



DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS
1455 MARKET STREET, 16TH FLOOR
SAN FRANCISCO, CALIFORNIA 94103-1398

June 3, 2014

REPLY TO
ATTENTION OF

Regulatory Division

Subject: File Number 2004-28630S

Mr. William W. Stelle, Jr.
Acting Regional Administrator
National Marine Fisheries Service, Southwest Region
c/o Mr. Gary Stern
North Central Coast Regional Office
777 Sonoma Avenue, Room 325
Santa Rosa, California 95404-4731

Dear Mr. Stelle:

This letter serves to reinitiate Section 7 consultation pursuant to the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. § 1531 *et seq.*) (33 C.F.R § 325.2(b)(5)) for federally listed Central California Coast (CCC) steelhead (*Oncorhynchus mykiss*) and their designated critical habitat, for the continued mitigation and monitoring activities associated with the Stanford University Steelhead Habitat Enhancement Project (SHEP). The Los Trancos Fish Ladder is located along Alpine Road southeast of Portola Valley, in Santa Clara County and is a part of Stanford University. Los Trancos Creek forms the border between Santa Clara County and San Mateo County, California. The San Francisquito Creek Pump Station is located south of the intersection of Junipero Serra and Alpine Road, in the section of the creek located adjacent to Fairway 9 in the Stanford University Golf Course, in San Mateo County, California.

Your office issued a Biological Opinion (BO: 2006/00892) and Incidental Take Statement for the SHEP on April 21, 2008, concluding that the project is not likely to jeopardize the continued existence of threatened CCC steelhead, or result in the destruction or adverse modification of critical habitat for CCC steelhead. The Corps of Engineers (Corps) authorized Stanford University to construct the SHEP under Nationwide Permits 33 – Temporary Construction, Access and Dewatering, and 39 – Commercial and Institutional Developments, 72 Fed. Reg. 11,092, March 12, 2007, pursuant to Section 404 of the Clean Water Act of 1972, as amended (33 U.S.C. § 1344 *et seq.*), on August 14, 2008. Approximately 0.045 acre of wetlands and 0.035 acre of waters of the U.S. were impacted by the fish ladder and pump station improvements. Of this amount, approximately 0.029 acre was permanently filled. A total of 246 linear feet of creek was disturbed as a result of the project.

Construction of the water control structure and new fish ladder on Los Trancos Creek, and the pumping station on San Francisquito Creek was completed in November 2009. Planting of trees and woody shrubs on both east and west banks of Los Trancos Creek and San Francisquito Creek as

required mitigation for temporal impacts was also completed in November 2009. The mitigation and monitoring requirements identified in the special conditions of the permit have not yet been completed due to bank washouts from flooding events in the winters of 2010/2011 and 2012/2013. The failed banks have been reconstructed and revegetated, but the three years of monitoring post-construction have not been fulfilled. Additionally, a 40-foot long bank stabilization structure constructed as part of the SHEP at the Los Trancos facility has failed twice. In 2009, an eroding stream bank and scour hole adjacent to overflow spillway structure was backfilled with soil, covered with an erosion control blanket, and seeded with native California grass and herb mix concurrent with the construction of the replacement fish ladder and screen. This structure on the north bank of Los Trancos Creek washed out in the winter of 2010/2011 and it was rebuilt by Stanford University in the fall of 2011. The structure failed again in the winter of 2012/2013. The Corps proposes to require Stanford to design and construct a new bank stabilization structure at this site. Stanford will provide plan drawings and further details to you directly. Once these activities are complete to the satisfaction of the Corps, the permit will terminate and there will no longer be any federal action.

The remaining project elements have been reviewed for their impacts to federally listed species and their designated critical habitat. The Corps has determined that extension of the mitigation and monitoring work is not likely to adversely affect CCC steelhead or their critical habitat. However, the repair of the failed stream bank structure on Los Trancos Creek may result in adverse effects during construction activities. The following avoidance and minimization measures would be included as special conditions of the permit to reduce the potential for impacts to steelhead:

1. All work shall be restricted to the period between June 15 and October 15.
2. If the Los Trancos stream channel contains flowing or ponded at project site, the work area shall be dewatered to isolate construction activities from the live stream.
3. If dewatering is performed, fish shall be collected and relocated by a qualified fisheries biologist prior to construction.
4. NMFS shall be provided the opportunity to review the proposed bank stabilization design and plan drawings prior to construction.
5. All standard best management practices shall be implemented to prevent the movement of sediment downstream. No debris, soil, silt, sand, bark, slash, sawdust, cement, concrete, washing, petroleum products, or other organic or earthen material shall be allowed to enter into or be placed where it might be washed by rainfall or runoff into waterways.

6. All construction debris, trash and other waste material shall be immediately removed from the channel and hauled off-site for disposal. After construction completion, any installed by-pass pipes, cofferdams or temporary construction materials of fill installed below the OHWM must be removed in their entirety and the area restored to pre-construction conditions.
7. A post construction report shall be submitted 45 days after the conclusion of construction activities. The report shall document construction activities and contain as-built drawings (if different from drawings submitted with application) and include before and after photos.

With this letter the Corps is initiating formal consultation in accordance with 50 C.F.R. § 402.14(e) and 50 C.F.R. § 600.905(b), and requests that formal consultation concludes within 90 calendar days of this letter. The ESA regulations further require that the biological opinion (if required) be delivered to the Corps within 45 days after the conclusion of formal consultation.

You may refer any questions on this matter to Holly Costa of my Regulatory staff by telephone at (415) 503-6780 or by e-mail at holly.n.costa@usace.army.mil. All correspondence should be addressed to the Regulatory Division, South Branch, referencing the file number at the head of this letter.

Sincerely,

Original Signed by
Katerina Galacatos
Chief, South Branch Regulatory Division

Jane M. Hicks
Chief, Regulatory Division