



DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO, CALIFORNIA 95814-2922

RECORD OF DECISION

ACTION ID: SPK-2006-01050

PROJECT NAME: Sierra Vista Specific Plan

I have reviewed and evaluated, in light of the overall public interest, the documents and factors concerning the permit applications associated with the Sierra Vista Specific Plan (SVSP), as well as the stated views of interested agencies and the public. In doing so, I have considered the possible consequences of the proposed action in accordance with regulations published in 33 Code of Federal Regulations (CFR) Parts 320 through 332 and 40 CFR Part 230.

As described in the May 2013 Final Environmental Impact Statement (EIS), prepared by the U.S. Army Corps of Engineers, Sacramento District (Corps) under the National Environmental policy Act (NEPA), the Proposed Action is to construct a mixed use development on a site approximately 1,612 acres in size in southwestern Placer county, California. The SVSP contains 36.07 acres of waters of the United States, including wetlands.

The Proposed Action (and all alternatives) includes infrastructure improvements that would be constructed outside of the SVSP area. The alignments of the infrastructure improvements as well as a 250-foot zone extending on both sides of the alignments are off-site impacts. The total acreage of the off-site impact area is approximately 260 acres. The Proposed Action would include the development of 820.0 acres of mixed low-, medium-, and high-density developments and approximately 6,650 residential units, 216 acres of commercial development, 91.0 acres of parks, 61.0 acres of public and quasi-public uses including areas dedicated to new schools, and 177 acres of major roadways, paseos and landscape corridors. The Proposed Action would allow for the discharge of fill material into 24.81 acres of waters of the United States including wetlands, including 2.44 acres for off-site construction of infrastructure improvements. Approximately 13.75 acres of waters of the United States within 234.0 acres of on-site open space would be preserved, and approximately 17.87 acres of created seasonal wetlands would be established along Curry Creek as well as 2.08 acres of shallow seasonal wetlands along Federico Creek.

The SVSP is a master-planned area approved by the Placer County Board of Supervisors in May, 2010. The Proposed Action includes 8 DA permit applications for the mixed use development of approximately 1,612 acres. Additionally the applicants are requesting the Corps issue a Regional General Permit (RGP) for major backbone infrastructure, and authorize the discharge of fill material into 7.99 acres of waters of the United States, including wetlands, for construction of major roadways and utilities within the SVSP.

Complete development of the site under the Proposed Action would involve the filling of approximately 24.81 acres of waters of the United States, including wetlands. Therefore Department of the Army permits under Section 404 of the Clean Water Act are required for the Proposed Action. This Record of Decision is intended to make findings to guide future permit decisions for each of the applications received.

I. Background

In 2004, the City of Roseville (City) annexed the West Roseville Specific Plan (WRSP) Area immediately north of the project site, into its Sphere of Influence (SOI). At that time the boundary of the City's SOI was adjusted to align with that of the 5,500-acre "Transition Area" between the City and Placer County (County). The Transition Area is an area that was likely to develop in the future given its proximity to existing services and infrastructure, which had been defined in 1997 to foster cooperative land use planning under the terms of a Memorandum of Understanding (MOU) between the City and County. The majority of the SVSP site is located within the area covered by the MOU. Sacramento Area Council of Governments (SACOG) Preferred Blueprint Scenario, adopted in December 2004 to promote compact mixed-use development and increased use of transit as an alternative to low-density "sprawl," also identified the project site as appropriate to accommodate growth. In this context, the City envisions the SVSP, as completing the unfinished comprehensive planning process for the project site, in order to implement a large-scale, mixed-use, mixed-density master planned community in the City consistent with the City's General Plan and Growth Management Guiding Principles related to new development west of Roseville and the City's Blueprint Implementation Strategies. In May 2010, the City approved the SVSP and certified an Environmental Impact Report (EIR) for the specific plan area. This EIR was the basis for the Placer County Local Agency Formation Commission to approve the annexation of the entire SVSP site in January 2012 which is now within the Roseville City limits.

Applications were received for all projects within the SVSP on September 27, 2006. Complete applications for Department of the Army permits under Section 404 of the Clean Water Act (CWA) were obtained by July 6, 2012.

