



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

**75 Hawthorne Street
San Francisco, CA 94105-3901**

JUL 18 2014

**OFFICE OF THE
REGIONAL ADMINISTRATOR**

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

Subject: Public Notice (PN) SPK-2005-00938 for the Westbrook Project, Placer County, CA

Dear Colonel Farrell:

I received your letter of July 11, 2014 regarding your intent to issue a Clean Water Act (CWA) Section 404 permit for the Westbrook Project, including the finding that the project has been modified sufficiently so that it no longer proposes substantial and unacceptable adverse impacts to aquatic resources of national importance (ARNI). Pursuant to Section IV, paragraph 3(d) of our interagency Memorandum of Agreement (MOA) governing higher level review of projects impacting ARNI, I have decided not to seek elevation of this permitting decision to our respective headquarters for the following reasons:

1. The highest quality vernal pool landscape on the project site will be preserved and is contiguous with an existing large-scale open space habitat to the east and north, maintaining hydrologic connectivity and habitat continuity;
2. Compensatory mitigation methods and amounts have improved substantially since the Draft Environmental Impact Statement (DEIS), increasing certainty that critical ecosystem services will be maintained.
3. The most significant impacts to vernal pools pertain to the larger, adjacent Sierra Vista Specific Plan project, which used to include the Westbrook area but is now being assessed separately.

Westbrook is a mixed-use residential development located west of the City of Roseville in western Placer County, which would eliminate 9.61 acres of waters of the U.S. (including .873 acre of vernal pool wetlands). EPA designated waters of the U.S. within the Westbrook Project site as ARNI via April 28 and May 12, 2008 letters in response to the Public Notice for the Sierra Vista Specific Plan. The Westbrook Project is included within this ARNI designation because it was part of the Sierra Vista Project at the time the Public Notice was released. At the time, the Sierra Vista project proposed to fill approximately 8 acres of vernal pools and 36 total acres of waters. Westbrook was subsequently separated from the specific plan and a complete application for a Department of the Army permit under Section 404 was received by the Corps on May 20, 2013. A DEIS for Westbrook alone was issued by the Corps on May 31, 2013, and a Final EIS was issued on April 14, 2014. EPA submitted comments on both documents.

In the past year, our staffs have worked with the applicant to modify the project in order to reduce adverse impacts. We are pleased with your decision related to the use of in-kind mitigation bank credits,

because one of our significant concerns with the project had to do with the out-of-kind mitigation proposal. We are also pleased that the mitigation plan is consistent with the Corps South Pacific Division's Standard Operating Procedures for establishing mitigation ratios. Our concerns about the lack of detail regarding the on-site preserve's long term maintenance plan, financing mechanism, monitoring requirements, and site protection instruments have also been addressed through the mitigation plan submitted with the Final EIS and through special conditions in the permit. Conditions in the permit require that the on-site preserve be monitored and maintained until it is accepted by the City of Roseville as their property, and that deed restrictions consistent with the City of Roseville's Open Space Preserve Overarching Management Plan be established.

As discussed in our May 19, 2014 letter on the Corps FEIS for Westbrook, EPA continues to believe that it would be advisable to obtain additional information from the applicant demonstrating the proposed discharges represent the least environmentally damaging practicable alternative, particularly with regard to the cost analysis and screening criteria, to fully demonstrate compliance with 40 CFR 230.10(a). The Central Preserve Alternative, although it currently contains a road fragmenting the northern preserve from the preserve below it, would impact far fewer waters, and options for spanning the road should be considered. However, we find that given the foregoing changes to the proposal, permit issuance as proposed will not result in substantial and unacceptable impacts to ARNI.

Thank you for your partnership in implementing CWA programs. Please call me should you have any questions or concerns at 415-947-8702, or refer your Regulatory Division Chief to Jason Brush at 415-972-3483.

Sincerely,



Jared Blumenfeld
Regional Administrator

cc:

Michael Jewell, U.S. Army Corps of Engineers

Ken Sanchez, U.S. Fish and Wildlife Service

Tina Bartlett, California Department of Fish and Wildlife

Pamela Creedon, Central Valley Regional Water Quality Control Board