



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO, CALIFORNIA 95814-2922
May 1, 2001

Regulatory Branch (199200719)

Osa L. Armi
Shute, Mihaly & Weinberger, LLP
Attorneys at Law
396 Hayes Street
San Francisco, California 94102-4484

Dear Ms. Osa:

In response to your April 3, 2001, letter, on behalf of the Sacramento Area Flood Control Agency, we have modified Special Condition "m" of Department of the Army permit 199200719 to read as follows:

m. This Corps permit does not authorize you to take an endangered species. 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 the Endangered Species Act Section 7, with "incidental take" provisions with which you must comply). The enclosed U.S. Fish and Wildlife Service's (USFWS) March 11, 1994, Biological Opinion (1-1-94-F-13) and subsequent amendments of January 6, 1998 (1-1-98-I-495) and March 5, 2001 (1-1-01-F-0031), which contain 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. However, the USFWS is the appropriate authority to determine compliance with the terms and conditions of the Biological Opinion, and with the Endangered Species Act. For further clarification on this point, you should contact the USFWS. Should the USFWS determine that the conditions of the Biological Opinion have been violated, normally the USFWS will enforce the violation of the Endangered Species Act, or refer the matter to the Department of Justice. The permittee assumes the responsibility for compliance with all conditions including those ascribed to the Corps therein.

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All other terms and conditions of the permit remain in full force and effect. Please refer to number 199200719 in any correspondence concerning this project. If you have any questions, please write to Mr. Justin Cutler, Room 1480 at the letterhead address, or email jcutler@spk.usace.army.mil, or telephone (916) 557-5258.

Sincerely,



Art Champ
Chief, Regulatory Branch

Enclosures

Copy Furnished w/ Enclosures:

F.I. Hodgkins, Executive Director, Sacramento Area Flood Control Agency, 1007 7th Street,
5th Floor, Sacramento, California 95814-3407

Copy Furnished w/o Enclosures:

Jan Knight, Chief, Endangered Species Division, U.S. Fish and Wildlife Service, 2800
Cottage Way, Suite W-2605, Sacramento, California 95825-1846