



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO CA 95814-2922

PAS
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RECEIVED

MAR 09 2010

TRLIA

March 2, 2010

Regulatory Division SPK-2004-00685

Mr. Charles K. McClain
TRLIA
Executive Director
Marysville, California 95901

Dear Mr. McClain:

We are responding to your June 19, 2007 request to modify your Department of the Army permit number SPK-2004-00685. The permit was issued on October 4, 2005 for strengthening the WPIC levee system and setting back the Bear River north levee between the WPIC and confluence with the Feather River. The project is located on or near Bear River, Section 20, Township 14 North, Range 4 East, MDB&M Survey, Latitude 39.0174487171914°, Longitude -121.541086000925°, Marysville, Yuba County, California. The modification request involved a number of seasonal wetlands, approximately 0.27 acres, identified for restoration that are located on private property on the land side of the WPIC.

Permit number SPK-2004-00685 is hereby modified as follows:

Special Conditions:

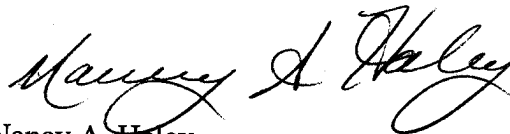
12. This Corps permit does not authorize you to take an endangered species, in particular giant garter snake (*Thamnophis gigas*), vernal pool fairy shrimp (*Branchinecta lynchi*), vernal pool tadpole shrimp (*Lepidurus packardii*), central valley steelhead (*Oncorhynchus mykiss*), central valley spring-run chinook salmon (*Oncorhynchus tshawytscha*), valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), or designated critical habitat. In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (e.g., an Endangered Species Act Section 10 permit, or a Biological Opinion under Endangered Species Act Section 7, with "incidental take" provisions with which you must comply). The enclosed Fish and Wildlife Service Biological Opinion (Number 1-1-07-F-0331, dated September 27, 2007) and National Marine Fisheries Service Biological Opinion (Number 151422SWR05SA20094:HLB, dated July 15, 2005), contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with "incidental take" that is also specified in the Biological Opinions. Your authorization under this Corps permit is conditional upon your compliance with all of the mandatory terms and conditions associated with "incidental take" of the attached Biological Opinions, which terms and conditions are incorporated by reference in this permit. Failure to comply with the terms and conditions associated with incidental take of the Biological Opinions, where a take of the listed species

occurs, would constitute an unauthorized take, and it would also constitute non-compliance with your Corps permit. The Fish and Wildlife Service and the National Marine Fisheries Service are the appropriate authority to determine compliance with the terms and conditions of its Biological Opinion, and with the Endangered Species Act. The permittee must comply with all conditions of this Biological Opinion, including those ascribed to the Corps.

All other terms and conditions of the permit remain in full force and effect. Failure to comply with the terms and conditions of this authorization may result in the suspension or revocation of your permit.

Please refer to identification number SPK-2004-00685 in any correspondence concerning this project. If you have any questions, please contact Mr. Brian Vierra at our California North Branch Office, 1325 J Street, Room 1480, Sacramento, California 95814, email Brian.E.Vierra@usace.army.mil, or telephone 916-557-7728. For more information regarding our program, please visit our website at www.spk.usace.army.mil/regulatory.html.

Sincerely,



Nancy A. Haley
Chief, California North Branch

Enclosure

Copy Furnished without enclosure:

Ms. Danielle Wilson, ICF, 630 K Street, Suite 400, Sacramento, California 95814

Ms. Anja Raudabaugh, PBS&J, 1410 Rocky Ridge Drive, Suite 190, Roseville, California 95661