APPENDIX 1.0

Scoping Letter

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

December 21, 2011

James T. Robb
U.S. Army Corps of Engineers
650 Capital Mall Suite 5-200
Sacramento, CA 95814-4708

Subject: Notice of Intent to Prepare an Environmental Impact Statement (DEIS) for the Proposed Westbrook Project, Placer County, California. (SPK-2005-00938).

Dear Mr. Robb:

The U.S. Environmental Protection Agency (EPA) has reviewed the Notice of Intent to Prepare an Environmental Impact Statement (DEIS) for the Proposed Westbrook Project (Project) pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act. These comments were also prepared under the authority of, and in accordance with, the provisions of the Federal Guidelines (Guidelines) promulgated at 40 CFR 230 under Section 404(b)(1) of the Clean Water Act (CWA). Our detailed comments are enclosed.

We question the viability of the project as proposed, due to the lack of suitable area for vernal pool mitigation, including limited opportunities for vernal pool preservation. According to the notice the project proposes to fill 9.6 of the sites approximate 13 acres of waters of the United States. This project and several others nearby would contribute to the loss of already considerably reduced acreage of vernal pools in the Placer County Area, which are designated as critical habitat for a variety of threatened and endangered species by the U.S. Fish and Wildlife Service[1]. In the attached detailed comments, EPA identifies other serious concerns regarding waters of the U.S., cumulative impacts and also provides recommendations on air quality, traffic emissions, smart growth, and green building.

We appreciate the opportunity to review this NOI. When the DEIS is released for public review, please send one hard copy and three CD ROMs to the address above (mail code: CED-2). For further coordination and assistance with issues pertaining to waters of the U.S., please contact Paul Jones, EPA Wetlands Office at (415) 9723470, or by email at jones.paul@epa.gov. For further coordination and assistance with issues pertaining to NEPA, please contact me at (415) 972-3800, or munson.james@epa.gov.

Sincerely,

James Munson, Lead Reviewer
Environmental Review Office
Communities and Ecosystems Divisio

[1] See the *Recovery Plan for Vernal Pool Ecosystems of California and Southern Oregon,* 2005, U.S. Fish and Wildlife Service

EPA'S DETAILED COMMENTS ON THE NOTICE OF INTENT TO PREPARE AN ENVIRONMENTAL IMPACT STATEMENT FOR THE PROPOSED WESTBROOK PROJECT, (SPK-2005-00938). DECEMBER 21, 2011

Project Purpose and Need

The purpose and need statement in the Environmental Impact Statement (DEIS) should be clearly stated and briefly describe the underlying purpose and need to which the U.S. Army Corps of Engineers (Corps) is responding in proposing alternatives, including the proposed action (40 C.F.R. 1502.13). The statement of purpose and need should explain why the Corps is undertaking the proposed Westbrook Project (project) and the objectives that the action is intended to achieve. A clear purpose and need statement is important under the National Environmental Policy Act (NEPA) and to EPA's review. It should be directly linked to the proposed alternative designs and clarify the potential impacts of a range of reasonable alternatives for the project.

Alternatives

The DEIS should clearly describe and assess a reasonable range of alternatives, including the no action alternative. Because of the large footprint of the project and the potential for significant impacts to several environmental resources, the Corps and project applicant should consider a range of alternatives that avoid impacts to resources to the maximum extent practicable. EPA strongly encourages the Corps to conduct an assessment of the environmental resources at the project site and preserve areas with higher functions and values in perpetuity. The results of this analysis should be described in the DEIS, including how the alternatives have been developed to avoid and protect environmental resources at the site.

Waters of the United States

The DEIS should demonstrate compliance with Clean Water Act Section 404(b)(1) Guidelines (Guidelines) and their requirements for avoidance and minimization (40 CFR 230.10). Generally, the Guidelines limit issuing 404 permits to only those projects that avoid waters of the United States (WOUS) to the maximum extent practicable.

The DEIS should also demonstrate compliance with the Corps and EPA approved *Compensatory Mitigation for Losses of Aquatic Resources; Final Rule* (Mitigation Rule) 33 CFR Parts 325 and 332, and 40 CFR Part 230. Where impacts to WOUS are determined to be unavoidable, the applicant will need to identify appropriate compensatory mitigation consistent with the Mitigation Rule, which can be found at: http://www.epa.gov/wetlandsmitigation/ and http://www.usace.army.mil/cw/cecwo/reg/citizen.htm.

