Monterey Coastkeeper
475 Washington Street, Suite A
Monterey, CA 93940
(831)646-8837

December 23, 2008

Lt. Colonel Laurence M. Farrell
District Engineer, San Francisco District
U.S. Army Corps of Engineers
Regulatory Division
1455 Market Street
San Francisco, CA, 94103-1398

Re: Public Notice # 2008-00441-BS, Monterey County Water Resources Agency, Salinas River and Arroyo Seco Channel Clearing, Monterey County, CA

Dear Colonel Farrell:

I am writing on behalf of Monterey Coastkeeper. The Monterey Coastkeeper opposes the issuance of the permit, and requests that the U.S. Army Corps of Engineers (USACE) deny the application.

We have reviewed the Public Notice and application of the Monterey County Water Resources Agency (MCWRA) for an emergency permit to mechanically remove sediment and vegetation from the main channel of the lower 50 miles of the Salinas River and the lower 11 miles of the Arroyo Seco River. The applicant wishes to acquire a preemptive emergency permit to guard against flooding of agricultural lands along each river system, especially the lower 50 miles of the Salinas River. Work would be conducted by unsupervised landowners with stated motivations far beyond flood control including food safety (flood control and removal of riparian habitat) and bank stabilization.

After reviewing the reports of the Basin Complex-Indians Fire that occurred over the summer of 2008, we feel there is not adequate need for the complete removal of vegetation and sandbars as stated in the Public Notice, below the high water toe along each of these river systems. The proposed work is to be carried out by disking, bulldozing, mowing, excavation, and backhoe. The potentially irreversible negative impacts of this project are numerous and affect not only the vegetative habitat, but also the water quality water in the rivers, the ability of the adjacent riparian lands to properly filter runoff, and the species that inhabit the river and riparian corridor.

The MCWRA wishes to vastly expand the scope of maintenance work previously done under USACE permit by greatly increasing the number of sites and the width across the river in which the work will be performed.

We feel the proposed work will be in direct conflict with the Clean Water Act, specifically sections 404, in which the Army Corps in is charge of the preservation of aquatic ecosystems against dredge and fill material, and also section 303(d) in which a waterway listed as impaired by the State of California falls under special protection and requirements. The concern with the latter is important because the State of California, along with the Central Coast Regional Water Quality Control Board has declared the Salinas River impaired for

multiple parameters including nutrients, sediment and pesticides. The mechanical removal of the vegetation and sandbars along the main channel of the Salinas River will drastically increase the load into the river of all the stated parameters.

Another concern is habitat for important species in the ecosystem, most notably, that of the Central Coast Steelhead, California Red Legged Frog, and Southern Sea Otter. The project proposed by the MCWRA will have large negative impacts on listed species and vital habitats. Modifying and essentially channelizing the rivers has the potential of having an irreversible detrimental impact on not only the ESA listed species, but all of the species, both aquatic and terrestrial, within the aquatic and riparian ecosystems of the Salinas and Arroyo Seco waterways.

The Monterey Coastkeeper opposes the issuance of the permit, and requests that the U.S. Army Corps of Engineers deny the application. If the permit is to be further considered, Monterey Coastkeeper requests a public hearing be held. Thank you for considering our comments.

Additional detailed comments follow.

Sincerely,

Andy Hess
Program Manager,
Water Quality and Agriculture

Steve Shimek
Executive Director

Detailed Monterey Coastkeeper Comments Concerning Public Notice 08-00441, Monterey County Water Resources Agency, Monterey County, CA

I. Project and Site Description

The Monterey County Water Resources Agency (MWCA) is proposing a preemptive emergency mechanical clearing of the main river channels of the lower 50 miles of the Salinas River and 11 miles of Arroyo Seco, located in Monterey County, CA. The Arroyo Seco is the largest tributary to the Salinas River and the Salinas River Watershed is the largest watershed on the Central Coast of California. The proposed activities of the MWCA are to clear the channels of each waterway to maximize the transport of sediment and debris along the main stem of the Salinas River during the storm season of 2008-2009. The project begins at Salinas River Mile 2, continuing upstream to Salinas River Mile 50 and also includes Arroyo Seco River Mile 11 downstream to its confluence with the Salinas River. In total the proposed work covers 61 miles of river channel on both waterways.