Table 1: 9 Pending Application's for DA Permits

Property No.	Project Name	Corps Action ID	Owner/Applicant
1	AKT Investments, Inc. (Baseline P & R)	SPK-200501062	Kyriakos Tsakapoulos KT Communities 2251 Douglas Blvd., Suite 110 Roseville, California (916) 774-6622
2	AKT Investments, Inc. (Baybrook)	SPK-200600331	Kyriakos Tsakapoulos KT Communities 2251 Douglas Blvd., Suite 110 Roseville, California (916) 774-6622
3	M.I.L.L.C.'s (Computer Deductions) (Bagley & Associates); (Wealth Properties)	SPK-200300183	Steve Schnable Mourier Investments, LLC 1430 Blue Oaks Blvd., Suite 190 Roseville, California 95661 (916) 782-8879
4	M.I.L.L.C. (Conley)	SPK-200600689	Steve Schnable Mourier Investments, LLC 1430 Blue Oaks Blvd., Suite 190 Roseville, California 95661 (916) 782-8879
5	Cyril G. Barbaccia Trust (CGB)	SPK-200500957	Jack Previte CGB Investments. 950 South Bascom Ave., Suite 1113 San Jose, California 95128 (408) 283-0628
6	DF Properties Inc	SPK-201400447	Jeff Ronten D.F. Properties, Inc. 2013 Opportunity Drive, Suite 140 Roseville, California 95678 (916) 782-2704
7	Federico-Mourier	SPK-200500781	Steve Schnable Mourier Investments, LLC 1430 Blue Oaks Blvd., Suite 190 Roseville, California 95661 (916) 782-8879
8	Westpark Associates/M.I.L.L.C. (Federico)	SPK-201400026	Steve Schnable Mourier Investments, LLC 1430 Blue Oaks Blvd., Suite 190 Roseville, California 95661 (916) 782-8879
9	Regional General Permit	SPK-200601050	

On February 29, 2008, the U.S. Army Corps of Engineers, Sacramento District, (Corps) determined an EIS would be prepared due to the potential for significant effects on biological resources, air quality, hydrology and water quality, agricultural resources, traffic and aesthetics. Scoping for the EIS began on March 28, 2008, with publication of a Notice of Intent to Prepare an EIS in the Federal Register (Federal Register Vol. 73, No. 61). The Corps held a scoping public meeting on April 16, 2008 at the City Civic Center, 311 Vernon Street, Roseville, California. The U.S. Environmental Protection Agency (USEPA) agreed to be a cooperating agency on the preparation of the EIS.

On July 20, 2012, a Draft EIS was issued by the Corps. A Notice of Availability was published in the Federal Register on July 20, 2012 (Federal Vol. 77, No. 140).

The Corps issued a Final EIS in June 2013 with a Notice of Availability published in the Federal Register on June 7, 2013. A public notice announcing the Final EIS, as well as the proposed RGP was issued on June 7, 2013. A second public notice for adjustments to the proposed RGP was issued on February 12, 2016. U.S. Environmental Protection Agency (USEPA) provided the only comment on the Final EIS.

II. Project Purpose and Need

a. Purpose: The project purpose is to implement a large-scale, mixed-use, mixed-density master planned community in western Placer County.

b. Need: The project need is to help meet the City's share of foreseeable regional housing demand and to accommodate commercial and office development in the Roseville area, based on SACOG's projections that the region will add approximately 2 million people by 2050.

III. Alternatives Considered: A reasonable range of alternatives were considered in the EIS for the proposed project. The EIS also identified those alternatives that were considered but rejected from further analysis. On February 21, 2014, after the final EIS had been published, the applicant submitted the (*Section 404(b)(1) Alternatives Analysis for the Sierra Vista Specific Plan Army Corps Permit Application No. SPK-2006-01050* (Alternatives Information) regarding the practicability of the alternatives evaluated in the EIS in light of the overall project purpose, which is being utilized in this Record of Decision (ROD) to conduct the alternatives analysis required for compliance with the USEPA's Section 404(b)(1) Guidelines (404(b)(1) Guidelines) for the overall specific plan.

a. Screening Criteria: Section 2.3.2 of the Draft EIS identifies screening criterion utilized for the determination of practicability for off-site alternatives. In addition to the screening criteria identified in the Draft EIS, through the permit process, the Corps has identified additional screening criteria that is appropriate to utilize for on-site alternatives. All screening criteria and their justification is as follows:

(1) Overall Project Purpose:

(a) The alternative must result in a minimum 1,000 acres of mixed-use development.

Justification: See Section 2.3.2, Criterion 3 of the Draft EIS. While developed for the off-site alternatives, the Corps has determined that this criterion is appropriate for on-site development.

(b) The alternative must result in the development of a cohesive, master-planned development that meets the Sacramento Area Council of Government (SACOG)-adopted Preferred Blueprint Scenario, the City's adopted Implementation Strategies, and Smart Growth Principles. Specifically, the alternative cannot result in fragmented development areas and impede the integration of different uses.

Justification: Relationship between land-uses is important in the development of a master-planned, mixed-use community. In addition, the construction of a fragmented development, in which there are separate "pockets" of development results in increased traffic and air quality impacts. Therefore, the Corps has determined that this criterion is appropriate to meet the overall project purpose.

