

Ms. Nancy Haley
Chief, San Joaquin Valley Office
US Army Corps of Engineers
1325 J St.
Sacramento, CA 95814

Mr. Paul Jones
US EPA Region 9, Water Division
75 Hawthorne Street
San Francisco, CA 94105

October 30, 2009

Subject: Placer County Conservation Plan and finding of a Regional LEDPA

Dear Ms. Nancy Haley and Mr. Paul Jones:

As stakeholders our engagement with the Placer County Conservation Plan has resulted in numerous discussions with both Placer County staff and the natural resources agencies regarding a Regional LEDPA. Questions have recently emerged regarding our understanding of the benefits of a Regional LEDPA; thus this letter seeks clarification about how the Regional LEDPA and wetlands permitting would function should the PCCP be adopted.

For many stakeholders, support for the Placer County Conservation Plan (PCCP) is critically dependent on the benefits a Regional LEDPA would provide in streamlining CWA §404 permits and fostering creation of large, connected off-site preserves. This is an area where both landowner and conservation interests find common ground. The purpose of this letter is to seek confirmation that we are correct in our interpretation of the benefits referenced in the August 24, 2007 letter co-written by Colonel Thomas Chapman and Ms. Alexis Strauss (letter attached) to Placer County Supervisors, and especially those noted in the attachment to that letter, *A Proposed Methodology for a "Regional LEDPA" Determination: Permitting under CWA Section 404 in Western Placer County.*

The ACOE/EPA paper describes how a "system of large, connected conservation preserve areas" can meet a project's CWA §404(b)(1) avoidance requirements; Low Impact Development Standards (LIDS) and stream setbacks can meet §404(b)(1) minimization requirements, and contributions to the reserve system can meet compensatory mitigation requirements. Once those are achieved the paper describes the regulatory benefits:

"The implementation of a scientifically- based conservation strategy through the PCCP, LIDS, and mandatory creek setbacks will replace the standard wetland permitting process...projects proposed within the development envelope that incorporate the on-site avoidance strategies, including stream setbacks and LIDS, **will not** be required to: (1) provide a separate off-site alternatives analysis; (2) prove that their project location meets LEDPA requirements, or (3) prepare a rigorous on-site alternatives analysis...Proposed projects that implement the on-site LIDS and establish stream setbacks will be able to eliminate most of the jurisdictional waters within the development envelope occurring outside the boundaries of stream setbacks for streams. These projects should provide minimal on-site alternatives analysis information to demonstrate how LIDS and stream setbacks will be established."

In developing a PCCP that achieves the Regional LEDPA and meets the avoidance, minimization and compensatory requirements of the CWA §404(b)(1) Guidelines, the PCCP would provide landscape scale avoidance of wetlands within the reserve area, stream setbacks under the County Aquatic Resources Plan (CARP) and County approved Low Impact Development Standards (LIDS). We are aware that the NEPA process will analyze whether these measures are adequate—whether the preferred PCCP alternative is the LEDPA.

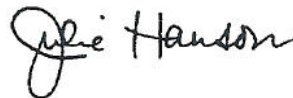
If in fact the EIS concludes that the PCCP meets the requirements of the of the CWA §404(b)(1) Guidelines and the Plan is adopted, we request a reaffirmation that subsequent projects will not be required to complete either an onsite or offsite LEDPA analysis, nor additional NEPA review. Broadly stated, the issue that we request clarification on is to what extent the above methodology obviates the need for additional onsite avoidance measures above those required under the LIDS and stream setbacks.

We believe it may be most productive for your respective agencies, and for those who know our region best, to work collaboratively to solidify the status of the Regional LEDPA, and to the extent you deem necessary, to engage the chain of civilian command of both ACOE and EPA, to provide needed policy oversight and support that will provide clarity on these pivotal issues. A Regional LEDPA which provides both biological sustainability and permitting efficiency would be most likely to gain support from both the environment community and the regulated community.

Sincerely,



Terry Davis, Conservation Program Coordinator
Mother Lode Chapter Sierra Club



Julie Hanson, Member
PCCP Biological
Stakeholder Working Group



Ed Pandolfino, Ph. D.
Chair, Placer County Conservation Committee
Sierra Foothills Audubon Society



Bob Shattuck, Director of Community
Planning
Lennar Communities

Copies furnished to:

The Honorable Kirk Uhler, District 4, Placer County Board of Supervisors, Current Vice Chair, Member PCCP Ad Hoc Committee

The Honorable Robert Weygandt, District 2, Placer County Board of Supervisors, Member PCCP Ad Hoc Committee

The Honorable Spencer Short, Mayor, City of Lincoln, Member PCCP Ad Hoc Committee

The Honorable Tom Cosgrove, Mayor Pro Tem, City of Lincoln, Member PCCP Ad Hoc Committee

Mr. Wade Eakle, Regulatory Program Manager USACESPD

Mr. Michael S. Jewell, Chief, Regulatory Branch, USACESPK

Mr. Dave Smith, US EPA, WTR-2

Mr. Jason Brush, US Environmental Protection Agency, Region 9

Ms. Erin Foresman, US EPA, Region 9

SSCHCP and PCCP Interagency Meeting Agenda
Thursday, November 12, 2009
CA Dept of Fish and Game, Main Conference Room
1701 Nimbus Road, Rancho Cordova, CA (main phone 916-358-2900)

Agency Only (8:30 – 10:00)

8:30 Welcome and Introductions (Paul Jones and Mike Jewell)

8:40 Review of background information (All)

9:00 Discuss issues of importance to agencies (All)

- ESA, CaESA, 404 integration, NEPA and CEQA
- LIDS and BMPs
- Regional LEDPA concept

Expected outcome: provide opportunity for agency representatives to discuss issues of mutual importance that pertain to both the SSCHCP and PCCP.

10:00 Break

All Hands Meeting 10:15 – 5:00)

10:15 Welcome and Introductions (Paul Jones and Mike Jewell)

10:20 Recap morning session (Paul Jones)

10:30 Discuss 404 Permitting Strategy (All)

Expected outcome: Arrive at mutually agreeable, conceptual framework for how to proceed with 404 permitting for both projects.

12:00 Lunch

12:45 Programmatic NEPA and CEQA Issues (Toni Barry, Rich Radmacher, All)

Expected outcome: Increased clarity how level of detail needed in Programmatic EIR/EIS to be able to tier off individual projects.

2:15 Break

2:30 Review Concept of a Regional LEDPA (Paul Jones, All)

Expected outcome: Group consensus on how to apply the Regional LEDPA to the 404(b)(1) analysis for CWA approvals.

3:30 Discuss LIDS, BMPs, and Stream Buffer Issues (Greg Vaughn, All)

Expected outcome: Identify key elements of a package of avoidance and minimization measures to apply to both projects.

3:30 Relationship between ESA (federal and state) and CWA requirements (All)

Expected outcome: Explore cross-cutting elements in ESA and CWA requirements, particularly as they pertain to avoidance and minimization, preserve size requirements, and the need to identify sound scientific principles of conservation biology upon which decisions will rely.

4:00 Mitigation and Monitoring Requirements (All)

Expected outcome: Begin discussion to standardized mitigation approaches and monitoring requirements.

4:45 Recap, Future Actions

5:00 Adjourn