



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street  
San Francisco, CA 94105-3901

APR 06 2017

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

Subject: Public Notice (PN) SPK-1994-00040, Stonegate Subdivision, Chico, Butte County, CA

Dear Colonel Ray:

Thank you for the opportunity to comment on the subject PN dated March 10<sup>th</sup>, 2017. As described, the applicant proposes to construct a 319-acre subdivision that would result in the permanent fill of approximately 7.09 acres of waters of the United States, including 2.98 acres of vernal pools. EPA has provided comments on prior iterations of this proposal, most recently including letters dated March 8<sup>th</sup>, and April 1<sup>st</sup>, 2004, written pursuant to our agencies 404(q) Memorandum of Agreement (MOA) in which EPA Region 9 identified the resources at issue in the subject PN as aquatic resources of national importance (ARNI).

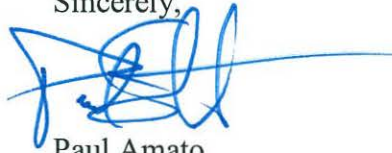
This letter affirms that the Corps' eventual permitting decision on the subject application remains a candidate for Headquarters review as identified in our 2004 MOA letters. This permit application represents impacts encompassing the entire 3.77 acres of wetlands previously proposed for development in the 2004 application, plus additional development in 3.32 acres of seasonal wetlands and vernal pools across Bruce Road to the west and across the Little Chico Diversion to the east. During the last two decades, we have worked with agencies and stakeholders to coordinate permitting and conservation in the Chico area as part of the larger Butte Regional Conservation Plan. As part of this effort, in 2000, Federal and State agencies including EPA collectively objected to development east of Bruce Road in an area known to contain threatened vernal pool ecosystems and important populations of the federally-listed Butte County Meadowfoam.

In addition to the substantial and unacceptable impacts to ARNI this proposal represents, EPA remains concerned with the proposed project's non-compliance with the Federal Guidelines (Guidelines) promulgated under section 404(b)(1) of the Clean Water Act (CWA) at 40 CFR Part 230, most particularly the requirements governing analysis of alternatives [40 CFR 230.10(a)]. The Guidelines require that only the least environmentally damaging practicable alternative (LEDPA) may be permitted. The applicant must perform an analysis of project alternatives including offsite alternatives to determine the LEDPA – according to the PN, the applicant has not provided any alternatives analysis. Proposed avoidance of wetland impacts remains minimal in the current iteration of this proposal, which proposes to fill 62% of wetlands and 81% of vernal pools on site. As stated in our 2004 MOA letters, the apparent lack of avoidance and the range of potential offsite alternatives indicate that it is exceedingly unlikely that the proposed project represents the LEDPA.

In addition, EPA remains concerned with the lack of compliance with the requirements in the Guidelines governing significant degradation of the aquatic environment [40 CFR 230.10(c)(3)] and sufficient information to determine compliance [40 CFR 230.12(a)(3)(iv)], as well as the apparent inadequacy of proposed compensatory mitigation. These items are explained in detail in our 2004 MOA letters.

Thank you for the opportunity to provide comments on the Public Notice. As additional information becomes available on this proposal, please have your project manager contact Joseph Morgan at (415) 972-3309, or [morgan.joseph@epa.gov](mailto:morgan.joseph@epa.gov).

Sincerely,



Paul Amato  
Acting Supervisor  
Wetlands Office

Enclosures:

EPA letters dated December 4<sup>th</sup>, 2000; December 29<sup>th</sup>, 2000; March 8<sup>th</sup>, 2004; and April 1<sup>st</sup>, 2004

cc:

Matthew Kelley, Corps of Engineers Redding Office  
Jennifer Norris, U.S. Fish and Wildlife Service  
Tina Bartlett, California Department of Fish and Wildlife  
Nichole Morgan, Central Valley Regional Water Quality Control Board