pending file

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

May 9, 2007

Daniel P. Swenson
Los Angeles District, Regulatory Branch
U.S. Army Corps of Engineers
915 Wilshire Boulevard
Los Angeles, CA 90017-3401

Subject: Final Environmental Impact Statement (FEIS) for the Hemet San Jacinto Integrated Recharge and Recovery Program (CEQ# 70136)

Dear Mr. Swenson:

The Environmental Protection Agency (EPA) has reviewed the FEIS referenced above. Our review is 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.

In November 2006, we reviewed the Draft EIS (DEIS) and rated it as EC-2, Environmental Concerns - Insufficient Information due to the proposed project's potential impacts to waters of the U.S., aquatic resources, biological resources, including endangered species habitat, and air quality. The FEIS has been revised and includes an alternative that reduces the impacts to waters of the U.S., the 35-acre Alternative. The FEIS also includes additional information related to the Clean Water Act (CWA) Section 404(b)(1) analysis and determination of the Least Environmentally Damaging Practicable Alternative (LEDPA). The 35-acre Alternative would not provide conjunctive use storage but would meet the revised overall project purpose of supplying water to help meet the rights of the Soboba Band of Luiseño Indians under a Draft Settlement Agreement.

The FEIS has addressed many of EPA's concerns regarding the Proposed Action, and we are pleased that the 35-acre Alternative will result in fewer impacts to native vegetation and waters of the U.S. than the previously proposed alternative. However, we have continuing concerns that the project will permanently impact 15.9 acres of Waters of the U.S., and the project only proposes to provide 0.5 acres of mitigation to each 1 acre of impact (a 0.5:1 mitigation ratio). In general, a minimum of 1:1 mitigation is recommended to advance the programmatic goals of "no net loss" of waters (see, e.g. Corps RGL 02-2, the national Mitigation Action Plan and the pending Mitigation Rule).

EPA has several recommendations for inclusion in the Record of Decision (ROD):

- A functional assessment to justify why this mitigation ratio was adopted, including the specifics of the mitigation plan.
- An indication of whether the enhancement will be conducted through acquisition, enhancement and preservation of waters, or through purchase of mitigation credits or in-lieu fees via third parties (and, if the latter, where and when these funds will be applied).
- A commitment to implement the mitigation measures as established by the U.S. Fish and Wildlife Service in the Biological Opinion and commit to these in the ROD, as well as the Best Management Practices for erosion control as outlined on page 4-11 and 4-12 of the FEIS. Any compensatory mitigation measures should be implemented in advance of, or at minimum concurrent with, permitted impacts.

We appreciate the opportunity to review this FEIS. Please send two copies of the ROD to the address above, mail code CED-2. If you have any questions, please contact me or Summer Allen, the lead reviewer for this project. Summer can be reached at 415-972-3847.

Sincerely,

Nova Blazej, Manager
Environmental Review Office

Main ID # 4563