

APPENDIX D. EXAMPLES OF REGULATORY COMPLIANCE DOCUMENTS AND PERMIT APPLICATIONS

This appendix contains sample documents, permit application packages, and other agency guidance on several permit and approval processes. This information is not intended to represent a full range of possible project types and circumstances. Specific projects and specific agency preferences will result in variances in the format and contents and, in some cases, the types of documents prepared to satisfy the requirements of each regulatory process. Following are the documents included in this appendix:

- National Environmental Policy Act—[notice of intent \(example\)](#)
- California Environmental Quality Act
 - [notice of availability of mitigated negative declaration \(example\)](#)
 - [notice of preparation \(form\)](#)
 - [notice of completion \(example\)](#)
 - [notice of determination \(form\)](#)
- Section 404 of the Clean Water Act
 - [nationwide permit preconstruction notification and letter of consent \(example\)](#)
 - [Department of the Army permit \(example\)](#)
- [National Wild and Scenic Rivers Act](#)—request for consistency determination and letter of consent (example)
- [National Historic Preservation Act](#)—Section 106 compliance (example)
- [Section 401 of the Clean Water Act](#)
 - request for water quality certification or waiver (example)
 - waiver of waste discharge requirements and water quality certification (example)
 - fee information for certification of activities that may involve a discharge of dredged or fill material
 - contents of a complete Section 401 application
- [Waste Discharge Requirements and National Pollutant Discharge Elimination System](#)
 - application for waste discharge requirements or NPDES permit (form)
 - notice of intent to comply with general permit terms (form)
 - receipt of notice of intent (example)

- notice of termination of coverage (form)
- [Water Rights](#)—permit application (form)
- [Lake or Streambed Alteration Agreement](#)
 - notification of lake or streambed alteration (form)
 - Section 1601 permit (example)
 - Section 1603 agreement (example)
 - request for confirmation of no Section 1601 jurisdiction, and negative declaration response (example)
- [State Wild and Scenic Rivers Act](#)—consistency determination (example)
- [Reclamation Board Permit](#) (example)
- [Caltrans Encroachment Permit](#)—application (form)
- [Air Pollution Control District Authorization](#)—San Joaquin Valley APCD authority to construct (example)

**NATIONAL ENVIRONMENTAL POLICY ACT
NOTICE OF INTENT**

DEPARTMENT OF THE INTERIOR

[REDACTED]
Environmental Impact Report/Environmental Impact Statement for the [REDACTED] River
Restoration Program, [REDACTED] California

AGENCY: [REDACTED]

ACTION: Notice of Intent to Prepare an Environmental Impact Report/Environmental
Impact Statement

SUMMARY: Pursuant to the National Environmental Policy Act of 1969 (NEPA) as amended,
[REDACTED] proposes to participate in a joint Environmental Impact Report/Environmental
Impact Statement (EIR/EIS) for the [REDACTED] Restoration Program. [REDACTED]
[REDACTED] will be the lead agency under the California Environmental Quality Act
(CEQA). The project is intended to provide NEPA and CEQA clearance for implementing fish
passage improvements at [REDACTED] and fish screen improvements at [REDACTED]
and the [REDACTED] diversion. Programmatic clearance is
being sought for the riparian restoration and riparian diversion screening elements of the
program. This work is being funded through a [REDACTED] grant provided by the [REDACTED]
[REDACTED], which is being administered by [REDACTED].

DATES: Written comments on the scope of alternatives and impacts to be considered
should be sent to Reclamation by insert date 35 days after date of publication in the
FEDERAL REGISTER]. Reclamation estimates that the draft EIR/EIS will be available for
public review in summer 1999.

Reclamation will seek public input on alternatives, concerns, and issues to be addressed in the EIR/EIS through scoping meetings in January 1999. The schedule and locations of the scoping meetings are as follows:

Lodi

January 7, 1998 from 7 p.m. to 9 p.m.

Carnegie Forum

305 West Pine Street

Sacramento

January 6, 1998 from 7 p.m. to 9 p.m.

Jones & Stokes Associates, Inc.

Auditorium

2600 V Street

ADDRESS: Written comments on the project scope should be sent to [REDACTED]

[REDACTED]

FOR FURTHER INFORMATION CONTACT: [REDACTED]

[REDACTED]

SUPPLEMENTARY INFORMATION:

[REDACTED] provides irrigation water for approximately 40,000 acres of farmland near the city of [REDACTED]

[REDACTED] rights are based on riparian use before 1914 and other appropriative rights. Flashboards are placed in the [REDACTED] in late February or early March to begin filling

[REDACTED] and to allow water to flow into [REDACTED] Canal for delivery to [REDACTED] customers.

The flashboards are usually removed from the dam in early November, when the irrigation season ends.

The [REDACTED] Restoration Program [REDACTED] was developed to implement important elements from resource management plans prepared by the CALFED Bay-Delta Program (CALFED), the U.S. Fish and Wildlife Service (USFWS), and the California Department of Fish and Game (DFG). The goal of the [REDACTED] is to substantially increase fall-run chinook salmon and steelhead populations, enhance critical and limiting aquatic habitats, and restore riparian ecosystem integrity and diversity. The [REDACTED] comprises four major elements:

- Element 1: Improve Fish Passage
- Element 2: Improve Fish Screening at [REDACTED] and [REDACTED] [REDACTED] Diversions
- Element 3: Install/Upgrade Fish Screens on Riparian Diversions
- Element 4: Enhance Riparian Corridor

[REDACTED] and the city of [REDACTED] applied for a [REDACTED] grant to fund the [REDACTED]. [REDACTED] has provided preliminary funding for final design and environmental clearance and permitting for of Elements 1 and 2 of the [REDACTED]. [REDACTED] and [REDACTED] will be preparing the EIR/EIS using this funding. Because final design for Elements 3 and 4 have not yet been funded, it is anticipated that only programmatic environmental clearance will be sought for these two elements.