According to the Public Notice, the proposed project is a response to fire damage to the upper Arroyo Seco watershed from the 2008 Basin Complex-Indians Fire. The channel work proposes to clear vegetation, debris, and sediment in order to mitigate increased flood risk from potential debris flows from the fire zone and protect against loss of agricultural lands and infrastructure adjacent to the rivers. Removal of vegetation, obstructions, and sandbars would be performed by mechanized equipment at critical locations over 60 linear miles of the Salinas and Arroyo Seco waterways. Twenty-five growers and landowners would determine -- at their discretion -- the specific channel clearing locations and methods at a total of fifty sites along both rivers.

The MCWRA has relied on to post-fire risk assessments, the State Emergency Assessment Team Report, Basins-Indians Fire, August of 2008 and The Basin Complex-Indians Fire BAER Assessment, September 2008, to support its permit application. Monterey Coastkeeper has reviewed these documents in preparation of our comments concerning the Public Notice.

II. Clean Water Act Compliance

The emergency project that is proposed by the MCWRA will result in the destruction of a very large but unknown amount of aquatic and wetland habitat to the Salinas and Arroyo Seco River systems. The river systems will be affected by the direct mechanical removal of the vegetation along the river channel; disturbing soils and sediments, increasing velocities, widening the river channel, and decreasing habitat. Narrowing the riparian corridor will drastically affect the ability of the system to filter out nutrients, sediment and pesticide coming off of the agricultural land adjacent to the Salinas River in particular. The state of California and the Central Coast Regional Water Quality Control Board has listed the Salinas River within the project area under CWA section 303(d) as an impaired waterway for the conditions of salinity, nutrients, pesticides, total dissolved solids, sedimentation/siltation and fecal coliform. Lessened water quality from the impact of removal of this vegetative habitat and filtration system will work against the goal of CWA section 303(d) in helping to restore the health of the Salinas River. The proposed clearing of the sandbars and vegetation along the main channel of the river has the potential effect of increasing all of the above stated contaminants drastically, and would not be in compliance with this section of the CWA. The section that is most under question is the part of section 303 (d), section 303(d)(C) which requires establishment of the Total Maximum Daily Load requirements to be met for the river

system as a whole. The removal of the vegetative filtration along the main channel of the river will not help achieve the requirements of this section of the CWA.

Under the jurisdiction of the Army Corps of Engineers delegated by the section 404 of the CWA is the issuance of permits for sediment dredging and fill along and in a waterway of the United States. The goal of section 404 of the CWA is to restore and maintain the integrity of the overall ecosystem connected to any waterway of the United States. This protection includes the habitat and adjacent wetlands in the proposed maintenance areas. The goals of this section of the CWA are achieved by prohibiting discharges of dredged and/or fill material that would result in significant or avoidable adverse impacts on the aquatic ecosystem as set forth by the EPA's *Federal Guidelines for Specification of Disposal Sites for Dredged or Fill Materials* (40 CFR 230), promulgated pursuant to Section 404(b)(1) of the CWA (Guidelines). The Guidelines of this section contain four main requirements that the applicant for a permit from the Corps must demonstrate they are fulfilling.

The applicant has to comply with these guidelines by doing a comprehensive evaluation of a range of alternatives to the proposed work to ensure that the preferred work is the Least Environmentally Damaging Practicable Alternative (LEDPA). Identification of the LEDPA is achieved by performing an alternatives analysis that estimates the direct, indirect, and cumulative impacts to jurisdictional waters resulting from a set of on- and off-site project alternatives. Project alternatives that are not practicable and do not meet the project purpose are eliminated. The LEDPA is the remaining alternative with the fewest impacts to aquatic resources, so long as it does not have other significant adverse environmental consequences. Only when this analysis has been performed can the applicant or the permitting authority be assured that no discharge other than the practicable alternative with the least impact on the aquatic ecosystem has been selected (40 CFR 230.1 O(a)).

Significant detrimental project impacts on the Salinas and Arroyo Seco Rivers are from the machine removal of sediment and vegetation along the river channels. The MCWRA does not provide any alternatives to the proposed work to show what the possible LEDPA would be.

III. Impacts on the Aquatic Ecosystem

The project, as currently proposed, may substantially reduce the capacity of aquatic and terrestrial organisms to enter, travel, and leave the river ecosystem. By drastically narrowing or eliminating riparian habitat, the project could result in disconnected patches of habitat. The large swath of channel that is proposed to be cleared can destroy the habitat on an ecosystem level, affecting the whole watershed to a point where will not be a functional ecosystem. For example, widening and flattening of the channel cross section may hinder migration of Central Coast Steelhead. Central Coast Steelhead were listed as a threatened species on August 8, 1995 and reaffirmed as threatened on January 5, 2006. The Central Coast Steelhead protection falls under the jurisdiction of NOAA Fisheries and the proposed work would be in direct conflict with efforts to provide adequate habitat and conditions for this population to thrive. By reducing vegetation and cover, the proposed project will increase the vulnerability of fish to predation and could result in warming river temperature; both factors not conducive to the support of the Central Coast Steelhead population.

