US Fish & Wildlife Service
Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, CA 95825-1846
(916) 414-6600
FAX (916) 414-6612

CA Dept. of Fish & Game
1416 Ninth Street
12th Floor
Sacramento, CA 94244-2090
(916) 653-9767
FAX (916) 653-2588

MAY 1 6 2006

Mr. Mike Reilly
Co-Chairman
Santa Rosa Plain Conservation Strategy
Implementation Committee
575 Administration Drive
Santa Rosa, California 95403

Mr. Jake Mackenzie
Co-Chairman
Santa Rosa Plain Conservation Strategy
Implementation Committee
6750 Commerce Boulevard
Rohnert Park, CA 94928-2486

Dear Messrs. Reilly and Mackenzie:

The purpose of this correspondence is to amend our June 29, 2005 letter that provided guidance to local jurisdictions regarding the U.S. Fish and Wildlife Service's (FWS) and California Department of Fish and Game's (DFG) approach to mitigate for potential impacts to the California tiger salamander (CTS), listed plants and their habitat associated with development on the Santa Rosa Plain. Coordination of Federal, State and local efforts to preserve the species and provide a consistent approach for mitigation remain vital to the long term conservation of the listed species.

As you know, the Santa Rosa Plain Conservation Strategy (Conservation Strategy) was finalized on December 1, 2005. Members of the Santa Rosa Conservation Strategy team included representatives from: U.S. Army Corps of Engineers, U.S. Environmental Protection Agency, North Coast Regional Water Quality Control Board, local jurisdictions, the Laguna de Santa Rosa Foundation, environmental organizations and the private landowner community. The Conservation Strategy utilized historical and projected data relating to land use and development and peer-reviewed biology that considered the conservation of CTS and listed plants. The Conservation Strategy underwent both scientific peer review and public review.

While the implementation process has yet to be completed, the Conservation Strategy provides the FWS and DFG with guidelines for mitigation of individual projects. The FWS and DFG will work with the local jurisdictions and other stakeholders in the Santa Rosa Plain to implement the Conservation Strategy. However, in the interim, it is crucial that the jurisdictions continue to coordinate their efforts to ensure that mitigation as part of the project review process at the federal, state and local level is consistent with the long term conservation goals identified in the Conservation Strategy.

The FWS and DFG encourage the jurisdictions through the Implementation Committee to begin as soon as possible to develop the Implementation Plan for the Conservation Strategy, including any necessary California Environmental Quality Act (CEQA) documents and ordinances. This is imperative to meet the jurisdictions' timetable to adopt the Conservation Strategy and Implementation Plan within 24 months of the effective date of the recently passed resolutions and Planning Agreements.

The FWS and DFG will follow the interim mitigation guidelines (Enclosure 1) that have been developed as part of the Conservation Strategy. The Conservation Strategy identified these guidelines as appropriate "Interim Mitigation" that applies to all projects including linear projects. The interim approach incorporates the following: mitigation ratios based on proximity to CTS breeding pools and adult observations, the existing Plant Programmatic Biological Opinion, standards for the establishment of proposed preserve sites, guidelines regarding the use of mitigation banks, minimization measures, management and enhancement of habitat and translocation of the species. The existing plant programmatic biological opinion will be used until a new programmatic biological opinion is developed for listed plants and CTS.

The Conservation Strategy and the interim mitigation guidelines were developed by evaluating the impacts of all reasonably foreseeable projects within the Conservation Strategy Study Area. Use of the interim mitigation guidelines will fully mitigate impacts of projects to CTS under CEQA, including direct and cumulative impacts of each project. It is our understanding that the local jurisdictions will accept the interim mitigation guidelines as sufficient mitigation for CTS impacts in connection with their evaluation of individual projects under CEQA. FWS and DFG will use the maps attached to the Conservation Strategy to implement the interim mitigation guidelines, subject to the exceptions stated in the guidelines.

