

---

**From:** Fugler, Marc A CIV USARMY CESP (US) <[Marc.A.Fugler@usace.army.mil](mailto:Marc.A.Fugler@usace.army.mil)>  
**Sent:** Wednesday, June 6, 2018 8:59 AM  
**To:** J Medley  
**Subject:** RE: [Non-DoD Source] Follow-up on Permitting Questions for GrovelandProjects

Hi Joe,

I was out yesterday but back today.

A couple of comments on your statements and questions below. The CEQA would only cover state regulations, not federal. You mentioned FESA but did the CEQA document actually evaluate federally listed species or only state listed species? You would need to evaluate the potential effect to federally listed species which the CEQA usually doesn't do.

Also, cultural resources don't end at effect to historic buildings. Some structures are no longer evident above ground but even foundations or other buried resources must be evaluated. Potential tribal resources must also be addressed. Typically, a cultural resource study includes coordinating with tribal members with an interest in the area. The Corps completes a followup coordination with the same list of contacts. A list of these contacts is obtained from the Native American Heritage Commission.

But to answer your question, if after reviewing the NWP information and PCN information, you come to a conclusion that the project would not affect any federally listed species, cultural resources, or tribal resources, and your proposed work qualifies for a NWP 3, you would not have to notify the Corps. You would be working under a non-reporting NWP 3.

I believe you would still need to contact the Regional Water Quality Control Board for a water quality certification and they would likely ask you to clarify what you are doing since they would still need to review your project and issue a water quality certification under the NWP.

What you might find useful to do is compile a NWP 3 file where you put together your rationale for why you concluded the project(s) are non-reporting NWP3 s. But you don't submit a PCN or other notification, under non-reporting, and the Corps doesn't issue anything since it is non-notifying.

When you make this determination of non-reporting or non-notifying NWP you are essentially done with the Corps.

Marc Fugler  
Senior Project Manager  
U.S. Army Corps of Engineers, Sacramento District  
1325 J Street, Room 1350  
Sacramento, California 95814  
(916) 557-5255 (Customer Service Hours: 9:00-3:00)  
(916) 557-6877 fax  
[marc.a.fugler@usace.army.mil](mailto:marc.a.fugler@usace.army.mil)

(We do not have "out of office" auto reply. Email not returned in a reasonable amount of time means I

am not in the office, however, my voicemail is kept up to date.)

\* We want your feedback! Take the survey:

at [http://corpsmapu.usace.army.mil/cm\\_apex/f?p=regulatory\\_survey](http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey)

\* Need information on the Regulatory Program? Visit our

website: <http://www.spk.usace.army.mil/missions/regulatory.aspx>

-----Original Message-----

From: [jmedley@colibri-ecology.com](mailto:jmedley@colibri-ecology.com) [<mailto:jmedley@colibri-ecology.com>]

Sent: Tuesday, June 5, 2018 1:38 PM

To: Fugler, Marc A CIV USARMY CESP (US) <[Marc.A.Fugler@usace.army.mil](mailto:Marc.A.Fugler@usace.army.mil)>

Subject: [Non-DoD Source] Follow-up on Permitting Questions for Groveland Projects

Hi Marc,

Thank you in advance for any advice you can provide. I called and left you a message today, but figured I'd follow-up with an email.

In reviewing your email, I think that the water and sewer improvement projects should be treated as two separate projects. Both the water and sewer projects seem to fall under NWP3, part A. In reviewing all of the documents and links you shared with me, I believe that both projects fulfill both the NWP general conditions and the Sacramento District Regional conditions. We have prepared CEQA documents documenting the biological resources for both projects, and concluded that neither project has the potential to adversely impact species listed as threatened or endangered under FESA, and that no historical buildings will be impacted. In this scenario, is it true that neither a PCN nor a wetland delineation are required? If that is the case, what is the process for applying for a Nationwide Permit 3?

I reviewed the maintenance exemption document you shared and I don't believe that any of the work for either project will fit into this category. While water and sewer lines were likely damaged during the recent flood event, the need for both projects existed prior to the storm event.

Please let me know if you think I'm on the right track, if you require additional information about the project specifics, and what you think the next steps are for applying for NWP3.

I really appreciate your help.

Regards,  
Joe Medley

---

Joe R. Medley, M.S.

Staff Scientist

Deputy Project Manager

Colibri Ecological Consulting, LLC

9493 N Ft Washington Rd, Suite 108 | Fresno, CA 93730

559.760.3297 | [jmedley@colibri-ecology.com](mailto:jmedley@colibri-ecology.com) [www.colibri-ecology.com](http://www.colibri-ecology.com)