The proposed project could also impact the California Red Legged Frog both by direct take and by destruction of habitat. The California Red Legged Frog habitat along the Salinas River

is important to the survival of the species and impacts from the removal of vegetative habitat along the lower 50 miles of the Salinas River will detrimentally affect this listed species. The California Red Legged Frog inhabits dense, shrubby or emergent riparian vegetation associated with slow moving water bodies such as the Salinas River. This is the very type of habitat that the MCWRA hopes to remove completely to allow for the swift flow of water through and out of the main channel of the river. The proposed project will destroy much of the critical habitat of the California Red Legged Frog within the 61 mile project area. The U.S. Fish and Wildlife Service Recovery Plan for the California Red Legged Frog states guidelines to increase habitat, decrease fragmentation of existing habitat and increase the water quality of the areas in which the frog lives. The proposed work by the MCWRA will work against the goals for survival of this species in the stated work area.

Another species that will be detrimentally affected is the Southern Sea Otter, which inhabits the nearshore coastal water waters the Salinas River discharges into. Before issuing the permit, the USACE must first complete a Section 7 consultation with the US Fish and Wildlife Service on impacts of the proposed channel maintenance program to the ESA listed southern sea otter. Because our sister organization is The Otter Project, we will cite reference materials to substantiate this claim (most of these materials are available within the "Research" area of The Otter Project website, www.otterproject.org). Channel maintenance will disturb sediments, increase velocity, and erosive force of the Salinas River. The Salinas River flows through agricultural lands with a long history of DDT pesticide use. Between 1945 and 1972 approximately 1,350,000,000 pounds of DDT were used in the United States. Agricultural use in California was well over 1 million pounds per year until DDT use was banned in 1972.[1] Legacy DDT binds to sediment particles and will likely be transported downstream to coastal waters. DDT transported downstream in sediment contaminates filter feeding organisms such as clams and mussels which are then fed upon by sea otters.[2] DDT and the breakdown product DDE are found in very high levels in sea otter tissues.[3] [4] Nakata et. al. (op. cit.) found a correlation between DDT levels in sea otter tissues and disease: Sea otters that died of infectious disease contained higher levels of DDT than those that died of trauma. Disease accounts for between 35-percent[5] and 50-percent[6] of all southern sea otter mortality. Contaminants and disease are listed as threats in the Final Revised Recovery Plan for the Southern Sea Otter.[7] The proposed project works directly against the goal of sea otter recovery.

---

[1] Mischke T, Brunetti K, Acosta V, D W (1985) Agricultural sources of DDT residues in California's environment., Environmental Department of Food and Agriculture, California

[2] Kannan, K., N. Kajiwara, M. Watanabe, H. Nakata, N. Thomas, M. Stephenson, D. Jessup, S. Tanabe. 2004. Profiles of polychlorinated biphenyl congeners, organochlorine pesticides, and butyltins in southern sea otters and their prey. Environmental Toxicology and Chemistry 23(1):49-56.

[3] Nakata, H. et al. 1998. Accumulation pattern of organochlorine pesticides and polychlorinated biphenyls in southern sea otters (Enhydra lutris) found stranded along coastal California, USA. Environmental Pollution 103:45-53.

[4] Miller, M.A., E. Dodd, M. Ziccardi, D. Jessup, D. Crane, C. Dominik, R. Spies, D. Hardin. 2007. Persistent Organic Pollutant Concentrations in Southern Sea Otters (Enhydra Lutris Nereis): Patterns With Respect To Environmental Risk Factors and Major Causes of Mortality.

[5] Thomas et. al. in Conservation and Management of the Southern Sea Otter. 1996. Endangered Species Updated School of Natural Resources and Environment, Univ. of Mich. Vol. 13, No 12

[6] Kreuder, C., et al. 2003. Patterns of mortality in southern sea otters (Enhydra lutris nereis) from 1998-2001. Journal of Wildlife Diseases 39(3): 495-509.

[7] U.S. Fish and Wildlife Service. 2003. Final Revised Recovery Plan for the Southern Sea Otter (Enhydra lutris nereis). Portland, Oregon. xi + 165 pp.