(2) Logistics

(a) The alternative must result in the construction of a regional commercial center (power center) within the SVSP.

Justification: See Section 2.3.2, Criterion 4 of the Draft EIS. While developed for off-site alternatives, the Corps has determined that this criterion is appropriate for on-site development.

(b) The alternative must result in the construction of a City-wide park.

Justification: The City requires the construction of a City-wide park within the SVSP. In accordance with 33 CFR 320.4(j)(2), the Corps has determined that it is appropriate to accept this land use decision by the City, as there are no significant issues of overriding national importance associated with development of the SVSP. Therefore, the Corps has determined that this is an appropriate screening criterion.

(c) The alternative must be revenue neutral to the City

Justification: The City of Roseville requires that tax revenues meet or exceed City expenditures to provide public services and infrastructure for the project area. In order to determine the fiscal requirements, the Development Planning & Financing Group, Inc. (DPFG), prepared the October 22, 2012, *Sierra Vista Specific Plan EIS Alternatives Analysis*, consisting of a fiscal impact analysis, which is located in Appendix B of the February 21, 2014 Alternatives Information submitted by the applicant. On October 25, 2012, the City of Roseville confirmed that the fiscal impact analysis

completed by DPFPG of the Proposed Action and alternatives is “complete and accurate,” as identified in Appendix F of the February 21, 2014 Alternatives Information submitted by the applicant. As identified in 33 CFR 320.4(j)(2), the Corps has determined that it is appropriate to accept the requirements of fiscal sustainability by the City related to land use decision, as there are no significant issues of overriding national importance associated with the development of the SVSP. Therefore, the Corps has determined that this is an appropriate screening criterion.

b. Alternatives Considered in the EIS:

(1) No Federal Action: Under this alternative, a mixed-use development would be constructed on the SVSP site without discharging fill material into waters of the U.S. Development of this alternative would result in the construction of a mixed-use development on 1,134 acres, consisting of 710 acres of residential uses (5,040 residential units), 122 acres of commercial and office uses, 67 acres of public and quasi-public uses, 77 acres of parks, 15.5 acres of paseos, and 492 acres of open space preserve. On- and off-site utility infrastructure would be similar to the Proposed Action. Total development would be approximately 17% smaller than the Proposed Action. This alternative would not allow for the development of a regional commercial center of sufficient size and configuration to meet retail market requirements, as a minimum of 50 acres of contiguous land is needed for this use. This alternative would result in construction of a mixed-use development within “pockets” and would limit connectivity between land-uses in the SVSP. This alternative would result in tax revenue to the City of approximately \$1,083,603 less annually than needed to provide public services and approximately \$1,500,000 less than needed to support the construction and equipment needs of the required fire station. The overall construction costs of this alternative are approximately \$503,664,334 (36.5% higher than the Proposed Action).

(2) Proposed Action: The Proposed Action would result in the discharge of fill material into 24.81 acres of waters of the U.S. for the construction of a mixed-use development. Development of this alternative would result in the construction of a mixed-use development on 1,370 acres, consisting of 820 acres of residential uses (6,650 residential units), 216 acres of commercial and office uses, 61 acres of public and quasi-public uses, 256 acres of open space preserve, and 168 acres for roads, trails, and public transit. Development of this alternative would allow for two regional commercial centers of sufficient size and configuration to meet retail market requirements, providing a minimum of 50 contiguous acres. This alternative would generate approximately \$207,000 more than needed by the City to provide public services and would provide sufficient funds to build and equip the required fire station. The overall construction costs of this alternative are approximately \$368,866,677.

To mitigate for the loss of 24.81 acres of waters of the United States, the applicants would purchase 48.8 acres of fairy shrimp wetland creation credits from Service approved mitigation sites, create 19.95 acres on-site within the two creek corridors, and purchase credits at a bank within its service area. The Proposed Action

is estimated to cost approximately, \$368,866,677.00 as stated in a report supplied by the applicant (dated February 21, 2014).

(3) Reduced Footprint/Increased Density Alternative: The Reduced Footprint/Same Density Alternative would result in the discharge of fill material into 8.61 acres of waters of the U.S. Development of this alternative would result in the construction of a mixed-use development on 1,027 acres, consisting of 593 acres of residential uses (6,655 residential units), 157.5 acres of commercial and office uses, 60.1 acres of public/quasi-public uses, and 599 acres of open space preserve. Under this alternative, the required Citywide Park would not be constructed and overall park acreage would be 40.9 acres. On- and off-site utility infrastructure would be similar to the Proposed Action. Total development would be approximately 25% smaller than the Proposed Action, although the total number of residential units would be similar to the Proposed Action. This alternative would not allow for the development of a regional commercial center of sufficient size and configuration to meet retail market requirements, as a minimum of 50 acres of contiguous land is needed for this use. This alternative would result in tax revenue to the City of approximately \$2,700,000 less annually than needed to provide public services and approximately \$1,300,000 less than needed to support the construction and equipment needs of the required fire station. The overall construction costs of this alternative are approximately \$363,973,706 (1.3% less than the Proposed Action).

