



REPLY TO  
ATTENTION OF

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

February 9, 2011

CERTIFIED MAIL

Regulatory Division SPK-1997-00300

Ms. Tracey Avila  
Robinson Rancheria Pomo Indians  
1545 East Highway 20  
Nice, California 95464-8619

Dear Ms. Avila:

This letter concerns your unauthorized work in waters of the United States. The work is located on verified wetland, Section 20, Township 15 North, Range 9 West, Mount Diablo Meridian Survey, Latitude 39.1412202448511°, Longitude -122.884635874967°, Nice, Lake County, California.

Based on available information we have determined that you have discharged dredged or fill material into wetlands, which are waters of the United States, without a Department of the Army (DA) permit. Section 404 of the Clean Water Act requires a DA permit be obtained prior to the discharge of dredged or fill material into waters of the United States, including wetlands. Since a DA permit has not been issued authorizing this discharge, the work is in violation of the Clean Water Act.

We are conducting an investigation to determine the impact of this work as it relates to public interest and the appropriate course of action to remedy the situation. Potential enforcement actions, in addition to or in lieu of fines, penalties and imprisonment, include directing removal of the unauthorized work and restoration of the site to pre-project conditions. An extract of the law is enclosed.

By copy of this letter, we are soliciting the views of appropriate Federal, State, and local agencies, which may also have jurisdiction, regarding this unauthorized activity. Based upon your responses to this notice, comments received from the agencies and any available information, we will determine the appropriate course of action to resolve this violation.

It appears that you have not completed mitigation for effect to CA-LAK-1253 in accordance with the March 1999, Historic Properties Treatment Plan For Intentional Burial of CA-Lake-1253, Robinson Rancheria, Lake County, California. The State Historic Preservation Officer approved the plan on April 5, 1999 (SHPO refer #COE990315D).

To ensure that all pertinent information is available for our evaluation and included in the public record, you are invited to provide any information which you feel should be considered. Your plans for utilization of the completed work and your evaluation of the need to retain this fill may be of particular significance in determining what actions are to be taken. Since the information provided will become a part of the public record, it may be presented in any court action that could result from this investigation and will be retained in our files. Any information you wish to provide should reach this office no later than March 9, 2011. We appreciate your cooperation and timely action on this matter.

Please refer to identification number SPK-1997-00300 in any correspondence concerning this project. If you have any questions, please contact Mr. Peck Ha at our California North Branch Office, Regulatory Division, Sacramento District, U.S. Army Corps of Engineers, 1325 J Street, Room 1480, Sacramento, California 95814-2922, email [Peck.Ha@usace.army.mil](mailto:Peck.Ha@usace.army.mil), or telephone 916-557-6617. For more information regarding our program, please visit our website at [www.spk.usace.army.mil/regulatory.html](http://www.spk.usace.army.mil/regulatory.html).

Sincerely,

A handwritten signature in dark ink, appearing to read "Nancy A. Haley". The signature is written in a cursive style with several loops and a long horizontal stroke at the end.

Nancy A. Haley  
Chief, California North Branch

Enclosure

Copies Furnished without enclosure:

Mr. Lester Maston, 405 West Perkins Street, Ukiah, California 95482

Mr. Luis Garcia-Bakarich, USEPA R9 Clean Water Act Compliance Office, 75 Hawthorne Street, San Francisco, California 94105

Mr. Dan Radulescu, Storm Water and Water Quality Certification Unit, California Regional Water Quality Control Board, Central Valley Region, 11020 Sun Center Drive #200, Rancho Cordova, California 95670-6114

Mr. Kent Smith, California Department of Fish and Game, Region 2, 1701 Nimbus Drive, Rancho Cordova, California 95670-4599

Ms. Kim Squires, Forest Foothill Branch, U.S. Fish and Wildlife Service, Endangered Species Division, 2800 Cottage Way, Suite W2605, Sacramento, California 95825-3901

Mr. David Wampler, Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94105

## Appendix A

### THE CLEAN WATER ACT

#### **Section 404 (33 USC § 1344) states in part:**

”(a) The ...Chief of Engineers, may issue permits, ... for the discharge of dredged or fill material into the navigable waters...”

#### **Section 301 (33 USC § 1311) states in part:**

”(a) Except as in compliance with this section and sections ... 1344... the discharge of any pollutant by any person shall be unlawful.”

*Note: Dredged or fill material is considered a pollutant under the Clean Water Act.*

#### **Section 309 (33 USC §1319) states in part:**

(c) Criminal penalties –

- (1) ... (A) Any person who negligently violates Section ... 1311 ... shall be punished by a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or by both ...
- (2) .... (A) Any person who knowingly violates section ... 1311 ... shall be punished by a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or by both ...

(d) Civil penalties; ... any person who violates section ...1311...and any person who violates any order issued by the Administrator under subsection (a) of this section, shall be subject to a civil penalty not to exceed \$ 25,000 per day for each violation. In determining the amount of a civil penalty the court shall consider the seriousness of the violation or violations, the economic benefit (if any) resulting from the violation, any history of such violations, any good-faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator, and such other matters as justice may require. ...