

# Agency Letters





## APPENDIX E: AGENCY LETTERS

<b>Date</b>	<b>To</b>	<b>From</b>	<b>Subject</b>
10/11/2006	Matthew Jones, Jones & Stokes Associates	US Dept. of Interior Fish and Wildlife Service Endangered Species Division	Customized Species List Letter

**United States Department of the Interior**  
**FISH AND WILDLIFE SERVICE**



Sacramento Fish and Wildlife Office  
2800 Cottage Way, Room W-2605  
Sacramento, California 95825

October 11, 2006

Document Number: 061011104241

Matthew Jones  
Jones and Stokes Associates  
2841 Junction Avenue  
Suite 114  
San Jose, CA 95134

Subject: Species List for Silicon Valley Rapid Transit Corridor (SVRTC)

Dear: Mr. Jones

We are sending this official species list in response to your October 11, 2006 request for information about endangered and threatened species. The list covers the California counties and/or U.S. Geological Survey 7½ minute quad or quads you requested.

Our database was developed primarily to assist Federal agencies that are consulting with us. Therefore, our lists include all of the sensitive species that have been found in a certain area *and also ones that may be affected by projects in the area*. For example, a fish may be on the list for a quad if it lives somewhere downstream from that quad. Birds are included even if they only migrate through an area. In other words, we include all of the species we want people to consider when they do something that affects the environment.

Please read Important Information About Your Species List (below). It explains how we made the list and describes your responsibilities under the Endangered Species Act.

Our database is constantly updated as species are proposed, listed and delisted. If you address proposed and candidate species in your planning, this should not be a problem. However, we recommend that you get an updated list every 90 days. That would be January 09, 2007.

Please contact us if your project may affect endangered or threatened species or if you have any questions about the attached list or your responsibilities under the Endangered Species Act. A list of Endangered Species Program contacts can be found at [www.fws.gov/sacramento/es/branches.htm](http://www.fws.gov/sacramento/es/branches.htm).

Endangered Species Division



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: 061011104241  
Database Last Updated: October 3, 2006

**Species of Concern** - The Sacramento Fish & Wildlife Office no longer maintains a list of species of concern. However, various other agencies and organizations maintain lists of at-risk species. These lists provide essential information for land management planning and conservation efforts. See [www.fws.gov/sacramento/es/spp\\_concern.htm](http://www.fws.gov/sacramento/es/spp_concern.htm) for more information and links to these sensitive species lists.

**Red-Legged Frog Critical Habitat** - The Service has designated final critical habitat for the California red-legged frog. The designation became final on May 15, 2006. See our [map index](#).

## Species

### Listed Species

#### Invertebrates

*Branchinecta conservatio*

Conservancy fairy shrimp (E)

*Branchinecta lynchi*

vernal pool fairy shrimp (T)

*Euphydryas editha bayensis*

bay checkerspot butterfly (T)

*Lepidurus packardii*

Critical habitat, vernal pool tadpole shrimp (X)

vernal pool tadpole shrimp (E)

#### Fish

*Hypomesus transpacificus*

delta smelt (T)

*Oncorhynchus mykiss*

Central California Coastal steelhead (T) (NMFS)

Central Valley steelhead (T) (NMFS)

Critical habitat, Central California coastal steelhead (X) (NMFS)

*Oncorhynchus tshawytscha*

Central Valley spring-run chinook salmon (T) (NMFS)

winter-run chinook salmon, Sacramento River (E) (NMFS)

#### Amphibians

*Ambystoma californiense*

California tiger salamander, central population (T)

*Rana aurora draytonii*

California red-legged frog (T)

## Reptiles

*Masticophis lateralis euryxanthus*

Alameda whipsnake [=striped racer] (T)

Critical habitat, Alameda whipsnake (X)

## Birds

*Haliaeetus leucocephalus*

bald eagle (T)

*Rallus longirostris obsoletus*

California clapper rail (E)

*Sternula antillarum* (=Sterna, =albifrons) browni

California least tern (E)

## Mammals

*Reithrodontomys raviventris*

salt marsh harvest mouse (E)

*Vulpes macrotis mutica*

San Joaquin kit fox (E)

## Plants

*Lasthenia conjugens*

Contra Costa goldfields (E)

Critical habitat, Contra Costa goldfields (X)

## Candidate Species

### Fish

*Oncorhynchus tshawytscha*

Central Valley fall/late fall-run chinook salmon (C) (NMFS)

Critical habitat, Central Valley fall/late fall-run chinook (C) (NMFS)

## Selected Quads

MILPITAS (427B) SAN JOSE WEST (427C) NILES (446C)

## 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

## Important Information About Your Species List

### How We Make Species Lists

We store information about endangered and threatened species lists by U.S. Geological Survey [7½ minute quads](#). The United States is divided into these quads, which are about the size of San Francisco.