(4) Reduced Footprint/Same Density Alternative: The Reduced Footprint/Same Density Alternative would result in the discharge of fill material into 8.61 acres of waters of the U.S. Development of this alternative would result in the construction of a mixed-use development on 1,027 acres, consisting of 600.3 acres of residential uses (4,931 residential units), 158.5 acres of commercial and office uses, 60.1 acres of public/quasi-public uses, and 599 acres of open space preserve. Under this alternative, the required Citywide Park would not be constructed and overall park acreage would be 40.9 acres. On- and off-site utility infrastructure would be similar to the Proposed Action. Total development would be approximately 25% smaller than the Proposed Action. This alternative would not allow for the development of a regional commercial center of sufficient size and configuration as a minimum of 50 acres of contiguous land is needed for this use. This alternative would result in tax revenue to the City of approximately \$1,400,000 less annually than needed to provide public services and approximately \$1,600,000 less than needed to support the construction and equipment needs of the required fire station. The overall construction costs of this alternative are approximately \$363,973,706 (1.3% less than the Proposed Action).

(5) Focused Avoidance Alternative: The Focused Avoidance Alternative would result in the discharge of fill material into 14.88 acres of waters of the U.S. Development of this alternative would result in the construction of a mixed-use development on 1,150 acres, consisting of 697.5 acres of residential uses (5,346 residential units), 139.5 acres of commercial and office uses, 62.5, and 476 acres of open space preserve. On- and off-site utility infrastructure would be similar to the Proposed Action. Total development would be approximately 16% smaller than the

Proposed Action. This alternative would allow for the development of one regional commercial center of sufficient size and configuration as a minimum of 50 acres of contiguous land is needed for this use. This alternative would result in tax revenue to the City of approximately \$511,095 less annually than needed to provide public services and approximately \$1,150,000 less than needed to support the construction and equipment needs of the required fire station. The overall construction costs of this alternative are approximately \$376,393,926 (2.0% more than the Proposed Action).

(6) Off-site Alternative (Southwest Site): This site is located two miles to the west of the Proposed Action and is approximately 2389 acres in size. The site would be large enough to meet the project purpose to construct a mixed-use development; however, the project would be more expensive due to utilities not located near the project site. The existing agricultural uses of the Southwest Site are of higher value than the Proposed Action site, including more Unique Farmland and Farmland of Local Importance. This site contains active and fallow rice fields, and grazing lands. Although a wetland delineation has not been conducted or verified by the Corps, it is estimated this site has approximately 7 acres of perennial streams, 5 acres of wetland swales, 25 acres of vernal pools and seasonal wetlands, and 13 acres of stock ponds. Additionally, the site contains 9 acres of fallow contoured rice fields and 60 acres of active rice fields. All or a portion of these farmed rice fields may be waters of the United States, including wetlands. Based on available information, it is estimated that this site contains between 50 and 119 acres of potential waters of the U.S., including wetlands. In order for development to occur on this site, off-site utilities would need to be connected to existing facilities located 2 miles from the site. These additional facilities would likely increase impacts to waters of the U.S. Construction of a similar development as the proposed action would result in an estimated discharge of fill material into approximately 24 acres of waters of the U.S., which does not include any discharges associated with the installation of off-site utilities. The Southwest Site, would likely have greater impacts to waters of the United States than any of the on-site alternatives after taking into account impacts from off-site infrastructure. The Corps learned after the publication of the Draft EIS that this site was no longer available as an alternate potential construction site because the land owners were not willing to sell the property.

c. Alternatives Considered but Rejected: The Corps examined 11 off-site alternatives in western Placer County. Chapter 2 of the Draft EIS identifies the reasons these alternatives were eliminated.

d. Determination of Practicable Alternatives: At a program level, we have determined that the No Federal Action, Reduced Footprint/Increased Density, Reduced Footprint/Same Density, Focused Avoidance, and Southwest Site Alternatives are not practicable as follows:

(1) No Federal Action: This alternative would result in fragmented development that is substantially smaller and would have substantially fewer residential units than the Proposed Action, and would not allow the development of a regional commercial center. In addition, this alternative would not generate sufficient tax revenue

annually to allow for the City to provide public services or to support the construction and equipment needs of the required fire station. Therefore, the Corps has determined that this alternative does not meet the overall project purpose and is not logistically practicable.

