

501 130 2001



**DEPARTMENT OF THE ARMY**

LOS ANGELES DISTRICT, CORPS OF ENGINEERS  
P.O. BOX 532711  
LOS ANGELES, CALIFORNIA 90053-2325

May 29, 2001

Office of the Chief  
Environmental Resources Branch

Ken A. Miller, Flood Control Engineer  
Director, Transportation/Flood Control Department  
County of San Bernardino  
Public Works Group  
825 East 3<sup>rd</sup> Street  
San Bernardino, California 92415-0835

Dear Mr. Miller:

The U.S. Army Corps of Engineers, Los Angeles District (Corps) is currently consulting with the U.S. Fish and Wildlife Service (FWS) on the potential effects of the flood control operation of Seven Oaks Dam. In the course of this consultation, the FWS has raised several questions concerning the potential for future water conservation programs at Seven Oaks Dam, and the possible effect of such programs on threatened and endangered species. The Corps' position is that water conservation is not currently proposed at Seven Oaks Dam, and that the evaluation and mitigation of impacts associated with water conservation would be the responsibility of the implementing agencies. Furthermore, water conservation will not even be considered until all endangered species issues concerning flood control operations have been fully resolved, and mitigation agreements with the FWS are finalized.

The purpose of this letter is to further clarify this position with all interested agencies, and to ensure that there are no misunderstandings about the Corps' role or areas of responsibility relative to the implementation of water conservation. This letter will also briefly describe the steps that would be required before water conservation could be implemented, if and when it is determined that sufficient water would be available for this purpose.

Seven Oaks Dam was authorized, designed, and is being operated, as a flood control facility only. As a result, some storm flows, which would be otherwise "lost" (i.e., flow downstream too quickly to be captured by the users downstream), would be retained temporarily and released under controlled conditions during normal flood control operations. We anticipate that flood control operations, and the requirements of the Biological Opinion for Seven Oaks Dam operations, will include periodic controlled releases to inundate the Woolly Star Preserve Area (WSPA) and other Flood Control lands, if necessary, consistent with the Woolly Star Management Plan. However, the operation plan for the authorized project clearly does not allocate a reservoir storage space for the purpose of water conservation. There is no

authorization, or agreement with any interested party, to implement a water conservation program at Seven Oaks Dam.

On behalf of the Western Municipal Water District of Riverside and the San Bernardino Valley Municipal Water District, the San Bernardino County Flood Control District (SBCFCD) requested a feasibility study on the potential for future water conservation at Seven Oaks Dam. This feasibility study was completed in June 1997, but a Record of Decision was not signed for this action pending resolution of the ongoing Section 7 consultation on Seven Oaks Dam operations and an official request from a non-federal sponsor. Per Corps requirements, it was necessary for the Sponsors to request the study, rather than the water agencies. Therefore, the water agencies requested that SBCFCD act on their behalf in participating with the Corps in the water conservation feasibility study. The purpose of this study, however, was only the evaluation of hypothetical water conservation at Seven Oaks Dam after completion of construction and all requisite environmental compliance. This feasibility study does not contain any non-federal requests for water conservation authorization, nor connote any such approvals for water conservation operation. Rather, this document concluded that water conservation would be physically and economically feasible, and offers technical information to the local sponsor.

During construction of the dam, the water agencies determined that, if at some time in the future, a water conservation program was requested, authorized and implemented at Seven Oaks Dam, it would be significantly more cost effective to construct certain improvements needed for water conservation during dam construction. Such improvements, however, would not necessarily lead to approval or authorization for water conservation, nor do they preclude other uses of the dam or of water behind the dam in the future. The water agencies were willing to take the risk to expend funds for the modification (extension of a blanket drain), even though a water conservation program might never be authorized or approved at Seven Oaks Dam. As the water agencies have no standing relative to requesting a design modification for this purpose, SBCFCD requested the modification on their behalf as a courtesy.

If it is determined that water conservation is possible, interested agencies would be required to complete the following steps prior to Corps approval and agency implementation:

1. All hydrological requirements for flood control and related environmental mitigation purposes for Seven Oaks Dam are met before water conservation is considered.
2. The interested water agencies, and not the Sponsors or the Corps, are fully responsible to assess the potential impacts of their proposed water conservation program, and to pay for all costs - including potential mitigation costs - associated with a proposed program. The water agencies would be required to prepare adequate environmental documentation, such as an Environmental Impact Statement/Environmental Impact Report and Biological Assessment.
3. The water agencies must acquire all permits necessary to implement their proposed water conservation program, and pay all associated costs. The permitting agencies would include the U.S. Forest Service, the FWS, the California Department of Fish

and Game (CDFG), the State Water Resources Control Board (SWRCB), the California Regional Water Quality Control Board, and the Corps.

4. The water agencies must complete Endangered Species Act consultation with the FWS and CDFG.
5. The water agencies must ensure that existing water rights are not impacted by their proposed water conservation program, and must acquire additional rights, if necessary, in accordance with existing law and decisions by the SWRCB.
6. The water agencies must also work with the Corps and Sponsors to ensure that flood control operations, including endangered species requirements, are not adversely affected by any water conservation proposals.
7. As the Sponsors are responsible for Seven Oaks Dam operations and maintenance, the Corps will not consider supporting implementation of water conservation unless requested by the Sponsors. Therefore, the water agencies must enter into an agreement with the Sponsors to implement a water conservation program at Seven Oaks Dam.

Thank you for your attention to this letter. If you have any questions, please contact me at (213) 452-3783, or Ms. Hayley Lovan, Environmental Coordinator, at (213) 452-3863.

Sincerely,



Ruth Bajza Villalobos  
Chief, Planning Division

cc: Western Municipal Water District of Riverside County (Attn: Donald Harriger, General Manager)  
San Bernardino Valley Municipal Water District (Attn: G. Louis Fletcher, General Manager)  
Riverside County Flood Control and Water Conservation District (Attn: Dave Zappe)  
Orange County Public Facilities and Resources Department (Attn: Kenneth Smith)  
U.S. Fish and Wildlife Service (Attn: Jim Bartel)  
State Water Resources Control Board