



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

AUG 25 2014

William Ness
U.S. Army Corps of Engineers, Sacramento District
1325 J Street, Room 1350
Sacramento, California 95814-2922

Subject: Final Environmental Impact Statement for the Placer Vineyards Specific Plan, Placer County, California (CEQ# 20140197)

Dear Mr. Ness:

The U.S. Environmental Protection Agency has reviewed the Final Environmental Impact Statement for the Placer Vineyards Specific Plan pursuant to the National Environmental Policy Act, Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act. We appreciate efforts by the U.S. Army Corps of Engineers to coordinate with our agency throughout the environmental review process.

The Final EIS addresses our comments related to the range of alternatives, air quality, flood risk, and smart growth. We recognize that the proposed project is located within an area planned for development under the Regional Transportation Plan and Sustainable Communities Strategy, which was designed to reduce greenhouse gas emissions and other environmental impacts. Nevertheless, our objections to the project based on Clean Water Act Section 404 issues remain. In our June 10, 2013 comment letter, we rated the Draft EIS *Environmental Objections – Insufficient Information* (EO-2), based on significant impacts to aquatic resources and the potential inability of any of the action alternatives to both comply with the 2008 Compensatory Mitigation Rule and achieve no net loss of wetland functions. These issues have not been resolved in the Final EIS.

Impacts to Waters of the U.S.

In response to the Corps' March 13, 2007 Public Notice 199900737, EPA identified the project as a candidate for higher level review under CWA §404(q) in letters dated May 1, 2007 and May 31, 2007. According to the Final EIS, the Proposed Action would directly impact approximately 119.3 acres of Waters of the U.S., including 27.7 acres of vernal pools. Given the extreme historical losses of vernal pools in the study area and across California (greater than 90% loss), EPA believes that the additional degradation the proposed action represents, if it is not properly mitigated, is substantial and unacceptable and should be avoided. Absent a comprehensive regional strategy to protect, reestablish, and monitor vernal pool resources, it is unclear whether adequate compensatory mitigation opportunities remain in the study area to meet the needs on a project-by-project basis.

The proposed project is located within an area planned for development under the draft Placer County Conservation Plan, which is: (1) a Natural Community Conservation Plan under the California Endangered Species Act, and (2) a Habitat Conservation Plan under the federal Endangered Species Act that also includes aquatic resource management elements intended to meet many requirements of the

CWA. EPA strongly supports the development of the PCCP, and we appreciate the long-term efforts of Placer County, the Corps, and U.S. Fish and Wildlife Service, among other partners, to advance this plan to near completion. We are confident that this effort can be completed successfully. However, at present, the Corps and other action agencies must evaluate the proposed development in the context of a stand-alone project since the PCCP is not yet approved. We appreciate the analysis in the Final EIS of ways in which the project could align with the draft provisions of the PCCP, and we believe that the best mitigation for this project's impacts would come about under the auspices of the PCCP. Absent the regional benefits to aquatic resources of a unified monitoring and protection strategy, the mitigation burden on a project the scale of Placer Vineyards would be exceedingly high and difficult to fulfill.

The Applicants submitted a revised Mitigation Strategy to the Corps, dated September 2013. The Final EIS explains that the Mitigation Strategy does not contain the level of detail necessary for the Corps to determine whether it would sufficiently offset the impacts of the Proposed Action, and the Corps will include a final determination regarding the Applicants' Mitigation Strategy in the Record of Decision. Without such information at this stage in the proposed project, EPA is unable to evaluate compliance with the Compensatory Mitigation Rule. Based on the information provided, it is highly unlikely that the amount of mitigation proposed would satisfy the requirements of the South Pacific Division Mitigation Ratio Setting Checklist. Due to factors such as temporal loss and out-of-kind mitigation, the amount of mitigation required for this project is likely to be far higher than the approximately 1:1 ratio currently proposed. A larger regional plan such as the PCCP would, through thoughtful land use planning, long term assurances, and watershed level conservation and mitigation, help compensate for the significant degradation of vernal pools that the Proposed Action would otherwise exacerbate.

Recommendations:

- Prior to the ROD, ensure that the selected alternative avoids and minimizes impacts to Waters of the U.S. to the greatest extent practicable through avoidance measures, such as those included in Alternatives 1 through 5.
- If the Applicants choose to proceed with an independent project before the PCCP is finalized, please provide EPA with a mitigation plan that complies with the 2008 Compensatory Mitigation Rule, provides sufficient detail to be evaluated under the Corps South Pacific Division Mitigation Ratio Checklist, and demonstrates that the project would achieve no net loss of wetland functions before the ROD is issued.

Inclusion of 404(b)(1) Information in the EIS

The practice of deferring, until the conclusion of the NEPA process, the disclosure of information needed to evaluate compliance with the Clean Water Act section 404(b)(1) Guidelines makes it difficult for agencies and the public to provide timely and substantive input on the evaluation of alternatives. Page 29 of the Corps South Pacific Division February 8, 2013 Regulatory Program Standard Operating Procedure for Preparing and Coordinating EISs (12509-SPD) states:

Districts will make all reasonable efforts to ensure the NEPA alternatives analysis is thorough and robust enough to provide the information needed for the evaluation of alternatives under the section 404(b)(1) Guidelines ("Guidelines") and the public interest review. The goal of integrating the NEPA alternatives analysis and the section 404(b)(1) alternatives analysis is to gain efficiencies, facilitate agency decision-making and avoid unnecessary duplication.

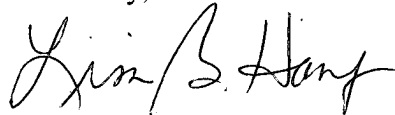
The discussion of alternatives in the Final EIS does not provide the information necessary for a finding that the Applicants' Proposed Alternative is the Least Environmentally Damaging Practicable Alternative.

Recommendation:

For future projects, we strongly recommend that the Corps make information on compliance with the Guidelines available to EPA, the public, and other stakeholders in the Draft EIS. This information should include: (1) an avoidance and minimization analysis, (2) a description of how costs, logistics and technical feasibility were used to eliminate alternatives with lesser impacts to wetlands, and (3) factual determinations as to whether or not the project will cause or contribute to significant degradation of waters of the U.S. (40 CFR 230.10(c)).

We appreciate the opportunity to review this Final EIS, and we look forward to continuing our work with the Corps and the Applicants in this sensitive area to ensure that this project avoids substantial and unacceptable impacts to wetland resources. For further coordination on Waters of the U.S. and permitting, please contact Paul Jones at jones.paul@epa.gov or 415-972-3470. For general NEPA issues and any other concerns, please contact Jen Blonn at blonn.jennifer@epa.gov or 415-972-3855.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa B. Hanf". The signature is fluid and cursive, with the first name "Lisa" being the most prominent.

Lisa B. Hanf, Assistant Director
Enforcement Division