(2) Reduced Footprint/Same Density: This alternative would not allow the development of a regional commercial center, or the Citywide Park required by the City. In addition, this alternative would not generate sufficient tax revenue annually to allow for the City to provide public services or to support the construction and equipment needs of the required fire station. Therefore, the Corps has determined that this alternative does not meet the overall project purpose and is not logistically practicable.

(3) Reduced Footprint/Increased Density: This alternative would not allow the development of a regional commercial center or the Citywide Park required by the City. In addition, this alternative would not generate sufficient tax revenue annually to allow for the City to provide public services or to support the construction and equipment needs of the required fire station. Therefore, the Corps has determined that this alternative does not meet the overall project purpose and is not logistically practicable.

(4) Focused Avoidance: This alternative would not generate sufficient tax revenue annually to allow for the City to provide public services or to support the construction and equipment needs of the required fire station. Therefore, the Corps has determined that this alternative is not logistically practicable.

(5) Southwest Site: This alternative is not available.

We have determined that for the overall SVSP, the Proposed Action is the only practicable alternative. The EIS considered 12 off-site alternatives but did not carry them forward for detailed analysis because they were infeasible and/or impracticable. Evaluation of off-site alternatives for the SVSP eliminates the need to further evaluate off-site alternatives for each permit application. Additionally, the EIS analyzed a reasonable range of alternatives for the Proposed Action under NEPA at a project level. In accordance with 40 CFR Section 230.10(a)(4), the Corps will evaluate the practicability of alternatives for the 8 properties and the backbone infrastructure on a case-by-case basis.

e. Environmentally Preferred Alternative

For the overall SVSP, the Environmentally Preferred Alternative is the Proposed Action Alternative. Although it would result in potentially significant impacts to waters of the U.S., this alternative is the Environmentally Preferred Alternative, as it is the only practicable alternative as identified in Section III(c).

IV. Comment on the Final Environmental Impact Statement

a. USEPA: On September 4, 2012, the USEPA commented on the Draft EIS and on July 8, 2013, USEPA commented on the Final EIS. USEPA, a Federal Cooperating Agency, restated their position from their comments on the Draft EIS, that resources on this property are Aquatic Resources of National Importance. In addition, USEPA provided the following comments:

(1) USEPA requested further coordination to ensure the maximum amount of avoidance to waters of the United States would occur on-site as possible.

(2) USEPA expressed their belief that the Proposed Project is not the LEDPA and more avoidance is necessary.

(3) USEPA stated the applicant has not proposed appropriate compensatory mitigation for aquatic resource impacts.

(4) USEPA stated they still have objections to the project as well as concerns regarding cumulative impacts to air quality.

(5) USEPA stated the Corps' practice of deferring until the conclusion of the NEPA process the disclosure of information needed for finding of compliance with the Guidelines makes it difficult for agencies and the public to provide timely and substantive comments on the alternatives.

(6) USEPA noted the Draft EIS and Final EIS did not have 404(b)(1) Alternative Analysis information in it as well as other critical products for determining compliance with the Clean Water Act. USEPA also stated the Final EIS does not provide information needed to evaluate the alternatives under section 404(b)(1).

(7) USEPA expressed concern on the Corps' determination that the 2008 Mitigation Rule does not apply to this the proposed project. USEPA cautioned this approach and wants the Corps to use discretion and bring the project into compliance with the rule.

(8) USEPA stated the quality of habitat on-site is suitable for federally listed invertebrate species. Additionally, USEPA identified the not listed, but rare, dwarf *Downingia* is on the project site.

(9) USEPA stated the project conceptual mitigation plan illustrates that storm drain outfalls connecting to bio swales would discharge into the constructed wetlands, and said they do not support the open space creek corridor being used for stormwater management. USEPA recommended the Corps reevaluate this issue and ensure the mitigation plan avoids introducing any untreated stormwater into any wetlands for which on-site compensatory mitigation credits would be issued.

(10) USEPA expressed they continue to have concerns with the cumulative impacts and significant degradation to aquatic resources. USEPA quoted the Draft EIS

as stating in the Cumulative Impacts section that nearly 73 percent of the land within the study area is project to be converted to urban or agricultural uses by 2060 with only 7 percent being identified for conservation. Based on their comment letter, USEPA believes the impacts from Sierra Vista will likely cause or contribute to significant degradation to aquatic resources in the study area and the conceptual mitigation plan for Sierra Vista should be revised to avoid these impacts.

