State of California
Department of Fish and Game

Flex your POWER

Memorandum

To: Ms. Deborah Condon
Department of Water Resources
Division of Flood Management
2825 Watt Avenue
Sacramento, CA 95821

Date: June 6, 2008

From: Charles Armor, Regional Manager
Department of Fish and Game – Bay Delta Region, Post Office Box 47, Yountville, California 94599

Subject: Sacramento River Bank Protection Project, Mitigated Negative Declaration, SCH# 2008052034, Glenn, Sacramento, Solano, Sutter, and Yolo Counties

The Department of Fish and Game (DFG) appreciates the opportunity to review and comment on the Sacramento River Bank Protection Project, Mitigated Negative Declaration (MND). The U. S. Army Corps of Engineers (USACE), in partnership with the Central Valley Flood Control Board, proposes to implement bank protection measures to prevent ongoing stream bank erosion at 13 sites. The erosion repairs will occur at eight proposed sites in summer and fall of 2008 and five proposed sites will be repaired in 2009. The 2008 sites include one site along Cache Slough, one site along Steamboat Slough, two sites along the American River and four sites along the Sacramento River. The five sites proposed for 2009 repairs include four sites along the Sacramento River and one site along the Feather River. The project will repair 8,040 linear feet of levee with placement of 167,626 cubic yards of rock rip rap.

Bank protection measures to be implemented at the proposed erosion sites for repair in 2008 would include: (1) protecting the toe of the bank with rock revetment both below and above the mean summer water level (mswl); (2) placing one foot of soil fill on the revetment at elevations above the mswl; (3) placing additional and preserving in-place existing in-stream wood material clusters for fish habitat; and (4) planting pole and container plants to stabilize the bank and to provide riparian habitat and potential shade. DFG is identified as a Trustee Agency pursuant to the California Environmental Quality Act (CEQA) Section 15386 and is responsible for the conservation, protection and management of the State's biological resources. DFG considers the MND as a means to understand and appreciate the need for extensive levee repairs while also developing adequate conservation and protection measures to conserve some of the Sacramento-San Joaquin River Delta's biological natural resources.

Mitigated Negative Declaration

The proposed MND lists the erosion repair sites for 2008 in Table 1. This table breaks down the linear feet of repair for each site. There is no table in the document that describes the repair sites for 2009. DFG would suggest including information on the 2009 repair sites.

The proposed MND is a five-page document that does not include an environmental checklist section. The environmental checklist would provide a detailed description of various elements including biological resources, hydrology and water quality, and geology and soils. DFG encourages the Department of Water Resources (DWR) to include the environmental checklist and discussion as well as a cumulative impacts section (see comment under Section 5.1) to provide a more complete CEQA document. The five-page document does not go into enough detail about the proposed project and leaves out important aspects that should be disclosed.

Errata Report

An errata report was included with the MND discussing the removal of references to longfin smelt in the Initial Study/Environmental Assessment (IS/EA) document. DFG would encourage DWR to retain all references and information pertaining to longfin smelt. Longfin smelt is currently a State candidate species, which affords for the same protection as a State threatened or endangered species while further review is being conducted to determine if it warrants listing. The USFWS is also conducting a review on longfin smelt to determine if it warrants a listing status under the Federal Endangered Species Act. It is currently understood that the avoidance, minimization, and mitigation measures in place for delta smelt also provide protection for longfin smelt, so it is likely that no additional measures would need to be incorporated to cover this species. It would be beneficial for DWR to include an analysis of project impacts to longfin smelt so that the environmental document does not have to be amended and recirculated to disclose the impacts to this species if it becomes listed.

Initial Study/Draft Environmental Assessment

Section 2.5, Overall Project Features and Section 2.14, Maintenance Activities and Work Windows

The current acceptable work window for delta smelt is August 1 to November 30.

Section 4.5.4, Mitigation

DFG would suggest renaming this section to Avoidance and Minimization Measures. Aside from installation of plant material (last bullet), all other measures are considered avoidance and minimization which DFG does not consider mitigation.

