

APPENDIX A

**COMMUNICATION WITH
CALIFORNIA DEPARTMENT OF FISH AND GAME**



Conversation Record

Date: January 7, 2009
With: Suzanne Gilmore, CDFG
By: Jon Stead
Subject: ***Mirant WPGS***

Jon Stead (URS) gave Suzanne a general overview of the WPGS project and the (minimal) potential impacts to biological resources.

They discussed the interagency meeting for WPGS/MLGS that Laurel Cordonnier (CEC biologist) had suggested. Both agreed it is a good idea. Jon will remind Laurel to organize it as she volunteered to do.

Suzanne confirmed that a separate stream Alteration Agreement (SAA) will be required for each crossing. This is because each crossing is considered a separate “project,” where a project is all activities conducted to achieve the crossing. The fee for each application should be based on the construction costs to achieve the individual crossing.

Regarding where a SAA is needed, Stream Crossings 1-3 (Kirk Creek and the unnamed tributary) will need SAAs even if the installation method is jack and bore.

Suzanne stated, similar to what Laurel said, that there is some risk of frac out even with jack and bore installations. Jon will follow-up with the pipeline engineer on the project regarding this.

Regarding Channel Crossing 1, at the south boundary of the existing Pittsburg Power Plant (PPP), Suzanne said that provided the work is conducted in a manner that prevents any inputs to the channel, and the crossing is achieved at the culverted portion of the channel, without any disturbance to bed or banks of the channel, no SAA should be required.

Regrading Channel Crossing 2, in the railroad switchyard, a SAA agreement would only be needed if the channel has some direct connectivity with natural drainages or the Delta. If it drains into a storm drain, a SAA would not be required. Suzanne suggested using Google Earth or field recon, if necessary, to determine where the channel drains to, and then making the call on the SAA.

Suzanne described the “operational law” as relevant to the SAAs. She pointed out that her office is unable to thoroughly review all SAAs and some (those without sensitive species issues, typically) go 90 days without any CDFG action. In that case, the project can proceed exactly as described in the notification. She suggested leaving enough flexibility, particularly in what year the work would occur, so that a change would not require a second notification.

Also, if the notification package is very thorough regarding avoidance and minimization measures, CDFG could simply issue a letter (no formal SAA) saying, “go ahead as described”. Suzanne encouraged Jon to ensure the notifications are thorough.



Julie Watson/SanFrancisco/URSCorp
01/30/2009 05:40 PM

To
cc
bcc
Subject Willow Pass Generating Station, Stream Alteration Agreement

----- Forwarded by Jon Stead/Oakland/URSCorp on 12/17/2008 04:23 PM -----



"Suzanne Gilmore"
<SGILMORE@dfg.ca.gov>
12/17/2008 08:36 AM

To <Jon_Stead@URSCorp.com>
cc
Subject Re: Willow Pass Generating Station, Stream Alteration Agreement

Hello Mr. Stead,

My apologies for the delay in my response. I have answered your questions below:

(1) A SAA would be required for open trench installation through Kirker Creek.
Yes, for sure

(2) Is a SAA required for underground installation of pipelines, below creeks, even if there is no disturbance to the stream bed, bank, or channel? My understanding is that if all of the crossings would be achieved by underground installation, CDFG would still prefer that the project proponent obtain a SAA. Is that correct?
Yes, DFG the applicant should submit a notification even when the work is done under the channel. This is in case there are Frac-outs or pressure eruptions. I should also note the fully protected status of species in the marsh areas. If the landing pads on either of the creek are in habitat for these species, I would recommend early consultation with DFG to avoid all impacts to fully protected species.

(3) How long should Mirant anticipate it will take, between when the SAA application is submitted, and when the final agreement is issued?
This can range depending on the project and ceqa lead agency. Generally the process takes 90 days to receive something in writing from the department, however if DFG is determined as the lead agency and must prepare an EIR for the SAA - it can take longer. Do you know if this project will have discretionary permits from the local government? It sounds like CEC has it's own "ceqa" process which may mean that DFG has to do ceqa for all SAAs. Perhaps this is worth more discussion.

4) One more additional note. Please keep in mind that each stream crossing is considered a separate project. So when you or Mirant prepare the SAA notification packages, these should each be prepared separately and with appropriate fees.

Hope this is helpful. Again my apologies for the delay in getting back to you. We can schedule a time to talk if you would like to discuss further.

Regards,

Suzanne

Suzanne Gilmore
Environmental Scientist
Habitat Conservation Planning
Department of Fish and Game
P.O. Box 47
Yountville, California 94599
707-944-5536 office
707-944-5563 fax
Sgilmore@dfg.ca.gov

>>> <Jon_Stead@URSCorp.com> 12/4/2008 5:08 PM >>>

Ms. Gilmore,

I am helping Mirant with their proposed Willow Pass Generating Station (WPGS) in Pittsburg, which they hope to begin operating in 2012. The project involves removing old generating units at the existing Pittsburg Power Plant and building new generating units at that site. As proposed, the project also includes installation of an approximately 5 mile-long water supply and return line between the Pittsburg Power Plant/WPGS, and the Delta Diablo Sanitary District (DDSD). That pipeline would cross several channels that have been identified as potential jurisdictional wetlands, including Kirker Creek. Impacts to the channels at most locations can be avoided by using a pipe-ramming (or other) method to install the pipe underneath the channels, but at the intersection of the Pittsburg-Antioch Highway and Arcy Lane, as it enters the DDSD property, the pipeline would have to be installed under the artificially constructed, earthen channel that contains Kirker Creek at that location by open cut trenching.

Mirant has submitted an Application for Certification to the California Energy Commission (CEC), as a first step in permitting the project. The CEC has requested information regarding the status of the Stream Alteration Agreement (SAA) for the WPGS project. Mirant has not applied for the SAA yet but it seems there is plenty of time before the pipeline would be installed to obtain the permit. It would be helpful if you could clarify the following points for me, and for the CEC:

(1) A SAA would be required for open trench installation through Kirker Creek.

(2) Is a SAA required for underground installation of pipelines, below creeks, even if there is no disturbance to the stream bed, bank, or channel? My understanding is that if all of the crossings would be achieved by underground installation, CDFG would still prefer that the project proponent obtain a SAA. Is that correct?

(3) How long should Mirant anticipate it will take, between when the SAA application is submitted, and when the final agreement is issued?

Thanks,

Jonathan Stead
Project Ecologist
Environmental Sciences Department
URS Corporation
1333 Broadway, Suite 800
Oakland, CA 94612
(510) 874-3058

This e-mail and any attachments are confidential. If you receive this message in error or are not the intended recipient, you should not retain, distribute, disclose or use any of this information and you should destroy the e-mail and any attachments or copies.