(11) USEPA reiterated their concern from the Draft EIS that the Final EIS should include a table displaying criteria pollutant emissions estimates from projects within the cumulative air quality study area. USEPA indicated they remain concerned with air quality impacts for this project and the corresponding development proposed in the area. Finally, USEPA requested the Corps coordinate with the Placer County Air Pollution Control District to ensure construction and operational emissions from this project, and other reasonably foreseeable projects, will not exceed the relevant emissions budgets within the State.

b. Corps Response:

(1) USEPA's comment identified in IV (a)(1): USEPA was an active contributing member of pre-application meetings with the applicant and City of Roseville for development on the proposed project site. The alternatives information prepared by the applicant was provided to USEPA for review.

(2) USEPA's comments identified in IV (a)(2), (5), and (6): As identified in Section III of this ROD, the Corps determined that at the specific plan level, there are no other practicable alternatives to the proposed action, and the proposed action is the LEDPA at the specific plan level. Contrary to the statement made by USEPA, the EIS was prepared to integrate the requirements of both NEPA and the 404(b)(1) Guidelines, through the selection of alternatives and the evaluation of the effects of the proposed action on the physical, chemical and biological characteristics of the aquatic environment sufficient for the Corps to complete the factual determinations. However, because the EIS is a document to identify the environmental impacts of the proposed action and other alternatives, a final determination for compliance with the 404(b)(1) Guidelines is not made in the Draft or Final EIS, but is made in the ROD. A case-specific determination of compliance with the Section 404(b)(1) Guidelines, including determination of the LEDPA and factual determinations will be made in the supplemental NEPA documents or RODs for the 8 pending permit applications and proposed RGP within the SVSP. The Draft EIS identified and evaluated alternatives that were reasonable, as required under NEPA, and eliminated alternatives that the Corps determined were not reasonable based on information provided by the applicant, and analyzed by the Corps, which was included in the Draft EIS.

(3) USEPA's comments identified in IV (a)(3), (7), and (9): Related to compensatory mitigation, the Proposed Action allows for stormwater to enter the open space creek corridors. The Corps has determined the construction of bio-swales to accept stormwater is not appropriate for compensatory mitigation credit. However, the

Corps does not agree with USEPA's assertion that construction of bio-swales is not appropriate, or that the presence of bio swales results in the creek being utilized for stormwater management. Without the bio swales, water would flow into the creeks without prior treatment, which would result in additional adverse effects to water quality and would increase the velocity of the water entering the wetlands and creek channel. In addition, the Corps does not believe it would be appropriate to divert all water away from the constructed wetlands and the existing creek, as this would decrease the amount of water that would normally flow. The Corps will make a case-specific determination on the appropriate and amount of compensatory mitigation required for each of the 8 pending permit applications and the RGP in the supplemental NEPA documents or RODs prepared for those projects. As identified in the preamble to the 2008 Mitigation Rule (73 FR 19608), the rule applies to permit applications received after the effective date of the rule. Further, permit applications received prior to the effective date will be processed in accordance with the previous compensatory mitigation guidance. Because the permit applications for the proposed actions were received prior to the June 9, 2008, effective date of the 2008 Mitigation Rule, the rule does not apply. However, the Mitigation Rule was referenced with the creation of the mitigation requirements.

(4) USEPA's objections and concerns regarding the proposed project as identified in their comment IV(a)(4) are noted.

(5) USEPA's comment IV(a)(8): The Corps acknowledges and agrees the proposed action would affect wetlands that contain suitable habitat for Federally-listed vernal pool invertebrates and dwarf *Downingia*. As identified in Section V, the U.S. Fish and Wildlife Service has issued biological opinion for the proposed project. The EIS fully analyzed the effects to biological resources on the proposed action and other alternatives.

(6) USEPA's comment IV(a)(10): The Corps will make a case-specific determination for compliance with the Section 404(b)(1) Guidelines in the supplemental NEPA documents or RODs prepared for the 8 pending permit applications and proposed RGP.

(7) USEPA's comment IV(a)(11): The EIS adequately analyzed the direct, indirect, and cumulative air quality impacts of the proposed action. As identified in the EIS, the proposed action would result in significant impacts to air quality within the Sacramento Valley Air Basin. While it may be possible for the Corps to obtain the air quality impacts of large projects in which the Corps has prepared or is preparing an EIS, compiling a list would not result in any changes to the analysis or conclusions in the EIS, as air quality impacts would still be significant and unavoidable. In addition, because those projects that do not require an EIS or do not require a permit from the Corps would not be included on the list, obtaining this information would not provide all air quality impacts in the basin. Therefore, the Corps has determined that it is not necessary to compile the requested information.

