



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, CA 94105-3901

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

MAR 17 2016

Subject: Public Notice (PN) SPK-2012-01323, Peery Property, near Lincoln, Placer County, CA

Dear Colonel Farrell:

Thank you for the opportunity to comment on the subject PN dated February 17, 2016. The applicant proposes to construct a 114-acre mixed-use development that would result in the permanent fill of approximately 7.5 acres of waters of the United States, including all of the existing 5.37 acres of wetlands, adjacent to Auburn Ravine near Lincoln, CA.

The following comments were prepared under the authority of, and in accordance with, the provision of the Federal Guidelines (Guidelines) promulgated under section 404(b)(1) of the Clean Water Act (CWA) at 40 CFR Part 230. Based on the available information, the EPA concludes that the applicant has not demonstrated compliance with the restrictions on discharges per the Guidelines. Specifically, the applicant has not submitted an Alternatives Analysis (AA) demonstrating that the proposed project is the least environmentally-damaging practicable alternative (LEDPA).

This project is located in the "Potential Future Growth Area" of the Placer County Conservation Plan (PCCP). The PCCP will consider impacts to waters and listed species in the growth area using a watershed approach, including an in-lieu fee program for impact mitigation. This will provide permit applicants with a more streamlined consideration of on-site impact avoidance and mitigation strategy to comply with the Guidelines. In contrast, if the 404 permit for the Peery Property is processed prior to approval of the PCCP, all 404(b)(1) criteria would need to be addressed independently.

The PN states that the overall project purpose is to construct a mixed-use development within the City of Lincoln, with the goal of helping to meet the City of Lincoln's housing demand. This need can be met with a more broad geographic scope, and the project purpose should not be so narrowly defined as to prevent a meaningful alternatives analysis. A more appropriate geographic scope that would meet the stated need would be Western Placer County.

Pursuant to the Guidelines, if discharge is proposed for a special aquatic site (such as wetlands) and its purpose is not water-dependent (such as housing), practicable alternatives are presumed to exist unless clearly demonstrated otherwise. Under the Guidelines, the AA for this project must include both off-site and on-site alternatives. Alternatives examined in the analysis may include areas not presently owned by the applicant which could reasonably be obtained, utilized, expanded or managed in order to fulfill the basic purpose of the proposed activity (40 CFR 230.10(a)(2)). The applicant must clearly demonstrate

that alternatives in non-aquatic sites are either not practicable, or have other significant adverse environmental consequences.

On-site alternatives must include a comprehensive evaluation of practicable avoidance configurations to eliminate or reduce direct, indirect, and cumulative impacts to waters, especially special aquatic sites such as wetlands. Any indirect impacts that cannot be avoided must be mitigated in addition to the unavoidable direct impacts. It remains to be demonstrated that the avoidance of 7.5 acres of waters is impracticable or that indirect impacts have been minimized. For example, the AA should analyze reconfiguring the land use plan and altering housing densities to avoid all or portions of the seasonal wetlands, maximizing buffers and the connectivity of these wetlands.

Thank you for the opportunity to provide comments on the Public Notice. As additional information becomes available on this proposal, 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", written in a cursive style.

Jason Brush
Supervisor
Wetlands Office

Cc: Kristine Hansen, Corps of Engineers Reno Office