Element 1: Improve Fish Passage

The [REDACTED] fish passage element seeks to improve upstream and downstream fish passage on

the [REDACTED] River and provide the opportunity to pass water of varying temperatures and pulse flows downstream of [REDACTED] diversion while maintaining [REDACTED] access to its water rights. Proposed alternative methods for implementing Element 1 are described below under “Alternatives Being Considered”.

Element 2: Improve Fish Screening at [REDACTED] [REDACTED] Diversions

Improving fish screening at [REDACTED] and [REDACTED] [REDACTED] diversions would upgrade the fish screening facilities at the two largest diversions on the [REDACTED] below [REDACTED]. New screens would be designed to meet all applicable DFG and National Marine Fisheries Service (NMFS) criteria to ensure effective fish passage and minimize entrainment and impingement.

Element 3: Install/Upgrade Fish Screens on Riparian Diversions

The riparian fish screening element would provide state-of-the-art fish screens at 58 unscreened or underscreened riparian diversions on the [REDACTED] River between [REDACTED] and its confluence with the [REDACTED] near [REDACTED]. All new screens would be designed to meet all applicable DFG and NMFS criteria to ensure effective fish passage and minimize entrainment and impingement.

Element 4: Enhance Riparian Corridor

The riparian corridor enhancement element includes bank erosion control, riparian plantings, the creation of buffer zones, and other techniques to restore and protect riparian vegetation to

provide shaded riverine aquatic habitat for fish, reduce water temperatures, increase food production, and serve as a barrier between the river and adjacent land uses.

Alternatives Being Considered

The project sponsors are considering alternatives to improve fish passage while maintaining [REDACTED] access to its water rights. A first-phase screening process was conducted to narrow a list of 14 alternatives to a list of five feasible alternatives to be analyzed in the EIR/EIS. These alternatives include:

No-Action. Under the No-Action Alternative, no physical changes to the structure or functions of [REDACTED] or the [REDACTED] would be made. The dam, fish screen, and bypass system would continue to operate as they currently operate.

Build New Fish Passage Facilities at [REDACTED] and Replace Fish Screen Bypass at [REDACTED] Under this alternative, the problems with [REDACTED] fish passage facilities would be corrected. Because upgrading existing facilities to state-of-the-art specifications is not feasible, new facilities would be built on the right abutment (facing downstream) of the dam. Another element of this alternative is the construction of a predator-isolation berm. This berm would extend east to west across the channel that connects the river to the oval, static portion of [REDACTED]. The berm would assist in separating predator species in the static portion of [REDACTED] from salmon and steelhead in the river.

Remove [REDACTED] and Pump Water into [REDACTED]. Under this alternative, [REDACTED] would be removed and water to serve [REDACTED] customers would be obtained by pumping water from the [REDACTED] River into the [REDACTED]. A pump station with a state-of-the-art fish screen would be constructed near the existing diversion structure. Additionally, a river control structure would need to be constructed to direct riverflows toward the pumps and keep the pumps submerged.

Replace [REDACTED] with a [REDACTED] Incorporating State-of-the-Art Fish Passage Facilities (Proposed Project). The proposed project involves removing the existing [REDACTED] and constructing an adjustable [REDACTED] immediately upstream. This [REDACTED] would include new state-of-the-art fish passage facilities, a downstream hydraulic control system to manage tailwater elevations at the entrances to the fish ladders, a gated system for the downstream release of water from different strata for temperature control, and the capability of providing releases across a wider spectrum of flow levels (0-800 cubic feet per second [cfs]) without spillage across the dam face to improve responsiveness to fish flow needs. It would also include the predator-isolation berm described under "Build New Fish Passage Facilities at [REDACTED] and Replace Fish Screen Bypass at [REDACTED]".

Shorten Period of Flashboard Placement in [REDACTED] and Install Diversion Pumps. This alternative is based on the assumption that significant improvements to fish migration can be achieved by removing the flashboards at [REDACTED] from March through June to improve downstream migration of juvenile salmon and steelhead. To accommodate [REDACTED] need to divert water during that period of time, diversion pumps would be installed and a

river control structure would be constructed to direct riverflows toward the pumps and keep the pumps submerged. This alternative would also include the predator-isolation berm described under "Build New Fish Passage Facilities at [REDACTED] and Replace Fish Screen Bypass at [REDACTED]".

The project sponsors are also considering the following option which could be implemented with any alternative that includes a dam:

Construct a Stratification Sill in Front of the [REDACTED] Diversion Structure and a New Deepwater Discharge Outlet in the Dam. This option is based on the assumption that a shortage of cool water below [REDACTED] is a limiting factor for salmon during their smolt outmigration life stage and that such cool water is available in Lodi Lake. It is intended to provide warm water for the [REDACTED] and allow cool water to flow downstream of [REDACTED]. The cool water would also be used to guide fish away from the diversion to the bypass canal that would lead them to the river below the dam.

