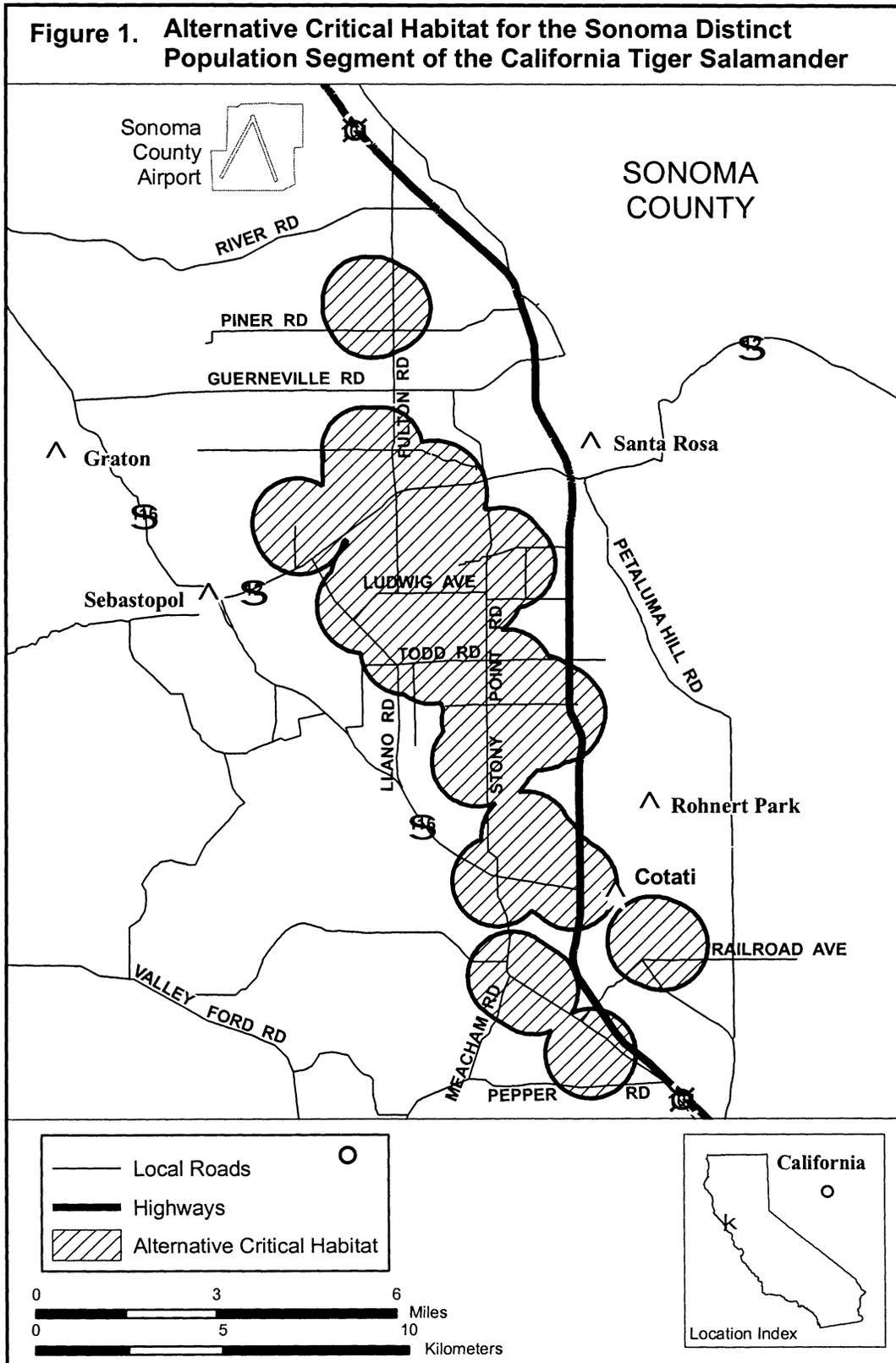
Cotati was converted to unsuitable habitat shortly after the emergency listing went into effect.

Consistent with the methodology used to map habitat containing features essential to the conservation of the Santa Barbara and Central populations of the California tiger salamander, we began mapping habitat by buffering known salamander breeding locations by a distance of 0.70 mi (1.1 km) to capture dispersal and upland habitat use. Trenham *et al.* (2001), investigated movements of California tiger salamanders between breeding ponds and projected that 0.70 mi (1.1 km) would encompass 99 percent of all interpond dispersal (Trenham *et al.* 2001).

Buffering known breeding sites by 0.70 m (1.1 km) will also encompass both the breeding habitat and the upland habitat surrounding the ponds where juvenile and adult California tiger salamanders live during the majority of their life cycle. California tiger salamanders frequently move from their breeding ponds in search of suitable upland refugia. A mark-recapture study demonstrated that California tiger salamanders commonly moved between ponds separated by 2,200 ft (671 m) (Trenham *et al.* 2001), and in another study, 16 percent of juvenile captures occurred at 2,296 ft (700 m) (Trenham *et al.* 2001). Trenham and Shaffer (in review) estimated that conserving upland habitats within 2,200 ft (671 m) of breeding ponds would protect 95 percent of California tiger salamanders at their study location in Solano County. Finally, a buffer of 0.70 m (1.1 km) will help protect breeding site watersheds, which is important for two reasons: (1) to ensure that the amount of water entering the pond is not altered in a manner that would allow for colonization of breeding sites by non-native predators, which can prey upon California tiger salamander eggs and larvae; and (2) to preserve water quality by minimizing the entry of sediments and other contaminants to the breeding ponds.

