



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

REPLY TO
ATTENTION OF

September 8, 2010

Regulatory Division (SPK-2010-00744)

Ms. Michelle Beachley
DWR, Division of Environmental Services
3500 Industrial Blvd
West Sacramento, California 95691

Dear Ms. Beachley:

We are responding to your June 14, 2010 request for a Department of the Army permit for the "Geotechnical Engineering Studies for the Bay Delta Conservation Plan and/or for Preliminary Engineering Studies for the Delta Habitat Conservation and Conveyance Program" project (hereafter, the "Project"). The Project is located along a north-south transect extending from north of Clarksburg, Yolo County, California, to the Clifton Court Forebay, Contra Costa County, California.

The Project will require 103 geotechnical borings in the Delta waters. 73 of these borings will occur in the Sacramento River to obtain information for 5 proposed intake structures for water conveyance facilities associated with the Bay Delta Conservation Plan. The remainder of the borings are planned for the 12 major water crossings along the planned Pipeline/Tunnel Option conceptual alignment, and for docking facilities. The depths of borings are planned to range between 100 and 200-feet below the mud line (i.e., river bottom).

Based on the information you provided, the proposed activity, resulting in cumulative impacts to approximately 0.0000824 acre of waters of the United States, including the Sacramento River, Columbia Cutoff, Connection Slough, Dutch Slough, Fourteen Mile Slough, Georgiana Slough, Middle River, North Fork Mokelumne River, Old River, Potato Slough, Railroad Cut, South Fork Mokelumne River, Steamboat Slough, Victoria Canal, and Woodward Canal, is authorized by Nationwide Permit Number 6 for Survey Activities. Your work must comply with the general terms and conditions listed on the enclosed Nationwide Permit information sheets and the following special conditions:

Special Conditions

1. This Corps permit does not authorize you to take an endangered species, in particular California red-legged frog (*Rana aurora draytonii*), giant garter snake (*Thamnophis gigas*), delta smelt (*Hypomesus transpacificus*), valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), San Joaquin kit fox (*Vulpes macrotis mutica*), California clapper rail (*Rallus longirostris obsoletus*), least Bell's vireo (*Vireo bellii pusillus*), California least tern (*Sternula antillarum browni*), western snowy plover (*Charadrius alexandrinus nivosus*), California tiger

salamander (*Ambystoma californiense*), 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 Fish and Wildlife Service Biological Opinion (Number 81410-2010-F-0022, dated September 3, 2010), 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 Opinion. 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 Opinion, 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 Opinion, 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 is the appropriate authority to determine compliance with the terms and conditions of its Biological Opinion, and with the Endangered Species Act. You must comply with all conditions of this Biological Opinion, including those ascribed to the Corps.

2. To further insure your project complies with the Federal Endangered Species Act, you must implement all of the mitigating measures identified in the enclosed National Marine Fisheries Service letter of concurrence (Number #2010/03292, dated August 18, 2010), including those ascribed to the Corps therein. If you are unable to implement any of these measures, you must immediately notify this office and the National Marine Fisheries Service so we may consult as appropriate, prior to initiating the work, in accordance with Federal law.

3. You must allow representatives from the Corps of Engineers to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

4. All terms and conditions of the June 21, 2010 Section 401 Water Quality Certification are expressly incorporated as conditions of this permit.

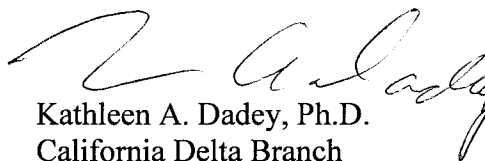
You must sign the enclosed Compliance Certification and return it to this office within 30 days after completion of the authorized work.

This verification is valid for two years from the date of this letter or until the Nationwide Permit is modified, reissued, or revoked, whichever comes first. All of the existing NWP's are scheduled to be modified, reissued, or revoked prior to March 18, 2012. It is incumbent upon you to remain informed of changes to the NWP's. We will issue a public notice when the NWP's are reissued. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant NWP is modified or revoked, you will have twelve (12) months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this nationwide permit. Failure to comply with the General Conditions of this Nationwide Permit, or the project-specific Special Conditions of this authorization, may result in the suspension or revocation of your authorization.

We appreciate your feedback. At your earliest convenience, please tell us how we are doing by completing the customer survey on our website under *Customer Service Survey*.

Please refer to identification number SPK-2010-00744 in any correspondence concerning this project. If you have any questions, please contact Daniel Neal by e-mail to *Daniel.P.Neal@usace.army.mil*, or by telephone at 916-557-7901. For more information regarding our program, please visit our website at *www.spk.usace.army.mil/regulatory.html*.

Sincerely,



Kathleen A. Dadey, Ph.D.
California Delta Branch

Enclosure

Copy Furnished without enclosure

Mr. William Marshall, Storm Water and Water Quality Certification Unit, Central Valley
Regional Water Quality Control Board, 11020 Sun Center Drive #200, Rancho Cordova,
California 95670

Mr. Kent Smith, California Department of Fish and Game Region 2, 1701 Nimbus Drive,
Rancho Cordova, California 95670-4599

Mr. Rodney R. McInnis, Regional Administrator, Sacramento Area Office, National Marine
Fisheries Service, 650 Capitol Mall, Suite 8-300, Sacramento, California 95814-4706

Ms. Jennifer Norris, U.S. Fish and Wildlife Service, Endangered Species Division, 650 Capitol
Mall, 5th Floor, Sacramento, California 95814

COMPLIANCE CERTIFICATION

Permit File Number: SPK-2010-00744

Nationwide Permit Number: 6

Permittee: Dean Messer
DWR, Division of Environmental Services
P.O. Box 942836
Sacramento, California 95236-0001

County: San Joaquin

Date of Verification: September 8, 2010

Within 30 days after completion of the activity authorized by this permit, sign this certification and return it to the following address:

U.S. Army Corps of Engineers
Sacramento District
1325 J Street, Room 1480
Sacramento, California 95814-2922
DLLS-CESPK-RD-Compliance@usace.army.mil

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with the terms and conditions of the permit your authorization may be suspended, modified, or revoked. If you have any questions about this certification, please contact the Corps of Engineers.

I hereby certify that the work authorized by the above-referenced permit, including all the required mitigation, was completed in accordance with the terms and conditions of the permit verification.

Signature of Permittee

Date