



# United States Department of the Interior

## Fish and Wildlife Service

Sacramento Fish and Wildlife Office  
2800 Cottage Way, Room W-2605  
Sacramento, California 95825-1846

IN REPLY REFER TO:  
1-1-00-I-763

February 1, 2000

Mr. Calvin C. Fong  
Chief, Regulatory Branch  
U.S. Army Corps of Engineers  
San Francisco District  
333 Market Street  
San Francisco, California 94105-2197

Subject: Response to Request for an Amendment to Biological Opinion for the  
Tolay Creek Restoration Plan (Service File Number 1-1-97-F-134),  
Sonoma County, California

Dear Mr. Fong:

This is in response to your request for an amendment to a biological opinion dated October 17, 1997. Your request was dated December 30, 1999, and received in this office on January 5, 2000. On September 9, 1994, the U.S. Fish and Wildlife Service (Service) issued a biological opinion (Service File No. 1-1-94-F-41) to the U.S. Army Corps of Engineers (Corps) on the effects of levee maintenance activities and dredging in Sonoma Creek, Petaluma River, and San Antonio Creek drainages, on California clapper rail (*Rallus longirostris obsoletus*) (clapper rail) and salt marsh harvest mouse (*Reithrodontomys raviventris*) (harvest mouse). The Service's biological opinion required the Corps and the permit applicant to prepare and implement a detailed tidal salt marsh habitat restoration plan to compensate for the temporary loss of 71 acres of clapper rail and harvest mouse habitat associated with the project. The Tolay Creek Restoration Plan (Restoration Plan) identified a 53 acre oat-hay field (parcel) immediately south of highway 37 and on the east side of Tolay Creek and proposed to restore 47 acres to tidal marsh as compensation for the proposed project. On October 17, 1997, the Service issued a biological opinion on the Restoration Plan (Service File No. 1-1-97-F-134), which stated that compliance with the Service's September 9, 1994, biological opinion "must be addressed as a formal amendment to that biological opinion". The Corps' letter dated December 30, 1999, requested an amendment to the Service's September 9, 1994, biological opinion stating "that the habitat restored at the [p]roposed CDFG pond is sufficient to relieve the Southern Sonoma Resource Conservation District of its mitigation requirement".

Acquisition of the parcel, breaching the levee to restore tidal action, and its transfer to California Department of Fish and Game satisfies the acreage requirement of the term and condition (a)

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under reasonable and prudent measure number two of the September 9, 1994, biological opinion. In order to be exempt from the prohibitions of section 9 of the Act, the Corps must comply with the remaining terms and conditions described in the September 9, 1994, biological opinion, which implement the reasonable and prudent measures described in the opinion and outline required reporting and monitoring requirements. Completing the remaining terms and conditions, including implementation of the May 14, 1998, Restoration Plan, is nondiscretionary. Therefore, the Corps shall assure that the following monitoring, as fully described in the Restoration Plan, will occur:

- (1) Monthly bird surveys will be conducted;
- (2) Annual California clapper rail and black rail surveys will be conducted;
- (3) Salt marsh harvest mouse populations will be monitored every two to three years once pickleweed habitat begins to develop;
- (4) Vegetative change and marsh development will be monitored annually from three photo points in the parcel;
- (5) Channel morphology will be monitored annually;
- (6) Elevation of parcel substrate will be monitored every five years;
- (7) Site hydrology will be monitored using staff gauges.

If you have any questions regarding this letter, please contact Carmen Thomas or Ken Sanchez at (916) 414-6625.

Sincerely,



Karen J. Miller  
Chief, Endangered Species Division

cc: Louise Vicencio, San Pablo Bay NWR, Mare Island, CA

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