Scoping Process

Scoping is an early and open process designed to determine the significant issues and alternatives to be addressed in the EIR/EIS. The following are significant issues that have been identified: fisheries, riparian and wetland habitats, wildlife, water quality, aesthetics, recreation, and public health and safety.

NOTE: If special assistance is required, contact [REDACTED]. Please notify Mr.

[REDACTED] as far in advance of the meetings as possible and not later than December 30, 1998

to enable [REDACTED] to secure the needed services. If a request cannot be honored, the requestor will be notified. A telephone device for the hearing impaired (TDD) is not available.

[REDACTED]

CALIFORNIA ENVIRONMENTAL QUALITY ACT NOTICES

**NOTICE OF AVAILABILITY OF
A MITIGATED NEGATIVE DECLARATION FOR
RAW WATER SEISMIC IMPROVEMENTS PROJECT**

[REDACTED] proposes to implement the Raw Water Seismic Improvements (RWSI) Project. The RWSI Project consists of six seismic reliability improvements:

- Construction of the [REDACTED] Pipeline Intertie to [REDACTED] Reservoir. This improvement would provide reliability to the raw water supply to [REDACTED] Reservoir.
- Slope stabilization along the [REDACTED] upstream of the [REDACTED] at milepost 7.3. The purpose of this improvement is to prevent earthquake induced landslides from obstructing the Canal.
- Drainage control within the [REDACTED] right-of-way at milepost 25. The objectives of this improvement are to prevent landslide debris from entering and blocking the canal during a seismic event and to prevent degradation of water quality.
- [REDACTED] improvements at the [REDACTED]. This improvement would prevent draining of the [REDACTED] and [REDACTED] Reservoir in the event of an earthquake.
- Connections of two locations along the [REDACTED] to the [REDACTED] [REDACTED] District Water Treatment Plant. The purpose of the connections is to provide an emergency water source to the Canal in case it is damaged upstream in an earthquake.
- Abandonment and/or relocation of four petroleum pipelines crossing the [REDACTED] at mileposts 13.6, 13.8, and 14.1. The purpose of these improvements is to protect the raw water supply from becoming contaminated due to pipeline break during a seismic event.

An Initial Study has been prepared in accordance with the California Environmental Quality Act (CEQA) to evaluate the potential environmental impacts of the project. The study identifies applicable performance standards and other conditions which [REDACTED] has adopted and/or has committed to which will reduce the potential for significant environmental impacts to a less than significant level. Based on the findings of the Initial Study, [REDACTED] has found that the project, as mitigated, will not have a significant effect on the environment and proposes to adopt a Mitigated Negative declaration.

The Initial Study is available for review at [REDACTED] department beginning November 25, 1998. Written comments may be submitted to [REDACTED] beginning November 25, 1998, through December 28, 1998. The telephone number is [REDACTED]. [REDACTED] proposes to adopt the Mitigated Negative Declaration as the CEQA Lead Agency at the Board of Directors Meeting on February 3, 1999, at 6:30 p.m. at the [REDACTED]. All interested parties are invited to attend and comment at this time.

Appendix I
NOTICE OF PREPARATION

To: _____

(Address)

From: _____

(Address)

Subject: Notice of Preparation of a Draft Environmental Impact Report

_____ will be the Lead Agency and will prepare an environmental impact report for the project identified below. We need to know the views of your agency as to the scope and content of the environmental information which is germane to your agency's statutory responsibilities in connection with the proposed project. Your agency will need to use the EIR prepared by our agency when considering your permit or other approval for the project.

The project description, location, and the potential environmental effects are contained in the attached materials. A copy of the Initial Study (is is not) attached.

Due to the time limits mandated by State law, your response must be sent at the earliest possible date but not later than 30 days after receipt of this notice.

Please send your response to _____ at the address shown above. We will need the name for a contact person in your agency.

Project Title: _____

Project Applicant, if any: _____

Date _____

Signature _____

Title _____

Telephone _____

Form A: Notice of Completion

Mail to: State Clearinghouse, 1400 Tenth Street, Sacramento, CA 95814 916/445-0613

See NOTE below
SCH # _____

Project Title: _____
Lead Agency: _____ **Contact Name:** _____
Street Address: _____ **Phone:** _____
City: _____ **Zip:** _____ **County:** _____

Project Location

County: Contra Costa **City/Nearest Community:** Spans from unincorporated Martinez east to Antioch
Cross Streets: N/A **Zip Code:** _____ **Total Acres:** 12
Assessor's Parcel No.: _____ **Section:** _____ **Twp:** _____ **Range:** _____ **Base:** _____
Within 2 Miles: **State Hwy #:** 4 **Waterways:** _____
Airports: _____ **Railways:** _____
Schools: _____

Document Type

CEQA: NOP Supplement/Subsequent **NEPA** NOI **Other** Joint Document
 Early Cons EIR (Prior SCH No.) EA Redevelopment
 Neg Dec Other Mitigated Neg. Draft EIS Other _____
 Draft EIR FONSI

Location Action Type

General Plan Update Specific Plan Rezone Annexation
 General Plan Amendment Master Plan Prezone Redevelopment
 General Plan Element Planned Unit Development Use Permit Coastal Permit
 Community Plan Site Plan Land Division (Subdivision, Parcel map, Tract Map, etc.) Other _____

