



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

REPLY TO
ATTENTION OF

July 16, 2014

Regulatory Division SPK-2008-00861

Ryan Wulff
National Marine Fisheries Service
650 Capital Mall, Suite 5-100
Sacramento, California 95814

Dear Mr. Wulff:

This letter is in response to the Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) dated December 2013 for the Bay Delta Conservation Plan (BDCP). The Corps has regulatory jurisdiction over portions of the BDCP under Section 404 of the Clean Water Act, 33 U.S. Code 1344 (CWA 404), and Sections 10 and 14 of the Rivers and Harbors Act of 1899, 33 U.S. Code 403 and 33 U.S. Code 408 (RHA 10 and 14).

Enclosed is a table of our specific comments on the Draft EIS/EIR. Due to the time allowed and the size and organization of the EIS/EIR, the Corps reviewed only the "project level" portions of the document. The programmatic treatment of Conservation Measures 2 through 22 made it unclear whether or not those conceptual plans would complement or conflict with Corps actions within the Central Valley and Bay-Delta. Please note that many of our comments are similar to those submitted on the administrative Draft EIS/EIR.

I have determined the EIS/EIR is not sufficient at this time in meeting the Corps' needs under the National Environmental Policy Act (NEPA) and 404(b)(1) Guidelines, in particular with regard to the incomplete description of the proposed actions, alternatives analysis, impacts to navigation, impacts to federal flood control and navigation projects, and impacts to waters of the United States and navigable waters, as well as the avoidance and minimization of, and compensatory mitigation for, impacts to waters of the United States. Without incorporation of the changes recommended in our comments on the administrative and public drafts, the Corps will not be able to adopt the EIS/EIR for any of our permit decisions on the proposed actions to implement the BDCP. The Corps has no opinion as to the suitability of the EIS/EIR for decisions by other agencies.

I am also concerned about the inadequate treatment of two proposed navigation projects: the Sacramento River Deep Water Ship Channel Deepening and the San Francisco Bay to Stockton Deepening. The EIS/EIR concludes there is no need to

consider either project under NEPA regarding items such as existing conditions or cumulative impacts. I strongly disagree with that conclusion. These ship channels are significant hydrologic and economic features of the Delta, and intersect with the BDCP in numerous ways.

I request all of our comments on the administrative and public drafts are incorporated into the Final EIS/EIR. I also request a formal letter response from the National Marine Fisheries Service to our comments.

I look forward to continuing to work with you and others on the BDCP. Please refer to identification number SPK-2008-00861 in any correspondence concerning this project. If you have any questions, including clarification of the enclosed comments, please contact Mr. Michael Nepstad of my staff by email at *Michael.G.Nepstad@usace.army.mil* or by telephone at 916-557-7262.

Sincerely,

Michael J. Farrell
Colonel, U.S. Army
District Commander

Enclosure