



DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS
1455 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94103-1398

AUG 26 2009

Regulatory Division (1145b)

SUBJECT: File Number 2009-00143S

Ms. Patricia Sanchez
PG&E Land Planning Analyst
245 Market Street, Mailcode N10A
San Francisco, California 94105

Dear Ms. Sanchez.:

This letter is written in response to your submittal of April 9, 2009 requesting confirmation of the extent of Corps of Engineers jurisdiction in relation to your 303 ILI pipeline project located in the cities of Livermore and Brentwood, Contra Costa and Alameda County, California.

Enclosed is a map titled "Jurisdictional Waters of the U.S., dated August 5, 2009", in two sheets, showing the extent and location of Corps of Engineers jurisdiction. We have based this jurisdictional delineation on the current conditions on the site as verified during a site visit performed by our staff on May 5, 2009. A change in those conditions may also change the extent of our jurisdiction. This jurisdictional delineation will expire in five years from the date of this letter. However, if there has been a change in circumstances that affects the extent of Corps jurisdiction, a revision may be completed before that date.

All proposed discharges of dredged or fill material into waters of the United States must be authorized by the Corps of Engineers pursuant to Section 404 of the Clean Water Act (CWA) (33 U.S.C. Section 1344). Waters of the United States generally include tidal waters, lakes, ponds, rivers, streams (including intermittent streams), and wetlands.

Our Nationwide Permits and Regional General Permits have already been issued to authorize certain activities provided specified conditions are met. Your completed application will enable us to confirm that your activity is already authorized. You are advised to refrain from starting your proposed activity until we make a determination that the project is covered by an existing permit. Commencement of work before you receive our notification will be interpreted as a violation of our regulations.

You are advised that the Corps has established an Administrative Appeal Process, as described in 33 C.F.R. Part 331 (65 Fed. Reg. 16,486; March 28, 2000), and outlined in the enclosed flowchart and "Notification of Administrative Appeal Options, Process, and Request for Appeal" form (NAO-RFA). If you do not intend to accept the approved jurisdictional

determination, you may elect to provide new information to the District Engineer for reconsideration or submit a completed NAO-RFA form to the Division Engineer to initiate the appeal process. You will relinquish all rights to appeal, unless the Corps receives new information or a completed NAO-RFA form within sixty (60) days of the date of the NAO-RFA.

Should you have any questions regarding this matter, please call Nina Cavett of our Regulatory Division at 415-503-6765. Please address all correspondence to the Regulatory Division and refer to the File Number at the head of this letter. If you would like to provide comments on our permit review process, please complete the Customer Survey Form available online at <http://per2.nwp.usace.army.mil/survey.html>.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Hicks". The signature is fluid and cursive, with a large initial "J" and "H".

Jane M. Hicks
Chief, Regulatory Division

Enclosures

Copy Furnished w/ enclosure #1

CA RWQB, Oakland, CA



U.S. Army Corps
of Engineers
San Francisco District
Regulatory Branch

Wetlands of the U.S. subject to section 404 of the Clean Water Act
USACE File #2009-00143S
Gas Line 303ILI Repair Project
Date 7/4/2009
Page 1 of 2
Wetlands 0.342134 acre
Total acreage for Sheets 2-2

- Pipeline anomaly
- Access road
- Work area
- Project boundary
- Upland sampling point
- Wetland sampling point
- Vernal pool



Figure 2. Line 303 ILI wetland map.
Sites 1 and 2





U.S. Army Corps
of Engineers
San Francisco District
Regulatory Branch

Wetlands of the U.S. subject to section 404 of the Clean Water Act
USACE File #2009-00143S
Gas Line 303ILI Repair Project
Date 7/4/2009
Page 2 of 2
Wetlands 0.342134 acre
Total acreage for Sheets 2-2



- Pipeline anomaly
- Access road
- Fence
- Work area
- Project boundary
- Upland sampling point
- Wetland sampling point
- Alkali swale



Figure 3. Line 303 ILI wetland map. Site 3



**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND
REQUEST FOR APPEAL**

Applicant: Patricia Sanchez PG&E Land Planner		File Number: 2009-00143	Date: 8/5/2009
Attached is:			See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)		A
	FINAL PROFFERED PERMIT (Standard Permit or Letter of permission)		B
	PERMIT DENIAL		C
X	APPROVED JURISDICTIONAL DETERMINATION		D
	PRELIMINARY JURISDICTIONAL DETERMINATION		E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/ccwo/reg> or Corps Regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the District Engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the District Engineer. Your objections must be received by the District Engineer within 60 days of the date of this Notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the District Engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the District Engineer will send you a final proffered permit for your reconsideration, as indicated in Section B below.

B: FINAL PROFFERED PERMIT: You may accept or decline/appeal the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the District Engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the Division Engineer. This form must be received by the Division Engineer within 60 days of the date of this Notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the Division Engineer. This form must be received by the Division Engineer within 60 days of the date of this Notice.

D: APPROVED JURISDICTIONAL DETERMINATION (JD): You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this Notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the Division Engineer. This form must be received by the Division Engineer within 60 days of the date of this Notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION (JD): You do not need to respond to the Corps regarding the preliminary JD. The preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps District for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT, FINAL PROFFERED PERMIT, PERMIT DENIAL, or JURISDICTIONAL DETERMINATION

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record; the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the Review Officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

Jane Hicks, Regulatory Division Chief
Email: jane.m.hicks@usace.army.mil
U.S. Army Corps of Engineers, San Francisco District
1455 Market Street, San Francisco, CA 94103-1398

Tel.: (415)503-6771 Fax: (415) 503-6690

If you only have questions regarding the appeal process you may also contact:

Thomas Cavanaugh, Appeal Review Officer
Email: thomas.j.cavanaugh@usace.army.mil
U.S. Army Corps of Engineers, South Pacific Division
1455 Market Street, San Francisco, CA 94103-1399

Tel.: (415)503-6574 Fax: (415) 503-6647

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of Appellant or Agent

Date:

Telephone Number:

Administrative Appeal Process for Approved Jurisdictional Determinations