See Figure 1 for map of an alternative we are considering in our approach to this designation for the Sonoma County DPS of the California tiger salamander.

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BILLING CODE 4310-55-C

**New Information**

*Occupation Since Time of Listing*

We have new records of California tiger salamanders within the same

vernal pool complexes in which salamanders were known at the time of listing. We have also identified one additional breeding site containing a complex of vernal pools generally

described as the Duer/Kelly Farms site, located west of the Hall Road Preserve and north of the intersection of Highway 12 and Duer Road. Any of the breeding sites or vernal pool complexes may contain one or more breeding pools in a given year, and the number and location of breeding pools within a complex varies from one year to another. Individual salamanders have been detected both in breeding pools and in the surrounding uplands (e.g., road kills, trapping during surveys).

**Potential Exclusions**

There are no federal lands or approved habitat conservation plans within the proposed designation. The following exclusions to the alternative under section 4(b)(2) may be considered:

- Most or all of the alternative designation, on the basis of the conservation benefits that will be provided by the draft Santa Rosa Plain Conservation Strategy.

- Some or all of the alternative designation, on the basis of economics.

- Vernal pool preserves owned and managed by California Department of Fish and Game (acreage estimate currently unavailable).

- Conservation banks owned by private landowners and managed for the benefit of California tiger salamander and other vernal pool species (acreage estimate currently unavailable).

**Future Refinements**

At this time we are unable to further refine the attached map, however, we recognize that upland habitat features will influence California tiger salamander movements within a particular landscape. Therefore, where we have site-specific information on those features, such as land use, topography, and geologic landform, we intend to restrict the proposed essential habitat lines to reflect that information. Examples of features we intend to remove from the final designation of critical habitat would likely include: (1) Commercial or residential developed areas; (2) upland habitat separated from the breeding habitat by a substantial barrier (e.g., State Highway); (3) habitat types within dispersal distance unsuitable for California tiger salamanders; (4) areas that do not provide underground refugia because they cannot support small mammal burrowing systems due to geological

features; or (5) other such areas that do not contain sufficient PCEs to support the California tiger salamander.

**Economics**

The economic impact of the alternative on land development is \$195,863,729. The revised impact on transportation projects is \$426,000. The total revised cost of designation is thus \$196,289,729, or \$17,316,226 annualized over 20 years. In the event that portions of critical habitat within the urban growth boundaries are excluded, the cost drops to \$128,008,620. These findings are summarized in Table 1. Table 2 displays these impacts by census tract, as well as impacts if the portion of each tract within the urban growth boundary (UGB) is excluded.

**TABLE 1.—REVISED ECONOMIC IMPACTS OF DESIGNATION**

Land Development .....	\$195,863,729
Land Development (UGB excluded) .....	128,008,620
Transportation .....	426,000
Overall impact .....	196,289,729
Annualized Impact .....	17,316,226

**TABLE 2.—IMPACTS BY CENSUS TRACT**

FIPS	UGB not excluded		UGB excluded		Transportation impacts
	Surplus lost	Cumulative percentage	Surplus lost	Cumulative percentage	
06097153300 .....	\$125,612,192	64.1	\$80,588,264	63.0	\$0
06097153200 .....	29,722,184	79.3	23,572,824	81.4	426,000
06097151201 .....	18,746,038	88.9	9,252,835	88.6	0
06097153005 .....	9,863,633	93.9	7,005,753	94.1	0
06097151311 .....	4,707,828	96.3	980,615	97.9	0
06097151203 .....	2,979,555	97.8	2,775,813	96.2	0
06097151100 .....	1,164,227	98.4	1,164,227	97.1	0
06097151000 .....	930,563	98.9	930,563	98.6	0
06097151402 .....	807,866	99.3	640,000	99.1	0
06097151307 .....	643,695	99.6	514,830	100.0	0
06097153501 .....	572,914	99.9	572,896	99.6	0
06097152901 .....	89,037	100.0	10,000	100.0	0
06097151308 .....	13,999	100.0	.....	.....	0
06097153003 .....	10,000	100.0	.....	.....	0
06097152904 .....	0	100.0	.....	.....	0
06097151305 .....	0	100.0	0	100.0	0
06097151301 .....	0	100.0	0	100.0	0
06097151204 .....	0	100.0	0	100.0	0
06097153006 .....	0	100.0	.....	.....	0
06097153101 .....	0	100.0	.....	.....	0
06097153102 .....	0	100.0	.....	.....	0
<b>Total .....</b>	<b>195,863,729</b>	<b>.....</b>	<b>128,008,620</b>	<b>.....</b>	<b>426,000</b>

**Author**

The primary author of this notice is the staff of the Sacramento Fish and Wildlife Office.

**Authority**

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: November 10, 2005.

**Craig Manson,**

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 05-22781 Filed 11-16-05; 8:45 am]