V. Consideration of Applicable Laws and Policies

a. National Environmental Policy Act (NEPA): The EIS was completed to evaluate a reasonable range of land-use alternatives and the cumulative impacts associated with the development of the SVSP site and one off-site alternative. The Corps followed the NEPA process, including noticing and timeline requirements, to produce a document that discloses to the public the probable impacts of the Proposed Action including taking into account mitigation. The EIS will be utilized to prepare supplemental NEPA documents or project specific RODs for the 8 pending permit applications and proposed RGP.

b. Section 401 of the Clean Water Act Section 401 of the CWA: The Corps will ensure that a Section 401 Water Quality Certification (WQC) is received for each of the 8 pending permit applications prior to a permit decision. The Central Valley Regional Water Quality Control Board issued a Section 401 WQC for the proposed RGP on October 6, 2015.

c. Endangered Species Act of 1973 (ESA): On October 23, 2013, the Corps initiated consultation with the U.S. Fish and Wildlife Service (USFWS) under Section 7 of the Endangered Species Act for potential impacts to the Federally-listed vernal pool fairy shrimp (*Branchinecta lynchi*), vernal pool tadpole shrimp (*Lepidurus packardii*), and giant garter snake (*Thamnophis gigas*). On May 5, 2015, and December 17, 2015, the U.S. Fish and Wildlife Service (USFWS) issued biological opinions (BO) for the Proposed Action including each of the 8 properties and the backbone infrastructure. The USFWS BO's will become a condition of any Corps permit issued for projects within the SVSP, including the proposed RGP.

d. Fish and Wildlife Coordination Act (FWCA): The Corps has worked with USFWS on the proposed project, including pre-application meetings to obtain input. During EIS preparation, the Corps requested USFWS be a cooperating agency. Although it declined, the USFWS was provided with a copy of the Draft and Final EIS. While USFWS did not provide comments on the Draft or Final EIS, they did provide 2 BOs as stated above.

e. Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA): The SVSP does not contain habitat for anadromous fish, and therefore there would be no effect to essential fish habitat from the Proposed Action.

f. Section 106 of the National Historic Preservation Act (NHPA): The Corps consulted with the California State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP) for the entire SVSP, including the 8 permit applications and proposed RGP, determining that there would be no effect to historic properties. The Corps received no comment from SHPO. Per 33 CFR 325, Appendix C (7), because no response was received from SHPO, the Corps may proceed with a final permit decision.

g. Section 176(C) of the Clean Air Act (CAA) General Conformity Rule

Review: The Proposed Action and alternatives have been analyzed for conformity applicability pursuant to regulations implementing Section 176(c) of the Clean Air Act. The Corps has determined that direct emissions from the proposed activities that require a DA permit will not exceed de minimis levels of a criteria pollutant or its precursors and are exempted by 40 CFR 93.153. Any later indirect emissions are generally not within the Corps' continuing program responsibility and generally cannot be practicably controlled by the Corps. For these reasons, a conformity determination is not required for this action.

h. Executive Order 11988: Floodplain Management: Executive Order 11988 required federal agencies to prepare floodplain assessments for proposed actions located in or affecting floodplains. If an agency proposes to conduct an action in a floodplain, it must consider alternatives to avoid adverse effects and incompatible development in the floodplain. If the only practicable alternative involves siting in a floodplain, the agency must minimize potential harm to the floodplain and explain what the action is proposed for that location. The areas along Curry Creek and Federico Creek are not within a floodplain as mapped by the Federal Emergency Management Agency (FEMA).

i. Executive Order 13175: Consultation with Indian Tribes, Alaska Natives, and Native Hawaiians: Coordination with all relative interested parties has been completed. Native American coordination was initiated by the archaeological consultant through contact with the Native American Heritage Commission (NAHC) in July 2010, who provided a letter regarding the presence/absence of previously identified sites within the APE, and a list of contacts in the Native American Community. The archaeological consultant contacted the tribes and individuals identified by the NAHC via letter and email in August and September 2010, with no concerns being raised. In addition, the Corps sent a letter to the United Auburn Indian Community of the Auburn Rancheria on June 12, 2012. A response was received from UAIC requesting a copy of the cultural reports, which were provided on July 3, 2012. No further comments were received.

j. Executive Order 12898: Environmental Justice: No low-income or minority populations were identified within or adjacent to the SVSP area as further discussed in Section 3.7 of the DEIS. Therefore, neither the Proposed Action nor any of the alternatives are expected to cause disproportionately high and adverse impacts to minority or low-income communities.

VI. Consideration of Mitigation Measures: The Draft EIS included a number of mitigation measures to reduce or offset impacts that fall outside of the Corps responsibility and generally cannot be practicably controlled by the Corps, such as those associated traffic, air quality, and noise. Many of the mitigation measures are requirements of the local land use agency (City) and were required in the Environmental Impact Report for compliance with the California Environmental Quality Act. As such, these mitigation measures are enforced by the City and not the Corps.