Development Type

Residential: Units _____ Acres _____ Water Facilities: Type Canal/Pipeline MGD _____
 Office: Sq.ft. _____ Acres _____ Employees _____ Transportation: Type _____
 Commercial: Sq.ft. _____ Acres _____ Employees _____ Mining: Mineral _____
 Industrial: Sq.ft. _____ Acres _____ Employees _____ Power: Type _____ Watts _____
 Educational: _____ Waste Treatment: Type _____
 Recreational: _____ Hazardous Waste: Type _____
 Other: _____

Project Issues Discussed in Document

Aesthetic/Visual Flood Plain/Flooding Schools/Universities Water Quality
 Agricultural Land Forest Land/Fire Hazard Septic Systems Water Supply/Groundwater
 Air Quality Geologic/Seismic Sewer Capacity Wetland/Riparian
 Archeological/Historical Minerals Soil Erosion/Compaction/Grading Wildlife
 Coastal Zone Noise Solid Waste Growth Inducing
 Drainage / Absorption Population/Housing Balance Toxic/Hazardous Landuse
 Economic/Jobs Public Services/Facilities Traffic/Circulation Cumulative Effects
 Fiscal Recreation/Parks Vegetation Other _____

Present Land Use/Zoning/General Plan Use

Land use adjacent to the project site include open space, industrial, and residential uses. The project site is zoned in accordance with General Plan designations. General Plan designations along the _____ and _____ include PS (Public or Semi-Public Use), OS (Open Space), HF (Heavy Industry), and WA (Water).

Project Description

The project consists of six seismic reliability improvements: construction of the _____ slope stabilization along the _____ upstream of the _____, drainage control with the _____ right-of-way at milepost 25; _____ Pipeline valve retrofit improvements at the _____ connection of the _____ to the _____; and abandonment and/or relocation of petroleum pipelines at milepost 13.6, 13.8, and 14.1.

Note: Clearinghouse will assign identification numbers for all new projects. If a SCH number already exists for a project (e.g. from a Notice of Preparation or previous draft document) please fill it in.

Notice of Determination

Form C

To: Office of Planning and Research
PO Box 3044, 1400 Tenth Street, Room 222
Sacramento, CA 95812-3044

From: (Public Agency) _____

County Clerk
County of _____

(Address)

Subject:

Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

Project Title

State Clearinghouse Number
(If submitted to Clearinghouse)

Lead Agency
Contact Person

Area Code/Telephone/Extension

Project Location (include county)

Project Description:

This is to advise that the _____ has approved the above described project on _____ and has made the following determinations regarding the above described project:
(Date)

Lead Agency Responsible Agency

1. The project [will will not] have a significant effect on the environment.
2. An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.
 A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures [were were not] made a condition of the approval of the project.
4. A statement of Overriding Considerations [was was not] adopted for this project.
5. Findings [were were not] made pursuant to the provisions of CEQA.

This is to certify that the final EIR with comments and responses and record of project approval is available to the General Public at:

Signature (Public Agency)

Date

Title

Date received for filing at OPR:

Revised May 1999

SECTION 404 OF THE CLEAN WATER ACT



January 15, 1999

Mr. Clyde Davis
Attn. CESP-N-CO-R
U.S. Army Corps of Engineers
Regulatory Branch
333 Market Street
San Francisco, CA 94105-2197

SUBJECT: Request for Authorization under Nationwide Permit 12 for the [REDACTED] Pipeline
Intertie to [REDACTED] Reservoir, [REDACTED], California (File No. [REDACTED])

Dear Mr. Davis:

Jones & Stokes Associates, on behalf of the [REDACTED] is requesting authorization under Nationwide Permit 12 for the construction of the [REDACTED] Pipeline Intertie to [REDACTED] Reservoir in [REDACTED] California. Following the general conditions for nationwide permits, we have enclosed a preconstruction notification describing this project. For your information, the draft initial study/negative declaration for this project is enclosed. Please call me at 916/737-3000 if you have any questions or require additional information.

Sincerely,

[REDACTED]
Project Manager

SC:ms

Enclosures:

Nationwide Permit 12 Preconstruction Notification
Delineation of Waters of the United States
Draft Initial Study/Negative Declaration
Request for Water Quality Certification
Request for confirmation of no jurisdiction submitted to DFG

cc: Mr. Martin Musonge - Regional Water Quality Control Board
Mr. Steven Stiehr - California Department of Fish and Game
[REDACTED]

Jones & Stokes Associates, Inc.

2600 V Street, Suite 100 • Sacramento, CA 95818-1914 • Fax 916/737-3030 • 916/737-3000

Nationwide Permit 12 Preconstruction Notification
[REDACTED] Pipeline [REDACTED] to [REDACTED] Reservoir

Submitted to:

U.S. Army Corps of Engineers
San Francisco District
Regulatory Branch
333 Market Street
San Francisco, CA 94105-2197
Contact: Clyde Davis
415/977-8449

Prepared for:



Prepared by:

Jones & Stokes Associates, Inc.
2600 V Street, Suite 100
Sacramento, CA 95818-1914
Contact: [REDACTED]
916/737-3000

January 1999

Section 2.0 Preconstruction Notification

PROJECT PURPOSE AND DESCRIPTION

The project proponent proposes to construct a 48-inch pipeline parallel to the existing [REDACTED] Pipeline. The existing pipeline is the main source of raw water supply to [REDACTED] Reservoir and [REDACTED] Treatment Plant. Built in the 1930s, the existing [REDACTED] Pipeline is vulnerable to damage during an earthquake because of its age. Construction of a 48-inch parallel pipeline would increase seismic reliability of the system. The new [REDACTED] Pipeline Intertie to [REDACTED] Reservoir would be buried and extend north approximately 3,000 feet from the northeast corner of [REDACTED] Reservoir along the western side of the existing [REDACTED] Pipeline and [REDACTED] right-of-way. The alignment would cross under [REDACTED] and the [REDACTED] Wasteway.

