



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-R007

SEP 26 2012

Ms. Elizabeth Holland
Senior Environmental Manager
U.S. Army Corps of Engineers, Sacramento District
1325 J Street
Sacramento, California 95814

Subject: Reinitiation of Formal Consultation on the Natomas Levee Improvement Program's Landside Improvements Phase 3 Project, Sacramento and Sutter Counties, California

Dear Ms. Holland:

This is in response to your September 17, 2012, request to reinitiate formal consultation with the U.S. Fish and Wildlife Service (Service) for a seventh time on the Natomas Levee Improvement Program (NLIP), Landside Improvements Project, Phase 3 (Phase 3 Project) in Sacramento and Sutter Counties, California. Your request was received in our office on September 17, 2012. The Phase 3 Project biological opinion (81420-2009-F-0890-1) was completed on September 28, 2009, and tiered off a programmatic biological opinion (81420-2008-F-0195-5) for the entire NLIP project that was issued on October 9, 2008. The Corps is requesting reinitiation on the Phase 3 Project due to a change in the project description that requires the applicant, the Sacramento Area Flood Control Agency (SAFCA), to work past the end of the active season (October 1) for the federally-threatened giant garter snake (*Thamnophis gigas*). This effect has not been previously analyzed. This response is in accordance with 50 CFR 402.16 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act).

Please replace the following paragraphs of the September 28, 2009, Biological Opinion.

On Page 47 under the **Terms and Conditions**:

Replace:

- 2c. If it appears that any other construction activity may go beyond October 1, the project proponents shall contact the Service as soon as possible, but not later than July 15 of the year in question, to determine if additional measures are necessary

to minimize take. Areas that have not had ground breaking occur prior to September 15 shall not work past October 1.

With:

2c. If work is anticipated beyond the end of the active season (October 1st) for the snake, additional measures must be implemented by the applicant. All of the following minimization measures must be implemented in order for work to continue past the October 1st deadline:

2103 2108 2110

- The Corps shall contact the Service on or before August 15th, to determine if any additional measures are needed to minimize effects to the snake.
- Ground disturbing activities must commence on or before September 15th.
- A Service-approved biologist will be on-site daily to monitor all construction activities associated with the project throughout the entire extension period.
- Snake exclusion fencing (i.e., silt fencing) must be completely installed prior to the October 1st deadline. Snake exclusion fencing will be used to enclose the entire work area preventing the snake from entering the work area. The exclusion fencing will remain in place and in good working order until project activities are completed.
- The Corps shall notify the Service upon completion of work.

All other contents of the October 9, 2008, Biological Opinion remain the same.

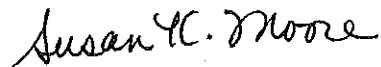
This concludes formal consultation with the Corps on the NLIP Phase 3 Project. As provided in 50 CFR 402.16, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been maintained (or is authorized by law) and if: (1) the amount or 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 E. Kirchner

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If you have any questions regarding this biological opinion on the NLIP project, please contact Jennifer Hobbs, Senior Fish and Wildlife Biologist at (916) 414-6541 or Doug Weinrich, Chief, Habitat Conservation Division at (916) 414-6550.

Sincerely,

A handwritten signature in cursive script that reads "Susan K. Moore".

Susan K. Moore
Field Supervisor

cc:

Amy Kennedy, CDFG, Sacramento, CA
Peter Buck, SAFCA, Sacramento, CA
Kelly Holland, AECOM, Sacramento, CA