



## DEPARTMENT OF FISH AND GAME

<http://www.dfg.ca.gov>

Sacramento Valley – Central Sierra Region

1701 Nimbus Road, Suite A

Rancho Cordova, CA 95670

(916) 358-2900



August 1, 2005

Mr. Kent McClain  
Yuba County Administrator  
915 8th Street, Suite 115  
Marysville, CA 95901

Dear Mr. McClain:

The Department of Fish and Game (Department) has received the Three Rivers Levee Improvement Authority's (TRLIA) July 21, 2005 e-mail addressing California Endangered Species Act (CESA) permitting concerns for Stage 1 of the Feather-Bear-WPIC Levee Project (Project). TRLIA is requesting starting work on the project prior to Department issuance of a CESA Permit for the project. State listed species that are of concern are Swainson's hawk, giant garter snake, and spring-run Chinook salmon. As we indicated work could commence in those areas where impacts to listed species are not anticipated to occur. Preconstruction surveys for Swainson's hawks were conducted last week. The nesting raptor surveys included all suitable nest trees within the vicinity of the proposed construction activities. Adult Swainson's hawks were observed soaring or roosting in several locations in the project vicinity but no nests or nesting behavior was observed. Provided the surveys were conducted in accordance with established guidelines, it is reasonable to conclude that impacts to Swainson's hawk would not occur. Additionally we would request a timely copy of all survey results and field notes.

Also, TRLIA indicated that spring-run Chinook salmon would not be affected by the proposed construction activities because it is not believed they would be present during the construction season based on the lack of preferred habitat conditions, including adverse water temperature (above the suitable range). If construction is anticipated to be completed by October 31, 2005 in those areas (Bear River Water-side Impervious Zone-Station 130+00 to 139+00) where spring-run Chinook salmon could be expected to occur, we would agree.

We are in general agreement with the above conclusions by TRLIA. As we indicated during a recent conference call (July 25, 2005), we would not object to initiating Stage 1 work elements in those areas where impacts are not expected to occur to the above species, and that

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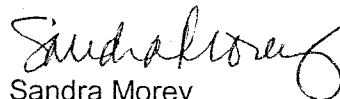
have been identified as having no impacts to giant garter snakes. Hence, the Department would not object to work commencing in the following Project work element areas: Setback Levee Foundation, Bear River Levee Reconstruction (Station 122+00 to 130+00), Bear River Water-side Impervious Zone (Station 130+00 to 139+00), Walnut Orchard Removal (Station 80+00 to 120+00). However, it will be necessary to have a Streambed Alteration Agreement for work elements in those areas subject to Fish and Game Code Section 1600 et seq. We anticipate that the Streambed Alteration Agreement will be submitted to TRLIA the week of August 1, 2005.

Additionally, as agreed Stage 1 work elements in giant garter snake habitats will only commence after issuance of a CESA permit. This Permit is anticipated to be issued through your request for a CESA Consistency Determination (pursuant to Fish and Game Code Section 2080.1) on the U.S. Fish and Wildlife Service Endangered Species Act authorization for giant garter snake. It will be necessary to have the Consistency Determination and giant garter snake mitigation measures in place prior to construction of Stage 1 work elements affecting this species.

We want to emphasize that it was agreed that construction of Stage 2 work elements of the project would require a formal CESA permit (Fish and Game Code 2081) and that the CESA application would be submitted to the Department by the end of December 2005.

If you have any question or need further assistance, please contact Mr. Ian Drury, Environmental Scientist, at (916) 358-2030 or Mr. John Nelson, Senior Environmental Scientist at (916) 358-2944.

Sincerely,



Sandra Morey  
Regional Manager

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