The animals on your species list are ones that occur within, **or may be affected by** projects within, the quads covered by the list.

- Fish and other aquatic species appear on your list if they are in the same watershed as your quad or if water use in your quad might affect them.
- Amphibians will be on the list for a quad or county if pesticides applied in that area may be carried to their habitat by air currents.
- Birds are shown regardless of whether they are resident or migratory. Relevant birds on the county list should be considered regardless of whether they appear on a quad list.

### Plants

Any plants on your list are ones that have actually been observed in the area covered by the list. Plants may exist in an area without ever having been detected there. You can find out what's in the nine surrounding quads through the California Native Plant Society's online [Inventory of Rare and Endangered Plants](#).

### Surveying

Some of the species on your list may not be affected by your project. A trained biologist or botanist, familiar with the habitat requirements of the species on your list, should determine whether they or habitats suitable for them may be affected by your project. We recommend that your surveys include any proposed and candidate species on your list.

For plant surveys, we recommend using the [Guidelines for Conducting and Reporting Botanical Inventories](#). The results of your surveys should be published in any environmental documents prepared for your project.

### Your Responsibilities Under the Endangered Species Act

All animals identified as listed above are fully protected under the Endangered Species Act of 1973, amended. Section 9 of the Act and its implementing regulations prohibit the take of a federally listed wildlife species. Take is defined by the Act as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect" any such animal.

Take may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or shelter (50 CFR §17.3).

### Take incidental to an otherwise lawful activity may be authorized by or of two procedures:

- If a Federal agency is involved with the permitting, funding, or carrying out of a project that may result in take, then that agency must engage in a formal [consultation](#) with the Service.

During formal consultation, the Federal agency, the applicant and the Service work together to avoid or minimize the impact on listed species and their habitat. Such consultation would result

in a biological opinion by the Service addressing the anticipated effect of the project on listed proposed species. The opinion may authorize a limited level of incidental take.

- If no Federal agency is involved with the project, and federally listed species may be taken as part of the project, then you, the applicant, should apply for an incidental take permit. The Service may issue such a permit if you submit a satisfactory conservation plan for the species that would be affected by your project.

Should your survey determine that federally listed or proposed species occur in the area and are likely to be affected by the project, we recommend that you work with this office and the California Department of Fish and Game to develop a plan that minimizes the project's direct and indirect impacts to listed species and compensates for project-related loss of habitat. You should include the plan in any environmental documents you file.

## **Critical Habitat**

When a species is listed as endangered or threatened, areas of habitat considered essential to its conservation may be designated as critical habitat. These areas may require special management considerations or protection. They provide needed space for growth and normal behavior; food, water, air, light, other nutritional or physiological requirements; cover or shelter; and sites for breeding, reproduction, rearing of offspring, germination or seed dispersal.

Although critical habitat may be designated on private or State lands, activities on these lands are not restricted unless there is Federal involvement in the activities or direct harm to listed wildlife.

If any species has proposed or designated critical habitat within a quad, there will be a separate line for this on the species list. Boundary descriptions of the critical habitat may be found in the Federal Register. The information is also reprinted in the Code of Federal Regulations (50 CFR 17.95). See our [critical habitat page](#) for maps.

## **Candidate Species**

We recommend that you address impacts to candidate species. We put plants and animals on our candidate list when we have enough scientific information to eventually propose them for listing as threatened or endangered. By considering these species early in your planning process you may be able to avoid the problems that could develop if one of these candidates was listed before the end of your project.

## **Wetlands**

If your project will impact wetlands, riparian habitat, or other jurisdictional waters as defined by section 404 of the Clean Water Act and/or section 10 of the Rivers and Harbors Act, you will need to obtain a permit from the U.S. Army Corps of Engineers. Impacts to wetland habitats require site specific mitigation and monitoring. For questions regarding wetlands, please contact Mark Littlefield in this office at (916) 414-6580.

## **Updates**

Our database is constantly updated as species are proposed, listed and delisted. If you address proposed and candidate species in your planning, this should not be a problem. However, we recommend that you get an updated list every 90 days. That would be January 09, 2007.