

APPENDIX A
AGENCY CORRESPONDENCE



DATE:13Jun2008 TIME:	TELEPHONE MEMORANDUM	JOB NO:28067343 COST CODE:02020
(TO) (FROM): Bob Smith		ROUTING
COMPANY: US Army Corps of Engineers		
PHONE NO.: 415 503 6792		
RECORDED BY: Jonathan Stead		
PROJECT NAME: Mirant Willow Pass Generating Station		

Regarding US Army Corps of Engineers File Number 29868S

“Area D” as referenced in the wetland delineation of Mirant’s property (report dated 30 Sept. 2005) prepared by WRA was not included in the Corps verified wetland delineation map. Bob confirmed that the large retention basin and other wetlands that may occur within spill retention berms on the site are not jurisdictional. Bob stated that the Corps recently did take jurisdiction of the drainage channel just south of the Pittsburg Power Plant. Bob stated that wetlands associated with the waterway west of the Pittsburg Power Plant, or other wetlands that may occur west of the spill retention berm at the west edge of the Pittsburg Power Plant (but inside “Area D”) may also be jurisdictional.



DATE: 08/05/08 TIME: 2:30 p.m.	TELEPHONE MEMORANDUM	JOB NO: COST CODE:
(TO) (FROM): Sandy Brunson		ROUTING
COMPANY: California Dept. Fish and Game		
PHONE NO.: (707) 944-5500		
RECORDED BY: A. Gilda Barboza		
PROJECT NAME: Energy Commission- Willow Pass Generating Station		

This conversation involved URS biologist, Gilda Barboza, and Sandy Brunson at the California Department of Fish and Game (CDFG) – Bay Delta Region 3. This conversation took place to obtain a contact person at CDFG in order to begin all preliminary investigations for a Streambed Alteration Agreement. The request was put forth so to have available information to provide the Energy Commission staff a brief perspective of the filing process for their scheduling purposes.

Per the conversation, Ms. Brunson mentioned that the CDFG will need to first review the application for the 1600 Streambed Alteration Agreement, at which time an application acceptance letter will be sent to the applicant. The letter will discuss the assigned CDFG contact person, a notification number, and timelines. Until then, all questions regarding the application process may be referred to Sandy Brunson, or any general biologist at the CDFG Bay Delta Region.



Jon Stead/Oakland/URSCorp
12/04/2008 05:08 PM

To sgilmore@dfg.ca.gov
cc
bcc
Subject Willow Pass Generating Station, Stream Alteration Agreement

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

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Jon Stead/Oakland/URSCorp
12/04/2008 05:32 PM

To robert.f.smith@usace.army.mil
cc
bcc
Subject WPGS 404 Permit

Bob,

We spoke back in June, briefly over the phone, about some wetland delineations that had been done at and around Mirant's property out at the Pittsburg Power Plant.

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 Corps permit for the WPGS project. Mirant has not applied for a Corps permit 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 Corps permit would be required for open trench installation through Kirker Creek.
- (2) A Corps permit is not required for installation of pipelines under creeks when the installation method (e.g., jack and bore, pipe ramming, HDD) would avoid disturbance to the bed, bank, or channel of the creek, and would not affect water quality.
- (3) Assuming there would be impacts at one of several stream crossings, is a wetland delineation/delineation verification required at all crossings of potential jurisdictional wetlands, including where underground installation methods would avoid impacts to potentially jurisdictional wetlands and waters (e.g. pipe ramming, jack and bore, or HDD), or is the formal delineation required only at crossings where installation methods would involve impacts?
- (4) If there was a way to use underground installation methods at all the crossings, and all impacts could be avoided, no formal delineation or Corps permit would be required.
- (5) How long should Mirant anticipate it will take to have a formal delineation verified by the Corps?
- (6) How long should Mirant anticipate it will take to receive a Nationwide permit from the Corps, after submitting the notification?

I hope I'm not too far off...

Thanks,

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DATE: 08Dec2008 TIME: AM	TELEPHONE MEMORANDUM	JOB NO: COST CODE:
(TO) (FROM): Bob Smith		ROUTING
COMPANY: US Army Corps of Engineers		
PHONE NO.: 415 503 6792		
RECORDED BY: Jonathan Stead		
PROJECT NAME: Willow Pass Generating Station		

I received a telephone call from Bob Smith, in response to my phone call and email on December 4, 2008. Bob clarified the following points:

A Section 404 Permit is required for trenching in Kirker Creek.

The USACE only regulates pipelines under (and over) jurisdictional wetlands and waters if they are tidally influenced (jurisdiction under Section 10). The channel immediately south of the WPGS is not considered tidal because it is separated from the tidal marshes by a pump station. Therefore, the USACE would have no jurisdiction at crossings where the WPGS project would avoid impacts by crossing underneath potentially jurisdictional wetlands.

The project should be covered under NWP 12, for utility lines. Under NWP 12 no delineation verification is required by the USACE for impacts to less than 1/10th of an acre.

Regarding CA red-legged frog, the consultation with USFWS could probably be conducted under the programmatic BO. Technically, a consultation under that programmatic BO should take only 30 days. Other than that, Bob was unable to provide details regarding turn-around times. He said it depends on who is the lead at the USACE, and what their current work load is like.



"Kathryn Hart"
<KHart@waterboards.ca.gov>

12/05/2008 11:03 AM

To <Jon_Stead@URSCorp.com>

cc

bcc

Subject Re: WPGS Section 401 Water Quality Certification

Jon,

Trenching across Kirker Creek for installation of the pipeline will require a water quality certification. A 401 permit would not be applicable to the jack & bore crossings of other water features. However, whether coverage under our General Permit for small projects not regulated by the Corps would be needed depends on the particular project (creek location, size of project, potential for problems, etc.). Pre-project consultation with Water Board staff on these types of project would be appropriate to determine whether the applicant should apply for coverage under the general permit. Concerns are related to the resulting separation between the bed of the creek channel and the pipeline (adequate depth of natural soil between the pipe and the bed of the creek should be provided to allow for channel incision over time without exposure of the line), and the actual construction methodology (whether drilling fluids will be used and potential for frac-outs).

While these jack & bore operations can be done without impacts, if there is a potential for impacts we may want to look at the plans, and have the applicant get coverage under our General Permit for small projects that are not regulated by the Corps.

I suggest that for the WPGS project, since you will need a 401 for the Kirker crossing, the application could include description of the other jack & bore locations so that the 401 can address as needed. The overall project should be described, and maps/drawings should be provided to show the entire pipeline pathway.

We typically try to respond to applications within 30 days after receipt. If the application is complete, it can take several months before a permit is issued due to limited staff and work backlog. If the application is not complete, and additional information is needed, then the process will take longer.

Let me know if you have other questions.

>>> <Jon_Stead@URSCorp.com> Thursday, December 04, 2008 5:15 PM >>>

Ms. Hart

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 Section 401 Water Quality Certification for the WPGS project. Mirant has not applied for the 401 Certification 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) 401 Certification would be required for open trench installation through Kirker Creek.

(2) 401 Certification is not required for installation of pipelines under creeks when the installation method (e.g., jack and bore, pipe ramming, HDD) would avoid disturbance to the bed, bank, or channel of the creek, and would not affect water quality.

(3) How long should Mirant anticipate it will take, between when the 401 Certification is first applied for, and when the Certification is issued?

Thanks,

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