A change from the June 29, 2005 letter is the inclusion of mitigation for impacts to potential CTS habitat. Figure 3 of the Conservation Strategy identifies areas of the Santa Rosa Plain as "Potential for Presence of CTS and/or plants". Mitigation for impacts to potential CTS habitat in these areas could be satisfied at a 0.2 to 1 ratio (i.e. at a mitigation bank or mitigation site with funding for restoration and long-term management if applicable). Alternatively the applicant could pay into a Species Fund managed by the California Wildlife Foundation an amount equal to the cost of mitigation plus a 2.5% administrative cost (Enclosure 2). This approach provides an alternative to surveys for areas that are outside of the 1.3 miles from known breeding sites, and for areas that the potential for CTS is unknown This species contribution does not address mitigation obligations for wetland or listed plant impacts. The funds will be used to secure additional sites for conservation or for the enhancement of FWS and DFG approved sites within the Santa Rosa Plain. In these areas, project proponents also have the option of conducting two years of protocol level surveys to demonstrate absence of CTS.

At some locations, within 1.3 miles of known breeding, protocol level surveys may be appropriate. The October 2003 *Interim Guidelines on Conducting Site Assessments and Field Surveys for Determining Presence or A Negative Finding of the California Tiger Salamander* will be used.

FWS and DFG are developing a programmatic biological opinion with the Corps of Engineers based on the Conservation Strategy. The programmatic biological opinion will include mitigation measures that promote conservation and contribute to the recovery of the listed species. It is important that the local jurisdictions provide information that would allow for timely completion of this programmatic biological opinion. The

information needed includes: 1) types of ministerial projects; 2) tracking methods for these projects; 3) level of impact for these projects; 4) agricultural activities; and 5) other types of projects that the jurisdictions' would like included in the analysis of the programmatic biological opinion.

Following the interim mitigation guidelines will ensure the development of a network of preserves, provide increased conservation, and contribute to the recovery of these listed species.

If you have any questions about the FWS and DFG's interim mitigation approach for the Santa Rosa Plain, please contact Cay C. Goude with FWS at (916) 414-6600 or Carl Wilcox with DFG at (707) 944-5525.

Sincerely,

Susan K. Moore
Acting Field Supervisor
Sacramento Fish and Wildlife Office

Robert W. Floerke
Regional Manager
Central Coast Region
California Dept. of Fish & Game

Enclosures

Interim Mitigation Guidelines

Areas being proposed for development will follow the interim guidelines. However, they will require individual evaluations. The extent of the evaluation will depend on the complexity of the project(s) and level of adverse effects to the species.

Prior to approval of an Implementation Plan of the Conservation Strategy, FWS and DFG will apply the following interim mitigation guidelines. The Interim mitigation guidelines shall apply to all projects that may result in "take" of the CTS as defined in the federal ESA, including linear projects. Where appropriate, the USACE, USEPA, and NCRWQCB will also apply these guidelines, and local jurisdictions may apply these mitigation guidelines in connection with any evaluation performed under the California Environmental Quality Act. Unless otherwise shown on the map attached to the Conservation Strategy as Figure 3, mitigation for CTS will be required for all projects within 1.3 miles of known breeding sites as long as the project site supports potential CTS habitat. This map will be updated quarterly with new information. Any project applicant may attempt to establish that the location, configuration, or attributes of the project site are such that the project is not likely to affect CTS. FWS and DFG will evaluate such sites, and may determine that the proposed project is not likely to affect CTS or listed plants. Generally, distance from breeding sites is the determining factor for establishing mitigation ratios, as most CTS remain in the vicinity of their birth sites and return as adults to breed (see Final Conservation Strategy Section 4.3). Surveys may be appropriate at some locations within 1.3 miles of known breeding, however the October 2003 *Interim Guidelines on Conducting Site Assessments and Field Surveys for Determining Presence or A Negative Finding of the California Tiger Salamander* will be used and should not be initiated until recommended by the FWS and DFG. The FWS maintains the authority to determine if a project may affect or result in "take" of CTS.

