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Letter to the National Marine Fisheries Service from USACE



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

JUL 31 2008

Environmental Resources Branch

Mr. Rodney R. McInnis  
Regional Administrator  
National Marine Fisheries Service  
501 West Ocean Boulevard, Suite 4200  
Long Beach, California 90802-4213

Dear Mr. McInnis:

In accordance with Section 7 of the Endangered Species Act, we are requesting concurrence with our determination that the Natomas Levee Improvement Project (NLIP) may affect, but is not likely to adversely affect, the Federally-listed winter-run Chinook salmon, Central Valley spring-run Chinook salmon, Central Valley steelhead, and green sturgeon. The Sacramento Area Flood Control District (SAFCA) plans to construct this project to reduce the risk of flooding in the Natomas Basin in Sacramento and Sutter Counties, California. The U.S. Army Corps of Engineers (Corps) is considering requests to grant 408 permission and a 404 permit to construct this project.

Under 33 U.S.C. 408, the Chief of Engineers may grant permission to alter an existing Federal project if it is not injurious to the public interest and does not impair the usefulness of the project. Under Section 404 of the Clean Water Act, the District Engineer permits the discharge of dredged or fill material into waters of the United States if the discharge meets the requirements of the Environmental Protection Agency's 404 (b)(1) guidelines and is not contrary to the public interest.

Work will consist of raising and realigning the Natomas Cross Canal (NCC) south levee and constructing an adjacent setback levee from the NCC downstream to the North Drainage Canal on the east levee of the Sacramento River. The enclosed Biological Assessment and Memorandum provide project details including the construction footprint, analysis of potential impacts on Federally-listed species, and proposed conservation measures. Based on our analysis, we have determined that the proposed project may affect, but is not likely to adversely affect, fish species or their habitat that are under your jurisdiction. We request your concurrence with this determination.

If you have any questions, please contact Ms. Elizabeth Holland, Environmental Resources Branch, at (916) 557-6763 or by e-mail at [Elizabeth.G.Holland@usace.army.mil](mailto:Elizabeth.G.Holland@usace.army.mil).

Sincerely,

Francis C. Piccola  
Chief, Planning Division

Enclosures

Copy Furnished:

Mr. Howard Brown, National Marine Fisheries Service, 650 Capitol Mall, Suite 8-300,  
Sacramento California 95814-4706

cc:  
SPK-PD  
PD-R  
EAS (Holland)

HOLLAND  
CESPK-PD-RA

TOLAND  
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CLARK  
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## Memorandum

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Date: July 30, 2008  
To: Elizabeth Holland (USACE)  
From: Mike Eng (EDAW on behalf of SAFCA)  
Subject: The potential impacts of construction of the Natomas Levee Improvement Program Landside Improvements Project Phase 2 on shaded riverine aquatic habitat

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Distribution: Meegan Nagy (USACE); Tim Washburn, John Bassett, and Peter Buck (SAFCA); Rhea Graham, Phil Dunn, Chris Fitzer, and Kelly Fitzgerald (EDAW)

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The purpose of this memorandum is to clarify and provide further detail on the potential impacts of construction of the Sacramento Area Flood Control Agency's (SAFCA) Natomas Levee Improvement Program Landside Improvements Project Phase 2 (previously described as the 2008 construction phase) on shaded riverine aquatic (SRA) habitat. These impacts are described and evaluated in the Phase 2 Biological Assessment (BA) prepared by EDAW on behalf of SAFCA and provided to U.S. Army Corps of Engineers (USACE) in May 2008. Refinement of project designs, including substantial efforts to avoid and minimize effects to riparian vegetation and other sensitive resources where feasible, has facilitated further description and evaluation of the potential impacts described in the BA. While impacts on SRA habitat were previously described in general terms, the description of project-related effects on listed species and the determination of "not likely to adversely affect" remains the same. Potential effects would result from two components of the Phase 2 project: waterside levee raising of the Natomas Cross Canal (NCC) south levee and the construction of surface drains and reconstruction of Pumping Plant No. 2 on the Sacramento River East Levee. Potential effects resulting from the refinement of project designs were assessed using aerial imagery with refined project footprint overlays to clearly identify potential effects on SRA habitat. Each component and associated effect on SRA habitat is described separately below.

### NCC South Levee

During Phase 2, removal of vegetation on the water side of the NCC south levee during construction, as described on page 16 of the BA, will consist of removing the riparian vegetation occurring in "all locations above the elevation corresponding with the projection of the landside levee toe on the waterside slope." To clarify, based on the refinement of project designs, including substantial efforts to avoid and minimize effects on riparian vegetation and other sensitive resources where feasible, approximately 15 individual trees located below the ordinary high water mark (OHWM), which may provide some SRA habitat functions, would be removed during construction of the proposed project (see Exhibits 1a through 1i [enclosed]). This activity and associated effects on listed species and their habitat would remain the same as that previously described in the BA.

## Sacramento River East Levee

During Phase 2, removal of vegetation on the water side of the Sacramento River East Levee would be caused by two components: the installation of surface drainage outlets on Garden Highway (page 19–20 of the BA) and reconstruction of the Pumping Plant No. 2 outfall and intake structures. These activities will have permanent impacts on approximately 0.02 acre below the OHWM on the water side of the Sacramento River East Levee (see Exhibits 2a and 2b). Additional effects on riparian vegetation could also result from construction (e.g., trenching and backfill) of the outlet pipes. Impacts on riparian vegetation and any potential SRA habitat would be avoided to the extent feasible; however, some removal and/or damage to individual trees may occur within the relatively small construction area. These activities and associated effects on listed species and their habitat would be the same as that previously described in the BA.

## Summary

Based on an evaluation of refined project designs, which included substantial efforts to avoid and minimize impacts on riparian vegetation and other sensitive resources where feasible, the proposed project's potential effects on riparian vegetation (and associated SRA habitat functions) remain consistent with that described in the Phase 2 BA. Additionally, the BA's determination, in conjunction with avoidance and minimization measures presented in the Phase 2 BA, remains a conclusion that Phase 2 is unlikely to adversely affect special-status fish species and their habitat. In summary, the assessment of effects and determination presented in the Phase 2 BA remains unchanged.