NATIONWIDE PERMIT COMPLIANCE

Nationwide Permit 12

Section 404 of the Clean Water Act authorizes the Corps to regulate discharges of dredged or fill material in waters of the United States, including wetlands. The Corps may authorize certain activities under the nationwide permit (NWP) program for discharge activities that cause only minimal individual and cumulative adverse environmental effects. All nationwide permits are subject to general conditions that apply to all such permits and to specific conditions that apply to the particular nationwide permit.

Nationwide Permit 12 (Utility Line Discharges) may apply to discharges of dredged or fill material associated with excavation, backfill, or bedding for utility lines, including outfall and intake structures, provided there is no change in preconstruction contours. A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquefiable, or slurry substance for any purpose and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone and telegraph messages, and radio and television communication. The area of waters of the United States that is disturbed must be limited to the minimum necessary to construct the utility line.

The pipeline would be constructed using an open-cut trenching technique. Excavation of the trench would be performed with backhoes or excavators. The depth of excavation would vary; trenches would typically be 8 feet deep with greater depths in isolated areas to avoid existing

utilities. Where the pipeline will cross [REDACTED] Creek and the [REDACTED], the pipeline would be installed using the bore and jack method rather than open-cut trenches. This method involves the use of a horizontal boring machine or auger to drill a hole under the crossing. After the bore is completed, a steel casing is jacked using a large hydraulic jack in a pit located at one end of the crossing. The jacking pit is typically an excavation (with appropriate shoring) that is 12–15 feet wide and 30–35 feet long. When the pipe installation is completed, the area would be backfilled and returned to its original condition. This method of construction under [REDACTED] and [REDACTED] would not alter the beds, channels, or banks of the water bodies.

Proposed Project Impacts and Mitigation Measures

The proposed project will temporarily affect approximately 0.44 acre of jurisdictional waters of the United States, including wetlands, due to trenching and installation activities. Staging areas at various locations would need to be established to store pipe, construction equipment, and other construction-related materials. Staging locations would be located where space is available and away from wetlands or waters of the United States. To avoid and minimize effects on wetlands, protective barrier fencing or staking and flagging will be used to demarcate wetlands and provide a protective buffer zone. Where impacts to wetlands are unavoidable, construction activities will be kept to the minimum to complete construction. On completion of construction, all areas will be restored to preconstruction contours. [REDACTED] has incorporated the following specific environmental commitments into the project design to ensure that wetland impacts are minimized:

- bore and jack the pipeline at creek crossings;
- avoid construction activities during the wet season;
- protect jurisdictional wetlands in or adjacent to the construction area;
- implement a storm water pollution prevention plan; and
- restore affected seasonal wetland habitat.

AGENCY COORDINATION AND COMPLIANCE

Endangered Species Act

Jones & Stokes Associates conducted full surveys for the presence of federally listed and state-listed plant species and reconnaissance-level surveys for wildlife species, and none of the species have been identified as occurring at the site. [REDACTED] has proposed to bore and jack its pipeline under [REDACTED] Creek and the [REDACTED] to avoid marginal habitat in the creek channel. [REDACTED] has also incorporated into its construction schedule avoidance of construction

activities during the wet season. Therefore, no effects on California red-legged frog from project construction will occur.

[REDACTED] has also incorporated environmental commitments into its project design to ensure that no adverse effects occur on the endangered salt marsh harvest mouse. The probability of occurrence of this species at this site is very low because adjacent wetland areas are not tidally influenced, pickleweed vegetation is sparse and patchy, and no mice were observed during the field survey. Nevertheless, to ensure that no effects occur on this species from construction activities, [REDACTED] has committed to installing temporary mouse-proof barrier fences around pickleweed areas. Before construction, [REDACTED] will set live traps in the construction corridor. In the unlikely event that salt marsh harvest mice are found at the site, captured mice would be placed outside the barrier fence to ensure that no mice are affected by project construction. Pickleweed areas would be restored following project construction.

National Historic Preservation Act

The pipeline alignment was examined by a Jones & Stokes Associates archaeologist in May 1998. No cultural resources were recorded as a result of this survey. No evidence of historic properties in the project area was found on historic maps. No previously recorded cultural resource sites are located within the proposed project area [REDACTED]. The proposed project, therefore, would be in compliance with Section 106 of the National Historic Preservation Act.

Section 401 of the Clean Water Act

To comply with Section 401 of the Clean Water Act, a request for water quality certification or waiver has been submitted to the Regional Water Quality Control Board (enclosed).

CITATIONS

[REDACTED] 1998. Draft Initial study/negative declaration for the [REDACTED]
[REDACTED] Draft. November 25, 1998. [REDACTED]
CA. Prepared by Jones & Stokes Associates, Inc. (JSA 97-372.) Sacramento, CA.



DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, CORPS OF ENGINEERS
333 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94105-2197

REPLY TO
ATTENTION OF:

FEB 19 1999

Regulatory Branch

SUBJECT: File Number 24025S

Mr. [REDACTED]
Jones & Stokes Associates, Inc.
2600 "V" Street
Sacramento, California 95818-1914

Dear [REDACTED]

This is in reference to your submittal of October 26, 1998, on behalf of the [REDACTED] concerning Department of the Army authorization to construct a [REDACTED] Pipeline Intertie to [REDACTED]

Based on a review of the information you submitted, your project qualifies for authorization under Department of the Army Nationwide Permit 12, Utility Line Discharges (61 FR 65874, Dec. 13, 1996), pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344). The work is to be performed in accordance with Jones and Stokes Associates, Inc. Sacramento, CA, "Nationwide Permit 12 Preconstruction Notification, [REDACTED] Pipeline Intertie to [REDACTED] Reservoir", January 1999, (JSA 97-372), Prepared for [REDACTED] CA.

The project must be in compliance with the General Conditions cited in Enclosure 1 and all Special Conditions specified in this letter for the nationwide permit authorization to remain valid. **Upon completion of the project and all associated mitigation requirements, you shall sign and return the enclosed Certification of Compliance, Enclosure 2, verifying that you have complied with the terms and conditions of the permit.** Non-compliance with any condition could result in the revocation, suspension or modification of the authorization for your project, thereby requiring you to obtain an individual permit from the Corps. This nationwide permit authorization does not obviate the need to obtain other State or local approvals required by law.

This authorization will remain valid for a period of **two (2) years from the date of this letter**, unless the nationwide permit is modified, suspended or revoked. If you have commenced work or are under contract to commence work prior to the suspension, or revocation of the nationwide permit and the project would not comply with the resulting nationwide permit authorization, you have twelve (12) months from that date to complete the project under the present terms and conditions of the nationwide permit.

This authorization will not be effective until you have obtained Section 401 water quality certification or a waiver of certification from the San Francisco Bay Regional Water Quality Control Board (RWQCB). If the RWQCB fails to act on a valid request for certification within two (2) months after receipt, the Corps will presume a waiver of water quality certification has been obtained. You shall submit a copy of the certification or waiver to the Corps prior to the commencement of work.

To ensure compliance with the nationwide permit, the following special condition shall be implemented: Upon completion of the project, a summary of the actual impacts and mitigation measures taken shall be submitted to the U.S. Fish and Wildlife Service, Sacramento. This data will be included as part of the [REDACTED] [REDACTED] for the Bureau of Reclamation.

You may refer all questions to Clyde Davis of our Regulatory Branch at 415-977-8449. All correspondence should reference the file number 24025S.

Sincerely,



Calvin C. Fong
Chief, Regulatory Branch

Enclosures

Copies Furnished:

US F&WS, Sacramento, CA
US EPA, San Francisco, CA
CD F&G, Yountville, CA
CA RWQCB, Oakland, CA

NATIONWIDE PERMIT CONDITIONS
33 CFR Part 330 EFFECTIVE DATE: February 11, 1997

GENERAL CONDITIONS:

The following general conditions must be followed in order for any authorization by a NWP to be valid:

1. **Navigation:** No activity may cause more than a minimal adverse effect on navigation.
2. **Proper maintenance:** Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.
3. **Erosion and siltation controls:** Appropriate erosion and siltation controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date.
4. **Aquatic life movements:** No activity may substantially disrupt the movement of those species of aquatic life indigenous to the waterbody, including those species which normally migrate through the area, unless the activity's primary purpose is to impound water.
5. **Equipment:** Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.
6. **Regional and case-by-case conditions:** The activity must comply with any regional conditions which may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state or tribe in its section 401 water quality certification.
7. **Wild and Scenic Rivers:** No activity may occur in a component of the National Wild and Scenic River System; or in a river officially designated by Congress as a "study river" for possible inclusion in the system, while the river is in an official study status; unless the appropriate Federal agency, with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely effect the Wild and Scenic River designation, or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service.)
8. **Tribal rights:** No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
9. **Water quality certification:** In certain states, an individual Section 401 water quality certification must be obtained or waived (see 33 CFR 330.4(c)).
10. **Coastal zone management:** In certain states, an individual state coastal zone management consistency concurrence must be obtained or waived (see Section 330.4(d)).
11. **Endangered Species:** (a) No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act, or which is likely to destroy or adversely modify the critical habitat of such species. Non-federal permittees shall notify the District Engineer if any listed species or critical habitat might be affected or is in the vicinity of the project, and shall not begin work on the activity until notified by the District Engineer that the requirements of the Endangered Species Act have

been satisfied and that the activity is authorized.

(b) Authorization of an activity by a nationwide permit does not authorize the take of a threatened or endangered species as defined under the Federal Endangered Species Act. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with incidental take provisions, etc.) from the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, both lethal and non-lethal takes of protected species are in violation of the Endangered Species Act. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. Fish and Wildlife Service and National Marine Fisheries Service or their world wide web pages at <http://www.fws.gov/~t9eandsppl/endspp.html> and http://kingfish.spp.mnfs.gov/tracnryr/prot_res.html#ES and Recovery, respectively.