Other elements of the Final Conservation Strategy that will be applied during this interim period include the following:

Preserve evaluation criteria
Mitigation banking
Management and enhancement of habitat
Translocation of listed species
Minimization measures

The existing programmatic biological opinion for listed plants will also be applied, where appropriate.

During this interim period, FWS and DFG will apply the following mitigation ratios:

Mitigation of 3:1 – For projects that are within 500 feet of a known breeding site

Mitigation of 2:1 – For projects that are greater than 500 feet, and within 2200 feet of a known breeding site, and for projects beyond 2200 feet from a known breeding site, but within 500 feet of an adult occurrence.

Mitigation of 1:1 – For projects that are greater than 2200 feet, and within 1.3 miles of a known breeding site.

Mitigation of 0.2:1 – For projects in areas shown on Figure 3 as "Potential for Presence of CTS" or "Potential for Presence of CTS and Listed Plants" Unless it has been determined by FWS and DFG that the project is not likely to affect CTS. Mitigation for impacts to potential CTS habitat in these areas could be satisfied at a 0.2 to 1 ratio (i.e. at a mitigation bank or mitigation site with funding for restoration and long-term management if applicable). Alternatively the applicant could pay into a Species Fund managed by the California Wildlife Foundation an amount equal to the cost of mitigation plus a 2.5% administrative cost (Enclosure 2). A project proponent may choose to conduct protocol level surveys to determine CTS presence or absence rather than mitigate. In the event CTS is found, CTS mitigation shall be as outlined above. If no CTS are found, no CTS mitigation will be required.

Enclosure 2

Mitigation for CTS in areas designated as Potential California Tiger Salamander habitat within the Santa Rosa Plain Conservation Strategy Planning Area (Shown on Figure 3) and Santa Rosa Mitigation Fund Calculation

Projects which would adversely affect Potential CTS habitat within the Santa Rosa Plain Conservation Strategy planning area, as shown on Figure 3 of the Strategy, can either survey according to the CTS survey protocol and depending upon the results mitigate appropriately, or mitigate at a ratio of 0.2:1 for each acre of potential habitat loss. This mitigation ratio can be satisfied by acquiring or protecting an equivalent amount of habitat through the purchase of mitigation credits at an approved CTS conservation bank or protecting the appropriate amount of habitat at a mitigation site (i.e. with funding for restoration and support of a long-term management plan if applicable), or contributing to the Santa Rosa Plan Conservation Fund, administered by the California Wildlife Foundation (CWF). Use of the fund is generally intended for smaller projects of 15 acres or less. Larger projects are strongly urged to use a mitigation bank or a project specific mitigation site. Use of the fund is subject to the approval of the U.S. Fish and Wildlife Service (FWS) and the Department of Fish and Game (DFG).

The fund contribution is calculated based on the following formula.

Current estimated cost of preserving 1 acre of CTS habitat is $135,000[1].

0.2 X 135,000 = $27,000 + $675 (2.5% CWF admin. Charge) = $27,675

To calculate the total contribution $27,675 should be multiplied by the number of acres lost.

The Fund will be used to implement the Santa Rosa Plain Conservation Strategy by acquiring habitat, restoring or enhancing habitat, or conducting research to further the recovery of CTS on the Santa Rosa Plain.

Contributing to the Fund does not eliminate the need to mitigate for impacts to wetlands or endangered plants which may result from the proposed project.

To arrange for a fund payment, project proponents can contact:

Mr. Stephen Dunn
California Wildlife Foundation
1212 Broadway, Suite 840
Oakland, California, 94612
510-268-1828

When a payment is made CWF will provide a receipt to the payee to document the payment. Once the payment has been made and verified by the FWS, they will notify the appropriate planning Department that the project's impacts to CTS have been adequately addressed. DFG will track the parcels for which contributions have been made.

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[1] The estimated cost will be adjusted quarterly to reflect current costs.