



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

FEB 19 2014

Colonel Michael J. Farrell
U.S. Army Corps of Engineers
Sacramento District
1325 J Street
Sacramento, CA 95814

Subject: Public Notice (PN) SPK-2005-01115, County Crossings Data Center Project, Antioch, Contra Costa County, CA

Dear Colonel Farrell:

Thank you for the opportunity to comment on the subject PN dated January 23, 2014. The applicant proposes to construct a 60,000 square foot data center that would result in the permanent fill of 653 linear feet of streambed totaling approximately 0.75 acre of waters of the United States. Based on the available information, the EPA concludes that the applicant has not demonstrated compliance with the restrictions on discharges per the Federal Guidelines (Guidelines) promulgated under section 404(b)(1) of the Clean Water Act (CWA) at 40 CFR Part 230. Specifically, the applicant has not submitted an Alternatives Analysis demonstrating that the proposed project is the least environmentally-damaging practicable alternative (LEDPA) or shown that impacts have been avoided and minimized in any way.

The applicant's project purpose is to construct a data center in East Contra Costa County. To date, the applicant has not submitted an Alternatives Analysis, which must include both an off-site and on-site analysis of alternatives. The project proposes to create an approximately 20 acre building pad for a 60,000 square foot data center. There is no information demonstrating why a 20 acre building pad is needed to accommodate the much smaller data center. Off-site alternatives that can accommodate a 60,000 square foot building and that would not impact waters must be considered, including areas outside of the county if necessary. In regards to on-site alternatives, practicable alternatives that avoid the creek must be evaluated. The data center is proposed to be built directly on top of a portion of East Antioch Creek, despite the many acres of uplands on the 20 acre project site, which in no way illustrates that the proposed project is the LEDPA.

Pursuant to the Guidelines, mitigation of project impacts begins with the avoidance and minimization of direct, indirect, and cumulative impacts to the aquatic ecosystem, followed by compensatory measures if a loss of aquatic functions and/or acreage is unavoidable. Compensatory mitigation is, therefore, intended only for unavoidable impacts to waters after the LEDPA has been determined. It is therefore premature to discuss detailed mitigation options, however the applicant's current mitigation proposal raises preliminary concerns. The applicant proposes to restore and widen another portion of East Antioch Creek. Permittee-responsible mitigation is the least preferred form of compensatory mitigation, and for this reason it should be avoided if possible. However, if a mitigation bank or in-lieu fee program are not available or practicable, then the applicant must submit a permittee-responsible mitigation plan that fulfills the requirements of the 2008 Mitigation Rule.

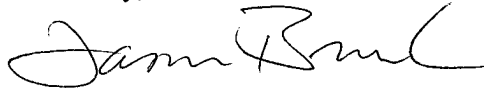
We recommend that the applicant submit additional information on the following issues:

- Analysis of off-site alternatives that include areas outside of East Contra Costa County if necessary to avoid impacts, and the utilization of a smaller building pad that is more appropriate for a 60,000 square foot building;

- Analysis of on-site alternatives that show avoidance and minimization of impacts to East Antioch Creek by utilizing a smaller footprint and available upland sites;
- Adequate setback distances for road and building construction near riparian habitat and creeks in compliance with local regulations on buffers and setbacks from existing habitat;
- Compensatory mitigation through in-lieu fees and or mitigation bank credits as the Army Corps deems appropriate for the unavoidable loss of waters of the United States associated with the LEDPA.

Thank you for the opportunity to provide comments on this project. We look forward to working with the Corps and the applicant to resolve the important environmental issues concerning the proposed project. As additional information becomes available on the above concerns, please contact Leana Rosetti of my staff at (415) 972-3070, or rosetti.leana@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason Brush". The signature is fluid and cursive, with the first name "Jason" and last name "Brush" clearly distinguishable.

Jason Brush
Supervisor
Wetlands Office

Cc:
William Guthrie, Corps of Engineers Sacramento Office
Applicant