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

REPLY TO
ATTENTION OF

May 3, 2012

Regulatory Division (SPK-2008-00861)

Ms. Dale K. Hoffman-Floerke
Acting Deputy Director
Department of Water Resources
1416 Ninth Street
Sacramento, California 94236-0001

Dear Ms. Hoffman-Floerke:

I am following up on our meeting on March 29, 2012, in which we discussed the purpose statements for the Bay Delta Conservation Plan (BDCP) for compliance with the National Environmental Policy Act (NEPA)(42 U.S.C. 4321 et seq), Section 404 of the Clean Water Act, and Section 10 of the Rivers and Harbors Act of 1899.

We recognize the BDCP will set out a comprehensive strategy which strives to achieve the goals of restoring ecological functions and improving water reliability. As you know, specific projects of the BDCP that result in the discharge of dredged or fill material into waters of the United States under Section 404 of the Clean Water Act, work or structures in or affecting navigable waters of the United States under Section 10 of the Rivers and Harbors Act of 1899, or modifications to a Federal project under Section 14 of the Rivers and Harbors Act of 1899, will require Department of the Army authorization prior to starting work.

For each of the individual projects of the BDCP requiring Department of the Army authorization under Sections 404 of the Clean Water Act, we will determine the specific basic and overall purpose statements after receiving a project description with sufficient detail. Under the 404(b)(1) Guidelines, we will use the basic purpose statement to determine whether the proposed project is water-dependent. The overall purpose for a project is necessary to evaluate less environmentally damaging practicable alternatives as required by the Guidelines. Because each individual BDCP project functions as a component of the plan's implementation, the overall purpose statement for each of these individual projects will be consistent with the finalized BDCP (the final Habitat Conservation Plan as approved by U.S. Fish and Wildlife Service and the National Marine Fisheries Service.).

The Corps has also reviewed the Purpose and Need Statements in 2.4 & 2.5 of the February 2012 Administrative Draft BDCP EIS/EIR, and hereby agrees that those statements meet the minimum requirements for compliance with NEPA.

I hope this information is helpful to you. Please refer to identification number SPK-2008-00861 in any correspondence concerning this project. If you have any questions, please contact Mr. Michael Nepstad, Deputy Chief, Regulatory Division, at email *Michael.G.Nepstad@usace.army.mil*, or telephone 916-557-7262.

Sincerely,

Michael S. Jewell
Chief, Regulatory Division

Copies Furnished:

Ms. Karen Schwinn, Associate Director, Water Division, U.S. Environmental Protection Agency Region 9, 75 Hawthorne Street (WTR-1), San Francisco, CA 94105
Mr. Paul Robershotte, Integrated Water Resource Planning, South Pacific Division, U.S. Army Corps of Engineers, 1455 Market Street, San Francisco, CA 95103-1399
Mr. David Nawi, Senior Advisor to the Secretary, California and Nevada, 650 Capital Mall, 5th Floor, Sacramento, CA 95814