

9.0 INDIAN TRUST ASSETS

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9.1. 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). Reclamation will comply with procedures contained in Departmental Manual Part 512.2, guidelines, which protect ITAs.

Further, 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 the DOI to perform its activities and programs in such a way as to protect ITAs and avoid adverse effects whenever possible (Bureau of Reclamation 2000).

A review of the Proposed Action was conducted to determine whether the Proposed Action has potential to affect ITAs. The Proposed Action is to execute a new long-term water service contract between the El Dorado County Water Agency (EDCWA) and Reclamation to implement those parts of Public Law 101 514, Section 206, pertaining specifically to EDCWA. Under this contract, up to 15,000 AFA of CVP water would be provided to EDCWA for diversion from Folsom Reservoir or for exchange on the American River upstream from Folsom Reservoir (Proposed Project). The contract would provide water that would serve M&I water needs in El Dorado County. EDCWA would, in turn, make water available to EID and GDPUD for M&I use within their respective service areas. Based on the information provided it is determined the Proposed Action does not have a potential to affect Indian Trust Assets. The nearest ITA's to the proposed project site is the Auburn Rancheria which is approximately 11 miles NW of the project location and the Shingle Springs Rancheria which is approximately 12 miles east of the project location.

9.2. ENVIRONMENTAL CONSEQUENCES

9.2.1. No Action

Under the no action alternative, there are no impacts on Indian Trust Assets, as no new facilities would be constructed and existing operations would continue to operate as has historically occurred.

9.2.2. Proposed Action

There are no tribes possessing legal property interests held in trust by the United States in the water involved with this action, nor is there such a property interest in the lands designated to receive the water proposed in this action. The nearest ITA to the proposed project site is the Auburn Rancheria which is approximately 11 miles NW of the project location and the Shingle Springs Rancheria which is approximately 12 miles east of the project location.

9.2.3. Cumulative Effects

There are no impacts on Indian Trust Assets as a result of the Proposed Action therefore the Proposed Action would not contribute to cumulative impacts on Indian Trust Assets.