12. **Historic properties:** No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the DE has complied with the provisions of 33 CFR Part 325, Appendix C. The prospective permittee must notify the District Engineer if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places (see 33 CFR 330.4(g)).

13. **Notification:** (a) *Timing:* Where required by the terms of the NWP, the prospective permittee must notify the District Engineer with a Pre-Construction Notification (PCN) as early as possible and shall not begin the activity:

- (1) Until notified by the District Engineer that the activity may proceed under the NWP with any special conditions imposed by the District or Division Engineer; or
- (2) If notified by the District or Division Engineer that an individual permit is required; or
- (3) Unless 30 days (or 45 days for NWP 26 only) have passed from the District Engineer's receipt of the notification and the prospective permittee has not received notice from the District or Division Engineer. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Notification:* The notification must be in writing and include the following information:

- (1) Name, address and telephone numbers of the prospective permittee;
- (2) Location of the proposed project;
- (3) Brief description of the proposed project, the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), regional general permit(s) or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity; and
- (4) For NWPs 14, 18, 21, 26, 29, 34, and 38, the PCN must also include a delineation of affected special aquatic sites, including wetlands (see paragraph 13(f));

(5) For NWP 21 - Surface Coal Mining

Activities, the PCN must include an OSM or state approved mitigation plan.

(6) For NWP 29-*Single-Family Housing*, the PCN must also include:

- (i) Any past use of this NWP by the individual permittee and/or the permittee's spouse;
- (ii) A statement that the single-family housing activity is for a personal residence of the permittee;
- (iii) A description of the entire parcel, including its size, and a delineation of wetlands. For the purpose of this NWP, parcels of land measuring 0.5 acre or less will not require a formal on-site delineation. However, the applicant shall provide an indication of where the wetlands are and the amount of wetlands that exists on the property. For parcels greater than 0.5 acre in size, a formal wetland delineation must be prepared in accordance with the current method required by the Corps. (See paragraph 13(f));

(iv) A written description of all land (including, if available, legal descriptions) owned by the prospective permittee and/or the prospective permittee's spouse, within a one mile radius of the parcel, in any form of ownership (including any land owned as a partner, corporation, joint tenant, co-tenant, or as a tenant-by-the-entirety) and any land on which a purchase and sale agreement or other contract for sale or purchase has been executed;

(7) For NWP 31-*Maintenance of Existing Flood Control Projects*, the prospective permittee must either notify the District Engineer with a Pre-Construction Notification (PCN) prior to each maintenance activity or submit a five year (or less) maintenance plan. In addition, the PCN must include all of the following:

(i) Sufficient baseline information so as to identify the approved channel depths and configurations and existing facilities. Minor deviations are authorized, provided that the approved flood control protection or drainage is not increased;

(ii) A delineation of any affected special aquatic sites, including wetlands; and,

(iii) Location of the dredged material disposal site.

(8) For NWP 33-*Temporary Construction, Access, and Dewatering*, the PCN must also include a restoration plan of reasonable measures to avoid and minimize adverse effects to aquatic resources.

(c) *Form of Notification:* The standard individual permit application form (Form ENG 4345) may be used as the notification but must clearly indicate that it is a PCN and must include all of the information required in (b) (1)-(7) of General Condition 13. A letter may also be used.

(d) *District Engineer's Decision:* In reviewing the pre-construction notification for the proposed activity, the District Engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. The prospective permittee may, optionally, submit a proposed mitigation plan with the pre-construction notification to expedite the process and the District Engineer will consider any optional mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects of the proposed work are minimal. If the District Engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects are minimal, the District Engineer will notify the permittee and include any conditions the DE deems necessary.

Any mitigation proposal must be approved by the

Permittee: [REDACTED]

File No.: 24025S

**Certification of Compliance
for
Nationwide Permit**

"I hereby certify that the work authorized by the above referenced file number and all required mitigation have been completed in accordance with the terms and conditions of the nationwide permit."

(permittee)

(date)

Return to:

Clyde Davis
Department of the Army
U.S. Army Engineer District, San Francisco
333 Market Street, CESPAN-CO-R
San Francisco, CA 94105-2197

DEPARTMENT OF THE ARMY PERMIT

Permittee: [REDACTED]
P.O. Box 4121
Concord, California 94524

Permit Number: 199000070

Issuing Office: U.S. Army Engineer District, Sacramento
Corps of Engineers
1325 "J" Street, Room 1444
Sacramento, California 95814-2922

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description:

To construct a 100,000 acre-foot reservoir in the [REDACTED] watershed [REDACTED] and associated appurtenant facilities, including a new supplemental intake on the west bank of [REDACTED] River approximately 1,000 feet south of State Route [REDACTED] conveyance pipelines, transfer facilities and pumping plants. Associated work includes relocation of three natural gas pipelines, two high-pressure petroleum pipelines, one 230,000-volt electric transmission line and a portion of the existing Vasco Road. You are authorized to directly (i.e., fill) and indirectly impact up to 18.276 acres of wetlands and other waters of the United States. All work is to be completed in accordance with the attached drawings.

Project Location:

The permitted facilities are generally located in Townships 1 and 2 South, Ranges 2 and 3 East (M.D.B.&M), primarily in [REDACTED] County, California, and depicted on Sheet 1 of the attached drawings. Precise location of the reservoir is identified on Sheet 2; location of the realigned [REDACTED] Road is shown on Sheet 3; location of the new pipeline is shown on Sheet 4; location of the new pipeline from the new intake facility is shown on Sheet 5; location of the relocated utility lines are shown on Sheet 6; and location of the new intake structure is shown on Sheet 14. Each sheet identifies site-specific impacts to waters of the United States under Department of the Army jurisdiction.