DFG appreciates incorporation of avoidance and minimization measures to protect nesting birds. The document states that direct disturbance, including removal of nest trees, will be avoided during the nesting season. DFG would encourage the USACE to refrain from removing raptor nest trees, even outside of the nesting season. Raptors that exhibit high site fidelity would benefit from the preservation of nest trees, especially the State threatened Swainson's hawk (SWHA) which tend to nest in riparian habitats.

DFG would also encourage the incorporation of avoidance and minimization measures for burrowing owls.

Section 4.6.1.2, Special Status Wildlife Species

DFG would encourage DWR to include the burrowing owl under the list of special status wildlife species. Burrowing owl is a State species of special concern that is being displaced and losing habitat throughout much of its range from a variety of factors including development projects. DFG is concerned about the impacts to the burrowing owl and recommends permanent conservation for loss of nesting and foraging habitat. Burrowing owls typically utilize the burrows of other ground dwelling mammals such as California ground squirrels. The levee system of the Sacramento-San Joaquin Delta may provide many nesting opportunities for the burrowing owl. DFG would encourage DWR to incorporate the following avoidance, minimization, and mitigation measures:

- Pre-construction surveys for nesting raptors, including SWHA and burrowing owls, should be conducted 15 days prior to tree pruning, tree removal, staging, ground disturbing or construction activities. Surveys should be conducted a minimum of 3 separate days during the 15 days prior to disturbance.

- If occupied burrowing owl burrows are found during pre-construction surveys, impacts shall be avoided by establishing a buffer of 160 feet during the non-breeding season (September 1 to January 31) or 250 feet during the breeding season (February 1 to August 31) for all project-related construction activities. If occupied burrows are found within 160 feet of project activities and staging areas during the non-breeding season and the burrow will be impacted, passive relocation measures shall be implemented according to the Burrowing Owl Consortium Guidelines. Passive relocation shall not occur during the breeding season. If occupied burrows are located within 160 feet of project activities during the non-breeding season but the burrow will not be impacted, DFG should be contacted to determine if project activities may commence without passive relocation of the burrow. DFG encourages preservation of burrows if they will not be impacted and owls will not be disturbed during activities; once activities are complete, owls may continue using the habitat.

- DFG requires mitigation for the loss of burrowing owl habitat by providing suitable habitat for foraging and nesting for every occupied burrow that is passively relocated. The habitat shall be contiguous with known, occupied burrowing owl habitat. DFG is currently revising burrowing owl guidelines including mitigation measures, and should be consulted to determine appropriate compensation. Project proponents shall ensure the mitigation lands are protected in perpetuity and shall provide for the long-term management of the lands by funding a management endowment. Burrowing owl mitigation banks may be available in the counties where project activities are occurring.

Section 5.1, Cumulative Effects

The IS/EA includes a cumulative impacts discussion but seems to only consider the current project. As indicated in prior correspondence with DFG, future projects include 24,000 linear feet (4.5 miles) of bank protection as well as authorization from the Water Resources Act of 2007 for another 80,000 linear feet of bank protection. DFG is also currently reviewing two additional projects under the Sacramento River Bank Protection Project

which will repair approximately 12,000 linear feet combined. A thorough analysis of these projects, as well as other known future projects, should be included in the cumulative impacts discussion.

The cumulative impacts section of the IS/EA includes several tables depicting the results of a Standard Assessment Methodology. The tables provide values for various life stages of salmonids, but it is unclear what the values in the table mean, or how they show whether or not there will be a significant cumulative effect. An explanation of the values and what they indicate would be helpful to the reader of this section of the document.

If you have any questions, please contact Ms. Anna Holmes, Environmental Scientist, at (209) 948-7163; or Mr. Greg Martinelli, Water Conservation Supervisor, at (707) 944-5570.

cc: State Clearinghouse

Mr. Ryan Olah
U. S. Fish and Wildlife Service
2800 Cottage Way, W-2605
Sacramento, CA 95825