The Corps requires mitigation measures to reduce or offset impacts to waters of the U.S. as special conditions of each DA permit issued. These mitigation measures have been developed and refined in the EIS and additional mitigation measures will be determined in the supplemental NEPA documents or RODs developed for the 8 pending permit applications and proposed RGP. These special conditions will take into account the mitigation measures identified in the Draft EIS, and will also include additional conditions that avoid, minimize, and compensate for effects to waters of the U.S., and conditions that ensure compliance with Section 7 of the ESA, Section 106 of NHPA, and Section 401 of the Clean Water Act.

VII: Compliance with 404(b)(1) Guidelines: The EIS analyzed a reasonable range of alternatives for the Proposed Action under NEPA. In accordance with 40 CFR Section 230.10(a)(4), compliance with the USEPA's 404(b)(1) Guidelines will be demonstrated at a project specific level for the 8 pending permit applications and the proposed RGP in the supplemental NEPA documents or RODs that will be prepared for those projects. Additional mitigation, including avoidance and minimization, may be required at the project-level for consistency with the environmentally preferred alternative and to demonstrate compliance with the Guidelines.

VIII. Public Interest Review: The following discussion contains the public interest review for the Proposed Action at a specific plan level. A project specific public interest review will be conducted for each of the 8 pending permit applications and proposed RGP in the supplemental NEPA documents or RODs prepared for these projects.

a. The relative extent of the public and private need for the proposed work has been considered: The Proposed Action is intended to meet a local demand for mixed-use development. As such, local approval indicates a public need for the project.

b. The practicability of using reasonable alternative locations and/or methods to accomplish the objective of the proposed structure or work has been evaluated: We have determined that there are no practicable alternate locations that would accomplish the purpose of the proposed work. In addition, we have determined that at the specific plan level, there are no alternative method available to accomplish the purpose of the proposed work. Therefore, the Proposed Action is the environmentally preferred alternative.

c. The extent and permanence of the beneficial and/or detrimental effects that the proposed structures or work may have on the public and private uses which the area is suited has been reviewed: For the Proposed Action, development of the SVSP would result in the discharge of fill material into 24.81 acres of waters of the U.S., including wetlands, which would be a permanent and detrimental effect. The loss of waters of the U.S. would be offset by the mitigation required by the Corps in the DA permits, if issued, for the 8 pending permit applications and proposed RGP. The Proposed Action would also result in temporary and permanent detrimental effects to traffic levels, air quality, and aesthetics of the area. The proposed parks and recreational trails are also expected to provide a permanent recreational benefit to the public. The

residential, commercial and recreational areas built in the development would provide a permanent benefit to the community.

X. Findings

a. The evaluation of the Proposed Action and alternatives was completed in accordance with all applicable laws, executive orders, regulations, and agency regulations. The EIS and supporting documents were completed in accordance with NEPA, are adequate, and contain sufficient information upon which reasoned permit decisions can be made.

b. The Proposed Action, with special conditions in individual DA permits to minimize environmental harm and potential adverse impacts of the discharges on the aquatic ecosystem and the human environment, is considered the environmentally preferred alternative under NEPA. The Proposed Action is the least impacting of the practicable alternatives to the aquatic environment, meets the overall project purpose, and is practicable at the specific plan level.

c. For the 8 properties with pending permit applications, the Corps will prepare a ROD based on the SVSP EIS that is specific to a project or group of related projects. A supplemental NEPA document will be prepared if the Corps determines additional analysis of the impacts for a specific project is needed or the project is inconsistent with the Environmentally Preferred Alternative. A ROD will only be completed after the Corps issues a public notice and the applicant submits all required information, including, but not limited to, information regarding on-site avoidance consistent with the Environmentally Preferred Alternative, information regarding minimization for compliance with the 404(b)(1) Guidelines, and a final compensatory mitigation plan. In addition, the Corps must ensure the project is in compliance with Section 7 of the Endangered Species Act, Section 106 of the National Historic Preservation Act, and Section 401 of the Clean Water Act.

d. Regarding the Proposed Action, the identified Environmentally Preferred Alternative, the Corps will evaluate the practicability under the 404(b)(1) Guidelines of avoiding additional waters of the U.S. within each of the individual projects within the SVSP. However, those projects that are consistent with the Environmentally Preferred Alternative will not require an evaluation of off-site alternatives or detailed information about on-site avoidance; instead, the focus will be on minimizing impacts to water of the U.S. in demonstrating compliance with the 404(b)(1) Guidelines.

e. For the proposed Backbone Infrastructure RGP, the Corps will complete the permit decision and prepare a ROD based on the SVSP EIS.

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