The amount of impacts to WOUS from this project is large, over 9 acres. This includes impacts to vernal pools. In light of the cumulative impacts to that resource and the amount of mitigation necessary to offset these losses, EPA is concerned about how the applicant will comply with the Mitigation Rule. Assuming acres of vernal pools will be impacted, EPA has concerns regarding where mitigation might occur.

EPA is concerned that opportunities for mitigation are shrinking as numerous development projects compete for the same insufficient finite resources to meet their mitigation requirements. For example, the Placer Vineyards, Sierra Vista, Riolo Vineyards, and the Curry Creek Community Plan projects are all vying for these mitigation resources.

Water Availability

The DEIS should describe existing and/or proposed sources of water supply for the project and direct, indirect and cumulative impacts to water resources that may occur. The project could result in multiple new residents and industrial use in the area, resulting in significant increases in water demands for an indefinite period of time. EPA strongly encourages the Corps to include in the DEIS a description of all water conservation measures that will be implemented to reduce water demands for the project, both during and after construction. Project design should maximize conservation measures such as appropriate use or recycled water for landscaping and industry, xeric landscaping, a water pricing structure that accurately reflects the economic and environmental costs of water use, and water conservation education. An estimate of the water resource benefits that result from each mitigation and conservation measure proposed should be included in the DEIS. Water saving strategies can be found in the EPA's publications *Protecting Water Resources with Smart Growth* at www.epa.gov/piedpage/pdf/waterresources_with_sg.pdf, and *USEPA Water Conservation Guidelines* at www.epa.gov/watersense/docs/app_a508.pdf.

In addition, the DEIS should describe water reliability for the project area and clarify how existing and/or proposed sources will be affected by climate change. At a minimum, EPA request a qualitative discussion of impacts to water snpply and adaptability of the project to these changes, as part of the DEIS impacts analysis.

Biological Resources

EPA is very concerned with the level of significant impact from the project to biological resources. The project area potentially supports habitat for state and federally listed species, including vernal pool fairy shrimp, vernal pool tadpole shrimp, northwestern pond turtle, Swainson's hawk, burrowing owl, prairie falcon, golden eagle, and tri-colored blackbird. The DEIS should provide a description of baseline biological conditions, including habitats and species and a description of direct, indirect and cumulative impacts to these habitats and species. The DEIS should provide information on species and habitats protected under the Federal Endangered Species Act and the California Endangered Species Act, and describe how impacts will be avoided, minimized and mitigated. Include all neighborhood design measures proposed to reduce impacts and highlight how each measure will be effective in avoiding and minimizing impacts. The DEIS should also describe coordination with the U.S. Fish and Wildlife Service and California Department of Fish and Game to reduce and mitigate impacts to all listed species and their habitats in the project area.

Cumulative Effects

The proposed project is one of several developments in the area that have occurred in the recent past or are proposed and under various stages of development. As a result, it is critical that the cumulative effects analysis be comprehensive and rigorous, and that it consider an appropriate scope of activities, and spatial and temporal scales when assessing project effects. EPA suggests referring to the Council on Environmental Quality 1997, guidance *Considering Cumulative Effects Under the National Environmental Policy Act* found at http://www.nepa.gov/nepa/ccenepa/ccenepa.htm, and 1999 EPA guidance, *Consideration of Cumulative Impacts in EPA Review of NEPA Documents* found at http://www.epa.gov/compliance/resources/policies/nepa/cumulative.pdf. In addition, we recommend referring to the EPA, California Department of Transportation, and Federal Highway Administration Guidance for Preparers of Cumulative Impact Analysis found at: http://www.dot.ca.gov/ser/cumulative_guidance/purpose.htm. While this guidance was developed for transportation projects, the principles and the 8-step process in this guidance can be applied to other types

of projects, both within and outside of California. We recommend the principles and steps in this guidance to other agencies as a systematic way to analyze cumulative impacts for their projects.

Air Quality and Traffic

The DEIS must adequately assess air quality impacts of the project and minimize these impacts through adequate mitigation measures. The proposed project area falls within the Sacramento Metropolitan air basin, which is designated nonattainment for some of the National Ambient Air Quality Standards.