General Conditions:

1. The time limit for completing the work authorized ends five years from the issuance of this permit as determined by the signature date at the end of this document. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being, or has been accomplished, in accordance with the terms and conditions of your permit.

Special Conditions: All documents identified below are considered by reference as attachments to the Department of the Army permit.

1. [redacted] shall implement all "Environmental Commitments" identified in the [redacted] Environmental Impact Report/Environmental Impact Statement (EIR/EIS; [redacted], October 27, 1993) beginning on page 19-4 and ending on page 19-14 and in the "Environmental Commitments and Mitigation Monitoring and Reporting Plan" for the EIR/EIS. Additional details may be provided in other documents listed below.

2. [redacted] shall implement all [redacted]-related requirements in the interagency (i.e., Advisory Council on Historic Preservation, Bureau of Reclamation, Army Corps of Engineers, California Historic Preservation Officer, Contra Costa Water District and State Water Resources Control Board) Programmatic Agreement developed for addressing cultural resources.

3. [redacted] shall implement all [redacted]-related recommendations identified in Chapter 7, pages 69-75, in the Fish and Wildlife Coordination Act report by the U.S. Fish and Wildlife Service (September 1993) with the exceptions noted in the 23 December 1993 letter from the Bureau of Reclamation to the U.S. Fish and Wildlife Service.

4. [redacted] shall implement all [redacted]-related reasonable and prudent measures identified in the Section 7, Endangered Species Act, Biological Opinions for the San Joaquin kit fox and bald eagle (U.S. Fish and Wildlife Service, 3 September 1993), Delta smelt (U.S. Fish and Wildlife Service, 9 September 1993) with the clarifications noted in the 23 December 1993 letter from the Bureau of Reclamation to the U.S. Fish and Wildlife Service and winter-run chinook salmon (National Marine Fisheries Service, 18 March 1993).

5. [redacted] shall implement all mitigation measures identified in the California Department of Fish and Game Formal Endangered Species Consultation that

included the vernal pool fairy shrimp, longhorn fairy shrimp and California linderiella (CDFG memorandum dated 16 February 1994 to Division of Water Rights).

6. [redacted] shall mitigate adverse impacts to California red-legged frog, California tiger salamander and western pond turtle through implementation of "Special-Status Amphibian and Reptile Conceptual Mitigation Plan for the Los Vaqueros Project" (March 1993). [redacted] shall contact the Corps of Engineers prior to initiation, in 1994, of the [redacted] Reservoir watershed study on the red-legged frog to facilitate initiation of conferencing or consultation, as appropriate, on that species.

7. [redacted] shall mitigate adverse impacts to oak woodland through implementation of the "Valley Oak and Riparian Woodland Habitat Mitigation Plan for the [redacted] Project" (September 1993), as modified by the requirements of Special Condition 3, above.

8. [redacted] shall mitigate adverse impacts to wetlands and other waters of the United States through implementation of the "Wetland Mitigation Plan for the [redacted] Project". This plan is currently in draft form dated January 1993. This plan shall be finalized by adding type and density of planting/seeding, topsoil spreading, irrigation, if needed, performance monitoring schedules and a wetland mitigation schedule correlated with the schedule of impacts to waters of the United States. The proposed final plan shall be submitted to the Corps of Engineers, U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service and California Department of Fish and Game in three phases annually to correspond with annual construction impacts of each major project component (i.e., [redacted] Road and utilities relocations; water conveyance facilities; and the [redacted] reservoir). Mitigation at all sites shall be completed by the end of 1995 except for the [redacted] Creek mitigation site which will be constructed in the first dry season after completion of the [redacted]. These plans shall be approved by the Corps of Engineers in consultation with the resource agencies prior to initiation of any work within Corps jurisdiction that is planned within the corresponding 12-month period. The construction season shall be defined as annually from the Corps of Engineers' approval of the first phase of the final mitigation plan. Mitigation shall be done prior to, or concurrently with, annual construction impacts. Annual mitigation shall be adequate, as determined by the Corps of Engineers, to compensate for the construction impacts each year.

9. Any modifications to these Special Conditions must be requested by [redacted] in writing prior to implementing the proposed modification and approved by the Corps of Engineers.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

(X) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

() Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

- b. This permit does not grant any property rights or exclusive privileges.
- c. This permit does not authorize any injury to the property or rights of others.
- d. This permit does not authorize interference with any existing or proposed Federal projects.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data. The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant.

Circumstances that could require a reevaluation include, but are not limited to, the following:

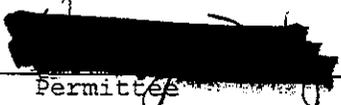
- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a re-evaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are

circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.



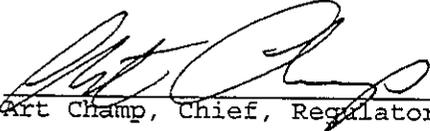
Permittee

4/21/94

Date

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

Issued for and in behalf of Colonel John N. Reese, District Engineer.



Art Champ, Chief, Regulatory Section

4/21/94

Date

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

Permittee

Date