



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

REPLY TO  
ATTENTION OF

March 11, 2015

Regulatory Division SPK-2001-00121

Jacob McQuirk  
California Department of Water Resources  
1426 9th Street  
Sacramento, California 94236-0001

Dear Mr. McQuirk:

We are responding to your January 27, 2015 request to modify your Department of the Army permit number SPK-2001-00121. This permit was issued on September 20, 2014, for the construction of three separate temporary rock barriers in the south delta during the 2013 through 2017 irrigation seasons. The barriers would be installed and removed using an excavator and a barge or truck-mounted crane. This modification would allow for project construction for the 2015 irrigation season.

The Middle River barrier (MRB) would be located near Victoria Canal. This barrier would be constructed using approximately 2,300 cubic yards (CY) of rock. The barrier would have six 48-inch diameter culverts with tidally-operated flap gates on the upstream end to regulate flows. This barrier would be 270 feet long and 50 feet wide at the base (0.31 acre).

The Old River at Tracy (ORT) barrier would be installed and removed at the same times as the MRB. The barrier would be constructed with approximately 5,000 CY of rock to form a 250-foot long berm 60 feet wide at the base (0.34 acre). The barrier would have nine 48-inch culverts with flap gates on the upstream end to regulate flows. This barrier would have boat portage facilities to allow boat traffic to pass. The portage would consist of a boat ramp with docks on each side of the barrier.

The Grant Line Canal (GLC) barrier would be installed at the same time as the MRB and ORT barriers. The barrier would be constructed with approximately 12,600 CY of rock to form a 300-foot berm, 140 feet wide at the base (at its widest point) (0.79 acre). The berm would have six 48-inch culverts with flap-gates. A catwalk would be affixed to the top of each culvert with a winch and hand crank, allowing access to and operation of the flap gates attached to the upstream end of each culvert. The culverts and abutment would remain in place throughout the year after the barrier is removed.

**Project Location:**

1) The MRB barrier is located near Victoria Canal, about 0.5 miles south of the confluence of Middle River, Trapper Slough, and North Canal, between Middle Roberts Island and Union Island, in Section 36, Township 1 North, Range 4 East,

M.D.B. & M., Latitude 37.886076°, Longitude -121.481016°, near the City of Tracy San Joaquin, County, California.

2) The ORT barrier is located near the Tracy Pumping Plant, approximately 0.5 miles east of the Delta Mendota Canal (DMC), between Fabian Tract and the mainland, in Section 33, Township 1 South, Range 4 East, M.D.B. & M., Latitude 37.81019°, Longitude -121.54287° San Joaquin County, California.

3) The GLC barrier is located 420 feet east of the Tracy Boulevard Bridge, between Union Island and Fabian Tract, in Section 29, Township 1 South, Range 5 East, M.D.B. & M., Latitude 37.81968°, Longitude -121.44829°, near the City of Tracy, San Joaquin County, California.

The modification request involves appending the project to the U.S. Fish and Wildlife Service's (FWS) February 21, 2014, Programmatic Formal Biological Consultation on the California Department of Water Resources' 2013-2017 Temporary Barriers Project, South Delta, San Joaquin County, California (Corps File SPK-200100121, 200000696) (FWS reference number 08FBDT00-2012-F-0017).

Permit number SPK-2001-00121 is hereby modified as follows:

Special Condition 1 is modified to change the reference for the U.S. Fish and Wildlife Service (FWS) Biological Opinion from (Number 81420-2008-I-0522, undated, received by the Corps on May 5, 2009) to (Number 08FBDT00-2012-F-0017, dated, February 21, 2014). The modified Special Condition 1 reads as follows:

1) This Corps permit does not authorize you to take an endangered species, in particular Central valley steelhead (*Oncorhynchus mykiss*), winter-run Chinook salmon (*Oncorhynchus tshawytscha*), central valley spring-run Chinook salmon (*Oncorhynchus tshawytscha*), delta smelt (*Hypomesus transpacificus*), green sturgeon (*Acipenser medirostris*), 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 FWS Biological Opinion and FWS letter appending the 2015 construction of the project to the Programmatic Biological Opinion (Numbers 08FBDT00-2012-F-0017, and 08FBDT00-2015-F-0016 dated, February 21, 2014, and March 10, 2015 respectively) and National Marine Fisheries Service Biological Opinion (Number 2012/9347, dated May 1, 2013), 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 Opinions. 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 Biological Opinions (which were provided to you by the Services), 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 Opinions, 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 and the National Marine Fisheries Service are the appropriate authorities to determine compliance with the terms and conditions of their Biological Opinions, and with the Endangered Species Act. You must comply with all conditions of these Biological Opinions including those ascribed to the Corps. To insure your project complies with the Magnuson-Stevens Fishery and Consultation Act, you must implement all of the mitigating measures and Essential Fish Habitat Recommendations identified in the above National Marine Fisheries Service document, including those ascribed to the Corps therein.

All other terms and conditions of the permit remain in full force and effect. Failure to comply with the terms and conditions of this authorization may result in the suspension or revocation of your permit. All of the above referenced documents were provided to you either by the Corps, NMFS or FWS. If you need an additional copy of any of these documents please contact me at the address below.

Please refer to identification number SPK-2001-00121 in any correspondence concerning this project. If you have any questions, please contact me at California South Branch, 1325 J Street, Room 1350, Sacramento, California 95814-2922, by email at [William.H.Guthrie@usace.army.mil](mailto:William.H.Guthrie@usace.army.mil), or telephone at (916) 557-5269. For more information regarding our program, please visit our website at [www.spk.usace.army.mil/Missions/Regulatory.aspx](http://www.spk.usace.army.mil/Missions/Regulatory.aspx).

Sincerely,



William Guthrie  
Senior Project Manager  
California South Branch  
Regulatory Division

cc:

Ms. Kim Turner, US Fish and Wildlife Service, San Francisco Bay-Delta,  
[Kim\\_S\\_Turner@fws.gov](mailto:Kim_S_Turner@fws.gov)

Mr. William Stelle, National Marine Fisheries [will.stelle@noaa.gov](mailto:will.stelle@noaa.gov)

Ms. Elizabeth Lee, Storm Water and Water Quality Certification Unit, Central Valley  
Regional Water Quality Control Board, [Elizabeth.Lee@waterboards.ca.gov](mailto:Elizabeth.Lee@waterboards.ca.gov)