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

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

MAR 18 2015

Subject: Public Notice (PN) SPK-2004-00756, Regional University, Community, and Backbone Infrastructure Projects, Placer County, CA

Dear Colonel Farrell:

Thank you for the opportunity to comment on the subject PN dated February 19, 2015. The applicant has applied for three separate permits to construct the Regional University Project, the Regional Community Project, and the Regional University Backbone Infrastructure Project. Altogether these projects would consist of a 1,157.7-acre mixed-use site that would result in permanent impacts to approximately 15.7 acres of waters of the United States (waters), including 6.1 acres of vernal pools, 4.8 acres of seasonal wetlands, and 4.5 acres of a perennial drainage adjacent to Curry Creek. However, we understand there is presently no approved or preliminary delineation of potential waters on the site, and the impacts represented in the PN may be understated.

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 1) submitted an Alternatives Analysis (AA) demonstrating that the proposed project is the least environmentally-damaging practicable alternative (LEDPA), or 2) provided adequate information regarding compensatory mitigation for unavoidable impacts.

Pursuant to the Guidelines, if discharge is proposed for a special aquatic site (such as wetlands) and does not have a water-dependent project purpose, practicable alternatives are presumed to exist unless clearly demonstrated otherwise. None of the three proposed projects has a water dependent purpose, and each should be examined independently for potentially less-damaging practicable alternatives. One or more AAs must demonstrate the need for the projects to occur in this location impacting waters, and discuss these needs in the context of a total of 4 universities that are being proposed in permit applications and environmental review reports in the same region[1]. An AA must consider off-site alternatives that eliminate or reduce impacts to waters of the United States. If no less damaging practicable sites exist, the AA should include a comprehensive evaluation of practicable avoidance configurations on-site to eliminate or reduce direct, indirect, and cumulative impacts to the extent practicable. Unavoidable direct and indirect impacts, including temporal losses, must be mitigated in compliance with the standards of the 2008 mitigation rule.

[1] The projects currently proposing universities are Regional University, Placer Ranch, Mather Field Specific Plan, and Cordova Hills.

This site lies within the Placer County Conservation Plan (PCCP) planning area, which could be in place within the timeframe of approvals for the subject projects. Presuming the projects are ultimately shown to be necessary in this location and must impact waters, we applaud the applicant's intent to develop the site consistent with the PCCP. However, it is unclear whether current designs reflect the impact avoidance measures that are central to the PCCP. We recommend the AA commit to consistency with the specific avoidance and minimization measures and stream corridor protections of the PCCP. Indeed, if these impact-minimizing measures are practicable, they are required under 40 CFR 230.10(d) regardless of the existence of the PCCP.

As part of the Backbone Infrastructure Project, the applicant proposes to excavate large channelized basins adjacent to and in place of the existing perennial drainage, as well as lake storage and storm water quality basins. The information provided regarding these features is very unclear, with no indication of which areas will be basins, which will be low-flow channels, and how these will directly and indirectly impact the existing waters. EPA recommends the applicant provide a detailed plan showing the grading and drainage of all of the constructed storm water features. In addition, as stated above, the applicant must demonstrate that all practicable avoidance has been achieved. The current proposal shows a large storm water feature constructed in place of a meandering perennial reach associated with Curry Creek in the open space. It also shows a storm water feature that will replace the channelized reaches further to the east. These would be impacts that must be avoided if practicable. EPA recommends that the applicant evaluate alternatives in which storm water features are constructed separate from, rather than in, the on-site drainages, and are constructed outside of the drainages' buffer zone.

The perennial drainages on-site should maintain a minimum buffer of 100 feet on each side in order to preserve their long-term viability and minimize indirect impacts. A buffer protects and enhances the quality and health of wetland and in-stream physical, chemical, and biological characteristics, which enables the wetland or stream to provide important services, such as sequestering carbon, metabolizing organic matter, and degrading and processing pollutants. Well-designed buffers remove sediments and associated pollutants from surface water runoff, influence the temperature and microclimate of a water body, and provide organic matter to the stream or wetland. Buffers in urban areas are particularly important in helping to moderate the impacts of altered hydrology and flooding.

A 2014 study by the Journal of the American Water Resources Association reviews the important role buffers play with regard to ecosystem function (*e.g.,* nitrate removal, sediment trapping, channel maintenance, temperature stability; and support for macro-invertebrates and fish assemblages).[2] Based on their review of the literature, the authors concluded that buffers 100-feet wide or greater are needed to protect water quality, habitat, and biotic features associated with fifth order or smaller streams (p. 576).

Finally, the open space area in the westernmost part of the site is a vernal pool compensatory mitigation site for projects previously permitted by the Corps. The applicant should provide detailed information regarding the boundaries, legal status, and long-term management requirements of the site, as well as the permissible surrounding uses. The Corps should require reasonable and enforceable assurance that development of the site will not compromise any of the functions the prior mitigation actions were intended to protect. The approach to compensatory mitigation for the current project itself must also be described in specific detail so that it complies with the 2008 Mitigation Rule; this description is presently lacking.

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[2] Sweeney, B.W. and J.D. Newbold. June 2014. *Streamside Forest Buffer Width Needed To Protect Stream Water Quality, Habitat And Organisms: A Literature Review*. Journal of the American Water Resources Association. pp. 560-574.

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,

Jason Brush
Supervisor
Wetlands Office

Cc:
Lisa Gibson, Corps of Engineers Sacramento Office
Applicant