



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825-1846



In Reply Refer To:
81420-2009-F-0890-R004

FEB 3 2011

Ms. Alicia Kirchner
Chief, Planning Division
U.S. Army Corps of Engineers, Sacramento District
1325 J Street
Sacramento, California 95814

Subject: Re-initiation of Section 7 Programmatic Formal Consultation on the Natomas Levee Improvement Program, Landside Improvements Project Phase 3, Sacramento and Sutter Counties, California

Dear Ms. Kirchner:

This is in response to your January 24, 2011, request to re-initiate formal consultation with the U.S. Fish and Wildlife Service (Service) on the Natomas Levee Improvement Program, Landside Improvements Project in Sacramento and Sutter Counties, California. Your request was received in our office on January 24, 2011. These changes to the Phase 3 biological opinion address changes to the project description involving increasing the number of elderberry shrubs, habitat for the federally threatened valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), that would be affected by the project. Additional elderberry shrubs were located within the project footprint on property to which the Sacramento Area Flood Control Agency (SAFCA) has only recently acquired access. This amended biological opinion is issued under the authority of section 7(a)(2) the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act).

On October 9, 2008, the Service issued a programmatic biological opinion (81420-2008-F-0195-5) on the Landside Improvements Project. Effects of the Phase 2 portion of the proposed project were analyzed within the programmatic. On September 28, 2009, the Service tiered off the programmatic biological opinion and issued a biological opinion (81420-2009-F-0890-1) for Phase 3. The U.S. Army Corps of Engineers (Corps) and SAFCA are proposing changes to the Phase 3 project description.

**TAKE PRIDE[®]
IN AMERICA** 

Therefore, the Phase 3 (81420-2009-F-0890-1) biological opinion is now amended as follows:

Page 14: Include following paragraphs at the end of the **Phase 3 Construction on New GGS/Drainage Canal** section:

In order to provide irrigation water to nearby agricultural fields by the beginning of the irrigation season (April 15) construction of an intake structure, box culvert, agricultural irrigation field gate, and ditch re-lining in Reservoir Road Ditch need to be completed after October 1, 2010, and prior to April 15, 2011. A concrete flashboard vault and slide gate will be installed into Reservoir Road Ditch to divert water from the Schoolhouse Road Pipeline and to the lower GGS/Drainage Canal. The intake vault will require the installation of a cofferdam and overflow drain to Jacobs Slough, demolition of a portion of the existing Reservoir Road Ditch concrete flume, excavation (about 15 feet deep and 45 feet wide), construction of the inlet structure, earthwork and backfilling operations, and surface restoration. The lower GGS/Drainage Canal will pass under Reservoir Road Ditch through a box culvert. The 8-foot by 6-foot box culvert, measuring 140 linear feet, would pass under the existing Reservoir Road Ditch and concrete flume. The box culvert will require the installation of a cofferdam and overflow drain to Jacobs Slough, demolition of a portion of the existing Reservoir Road Ditch concrete flume, excavation (about 20 feet deep and 45 feet wide), construction of the box culvert and wing walls, earthwork and backfilling operations, and surface restoration. The box culvert will be constructed concurrently with the intake structure. An agricultural irrigation field gate is located east of the intake structure and will be replaced as part of the construction in the area. Reservoir Road Ditch is concrete-lined which will require removal during construction of the intake structure and box culvert construction. About 400 feet of the Reservoir Road Ditch, from Schoolhouse Road east to the agricultural irrigation field gate will be cleared of existing concrete, regraded, and then relined with concrete.

Much of the surrounding area has been disturbed to create haul routes as part of the construction of the lower GGS/Drainage Canal prior to the inactive season. About 0.09 acre of upland giant garter snake habitat would be permanently affected and 0.06 acre of aquatic giant garter snake habitat would be temporarily affected by construction of the intake structure, box culvert, agricultural field gate, and re-lining of Reservoir Road Ditch during the giant garter snake's inactive season.

Page 22: Change fourth paragraph under *Airport North Borrow Sites* from:

Three culverts will be placed in Site 6 and drain into the P4 Drain. Riprap will be placed within the channel of the P4 Drain, under the culverts to provide erosion protection. Drainage for Site 2A will occur with installation of a culvert from Site 2A to Site 2 under upland habitat. A culvert for Site 2 is being constructed under Phase 2.

To:

Three culverts will be placed in Site 6 and drain into the P4 Drain. Riprap will be placed within the channel of the P4 Drain, under the culverts to provide erosion protection. Drainage for Site 2A will occur with installation of a culvert from Site 2A to Site 2 under upland habitat. A culvert for Site 2 is being constructed under Phase 2. The three culverts at Site 6 will be constructed after October 1, 2010, and prior to May 1, 2011. This would affect about 0.05 acre of giant garter snake upland habitat permanently and 0.05 acre of giant garter snake aquatic habitat temporarily during the giant garter snake's inactive season.

On page 40, add the following paragraph after the 2nd paragraph of Giant Garter Snake Effects section:

Construction of the components in Reservoir Road Ditch and construction of three drainage culverts at Airport North Borrow Site 6 will occur outside of the giant garter snake active season (May 1 to October 1). Given that giant garter snakes are generally inactive during the winter months, SAFCA's working during the inactive season would kill giant garter snakes that may be overwintering within the construction footprint. SAFCA has erected exclusion fencing near all the proposed construction sites, however, it is possible that snakes may have moved into the construction areas from the water and could be overwintering. SAFCA has proposed to compensate for permanent upland habitat loss of 0.14 acre that occurs in the giant garter snake's inactive season by creating 0.84 acre of habitat near Fisherman's Lake as part of the Phase 4a project and placing a conservation easement on the property. Creation of marsh within this area will provide long-term benefits to the Natomas Basin by permanently protecting and increasing marsh habitat within the Natomas Basin for giant garter snakes.

REINITIATION - CLOSING STATEMENT

This concludes formal consultation with the Corps on the Natomas Levee Improvement Project Phases 3. As provided in 50 CFR 402.16, re-initiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been maintained (or is authorized by law) and if: (1) the amount or extent of incidental take is exceeded; (2) new information reveals effects of the proposed action may affect listed species or critical habitat in a manner or to an extent not considered in this opinion; (3) the agency action is subsequently modified in a manner that causes an effect to listed species or critical habitat that was not considered in this opinion; or (4) a new species or critical habitat is designated that may be affected by the proposed action.

Ms. Alicia Kirchner

4

If you have any questions regarding this biological opinion on the Natomas Landside Improvements Project, please contact Jennifer Hobbs at (916) 414-6541 or Acting Branch Chief, Sacramento Valley Branch at (916) 414-6645.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan K. Moore". The signature is fluid and cursive, with a large initial "S" and "M".

fol Susan K. Moore
Field Supervisor

cc:

Elizabeth Holland, Corps, Sacramento, CA
Patrick Moeszinger, CDFG, Sacramento, CA
Peter Buck, SAFCA, Sacramento, CA
Kelly Holland, AECOM, Sacramento, CA