The DEIS should provide a discussion of the baseline air quality conditions in the project area and a description of federal and state air quality regulations, and a rigorous assessment of direct, indirect, and cumulative effects of the project on air quality. The analysis of air quality impacts should include direct, indirect and cumulative impacts from construction and post construction conditions, including increased traffic. The Corps should describe in the DEIS specific commitments to mitigate emissions that will prevent further degradation of air quality in the basin. In short, the cumulative impacts analysis should consider all new sources of emissions that are likely to result from the federal action of permitting the proposed project. An estimate of the air quality benefits that result from each mitigation measure proposed should be included in the DEIS. The DEIS should also describe coordination with EPA, California Air Resources Board, and the Placer County Air Pollution Control District to reduce air quality impacts in the air basin.

The DEIS should describe whether the project will or will not meet general conformity requirements with the associated state implementation plans for the air basin. For conformity-related questions, the Corps is encouraged to contact Ms. Dawn Richmond at (415) 947-4151or by email at richmond.dawn@epa.gov.

While the proposed project area is not designated nonattainment for particulate matter (PM), Sacramento County immediately to the south is currently designated moderate nonattainment for PM less than 10 microns (PM10) and may be designated for PM2.5 later this year. To prevent degradation of air quality from construction-caused PM10 in Placer County and any cumulative impacts to Sacramento County, EPA suggest the following fugitive dust control measures be adopted to reduce impacts to existing air quality conditions:

Fugitive Dust Source Controls:

- Stabilize open storage piles and disturbed areas by covering and/or applying water or chemical/organic dust palliative where appropriate. This applies to both inactive and active sites, during workdays, weekends, holidays, and windy conditions.
- Install wind fencing and phase grading operations where appropriate, and operate water trucks for stabilization of surfaces under windy conditions.
- When hauling material and operating non-earthmoving equipment, prevent spillage and limit speeds to 15 miles per hour (mph). Limit speed of earth-moving equipment to 10 mph.

Mobile and Stationary Source Controls:

- Reduce use, trips, and unnecessary idling from heavy equipment.
- Maintain and tune engines per manufacturer's specifications to perform at EPA certification levels and to perform at verified standards applicable to retrofit technologies. Employ periodic, unscheduled inspections to limit unnecessary idling and to ensure that construction equipment is properly maintained, tuned, and modified consistent with established specifications.

- Prohibit any tampering with engines and require continuing adherence to manufacturers recommendations.
- If practicable, lease newer and cleaner equipment meeting the most stringent of applicable Federal or State Standards.
- Utilize EPA-registered particulate traps and other appropriate controls where suitable to reduce emissions of diesel particulate matter and other pollutants at the construction site.

Administrative controls:

- Identify where implementation of mitigation measures is rejected based on economic infeasibility.
- Prepare an inventory of all equipment prior to construction and identify the suitability of add-on emission controls for each piece of equipment before groundbreaking. (Suitability of control devices is based on: whether there is reduced normal availability of the construction equipment due to increased downtime and/or power output, whether there may be significant damage caused to the construction equipment engine, or whether there may be a significant risk to nearby workers or the public.)
- Utilize cleanest available fuel engines in construction equipment and identify opportunities for electrification. Use low sulfur fuel (diesel with 15 parts per million or less) in engines where alternative fuels such as biodiesel and natural gas are not possible.
- Develop construction, traffic and parking management plans that minimizes traffic interference and maintain traffic flow.

The DEIS should identify sensitive receptors in the project area, such as schools, daycare centers, nursing homes, and hospitals and specify the means by which impacts to these receptors will be minimized due to both construction and long term land use associated with the new development . For example, locate construction equipment and staging zones away from sensitive receptors away from fresh air intakes and buildings and design neighborhoods such that activity centers and sensitive receptors are not proximate to emissions sources, such as highways.

Due to the scale of the proposed project and the amount of new residents and jobs in the area, it is reasonable to anticipate increased traffic and congestion in the local surface streets, freeways and highways. The DEIS should include a traffic analysis to determine how the proposed project will affect traffic in the region and contribute to cumulative air quality impacts. Mitigation measures to minimize idling near sensitive receptors should be identified.

We recommend the DEIS include an analysis of the impacts associated with green house gas emissions and hazardous air emissions.

Induced Growth

The DEIS should describe how the proposed project could result in environmental impacts due to induced-growth. Construction of a new development, the size and anticipated population of the project could result in increased pressure for more development, increased transportation infrastructure and other essential services in the area. Taken into account with the other proposed projects in the project area, induced growth impacts could be significant. EPA's recommendation is to make both the methodology and the assumptions in the growth inducing analysis as transparent as possible to the public and decision makers. To do this, EPA recommends that Corps and project: