RECORD OF DECISION

As the District Commander for the Los Angeles District, I have reviewed the Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the *Newhall Ranch Resource Management and Development Plan, Santa Clarita, Los Angeles County, California.* The EIS/EIR, prepared in compliance with the Council on Environmental Quality's *Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act* and U.S. Army Corps of Engineers (USACE or Corps) regulations at 33 C.F.R. Parts 320-332, assesses the impacts of implementing the proposed project on the biological, physical, and socioeconomic environment. The EIS/EIR is hereby incorporated by reference. The USACE will proceed as indicated herein.

I. INTRODUCTION

A. Location: The 12,000-acre project site encompasses approximately 5.5 linear miles of the Santa Clara River and several tributaries to the Santa Clara River, including Potrero Canyon, Long Canyon, Middle Canyon, Lion Canyon, Chiquito Canyon and San Martinez Grande Canyon, near the city of Santa Clarita, northwestern Los Angeles County, California (at: lat:34-24-5.0040 lon:118-37-46.9920).

B. Background, General Description and Public Involvement:

1. On 15 December 2003, The Newhall Land and Farming Company applied to the USACE for a Department of the Army Standard Individual Permit (SIP), pursuant to section 404 of the Clean Water Act (CWA)(33 U.S.C. 1344) to permanently impact 93.3 acres, including 20.5 acres of wetlands, and temporarily impact 33.3 acres of waters of the United States for the construction and maintenance of flood control facilities, roads, utilities, infrastructure and other components associated with the proposed Newhall Ranch Resource Management and Development Plan (RMDP) near the city of Santa Clarita, northwestern Los Angeles County, California. The RMDP component of the Newhall Ranch Specific Plan would facilitate a broad range of residential, mixed-use, commercial and industrial land uses, various public facilities, and public services and utilities, together with preservation of large tracts of open space. At build-out, the proposed project would result in approximately 2,550 acres of residential uses (9,081 single-family homes on 1,559 acres, and 11,804 multi-family homes on 991 acres), 5.5 million square feet (msf) of commercial uses on 258 acres; and the development of approximately 643 acres devoted to public facilities such as community parks, neighborhood parks, golf course, community lake, new elementary, junior high and high schools, library, electrical substation, fire stations, and a 6.8 million gallon-per- day water reclamation plant (WRP). Open space would be provided on approximately 8,683 acres of the project site, and an additional 1,517 acres of open space in the Salt Creek watershed adjacent to the project site (for a total of approximately 10,200 acres of open space within the project site including the Salt Creek preservation area). The open space would also include land dedicated to the preservation of the San Fernando Valley spineflower (spineflower).

2. The USACE and the California Department of Fish and Game (CDFG) prepared a joint Environmental Impact Statement/ Environmental Impact Report (EIS/EIR) pursuant to the

National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA). The EIS/EIR evaluated and disclosed the direct, indirect/secondary and cumulative environmental impacts anticipated from the originally proposed project and alternatives, which included analysis of the proposed infrastructure and other components including debris and detention basins, bank stabilization, water quality control facilities, bridges, culverted road crossings, grade control structures, utilities, habitat enhancement, temporary haul routes, storm drains and geotechnical survey activities. In addition, the existing natural channels for some of the drainages would be realigned, recontoured, or converted to buried storm drain systems to accommodate some areas for the proposed development.

3. To facilitate public involvement in both the NEPA and Section 404 process, a Notice of Intent to prepare an EIS/EIR was first published in the Federal Register (FR) on 26 January 2000. A public scoping meeting was held on 9 February 2000 to solicit comments on the proposed project. Comments were received until 26 February 2000. After a substantial delay for litigation associated with the Specific Plan EIR, a second Notice of Intent was published in the FR on 29 January 2004. A second public scoping meeting was held on 19 February 2004 to solicit comments on the proposed project. Comments were received until 5 March 2004. Following the addition of a Spineflower Conservation Plan (SCP) to the proposed project, a third Notice of Intent was published in the FR by the USACE on 19 July 2005, with a third public scoping meeting occurring on 24 August 2005 and comments being received until 2 September 2005. All of the comments received were considered in preparing the Draft EIS/EIR. A Notice of Availability of the Draft EIS/EIR for review and comment was published in the FR on 4 May 2009 and a public notice for the section 404 permit application was issued on the same day. Approximately 50 hard copies of the Draft EIS/EIR were distributed to agencies, organizations and individuals and were made available at five public libraries in Santa Clarita, Piru and Ventura as well as the Corps Ventura field office and the CDFG office in San Diego. In addition, the document was also posted on the CDFG's website: http://www.dfg.ca.gov/regions/5/newhall/. A public hearing to solicit comments on the Draft EIS/EIR was held on 9 June 2009. The public comment period for the Draft EIS/EIR ended on 25 August 2009. All comments received were considered in preparing the Final EIS/EIR. A Notice of Availability of the Final EIS/EIR was published in the FR on 17 June 2010, which included a Draft General Conformity Determination (Appendix 7.1 to the Final EIS/EIR). Approximately 50 hard copies of the Final EIS/EIR were distributed to agencies, organizations and individuals and were made available at five public libraries in Santa Clarita, Piru and Ventura as well as the Corps Ventura field office and the CDFG office in San Diego. In addition, the document was also posted on the CDFG's website: http://www.dfg.ca.gov/regions/5/newhall/. In addition, a second public notice for the section 404 permit application was issued on 17 June 2010. The public comment period for the Final EIS/EIR ended on 3 August 2010. Responses to the comments received during the review period are provided in **Appendix B**. On 3 December 2010, the CDFG certified the EIR and issued a Notice of Determination and Decision in compliance with Public Resources Code Section 21108 (State Clearinghouse Number: 2000011025). The certified EIR and the Final EIS include an addendum, which are provided in **Appendix F**. With the completion the CEQA process, CDFG issued a Master Streambed Alteration Agreement (No. 1600-2004-0016-R5) and Incidental Take Permits (Nos. 2081-2008-012 and 2081-2008-013-05).

4. The Newhall Land and Farming Company's revised proposed project is equivalent to a modified version of Alternative 3, as identified and evaluated in the Final EIS/EIR dated June 2010 (Draft Least Environmentally Damaging Practicable Alternative (LEDPA)). Subsequent to the issuance of the Final EIS/EIR, the Corps identified a less damaging practicable alternative that includes additional avoidance and minimization measures in Potrero Canyon and San Martinez Grande, similar to the Draft LEDPA that was evaluated in the Final EIS/EIR, and includes the following project components that require authorization under section 404 of the CWA:

- Permanent impacts to 47.9 acres of waters of the United States, including 5.1 acres of wetlands, associated with discharges of fill material for bank protection to protect land development projects along water courses (including buried soil cement, buried gunite, grouted riprap, ungrouted riprap, and gunite lining); drainage facilities such as storm drains or outlets and partially lined open channels; grade control structures; bridges and drainage crossings; building pads; and water quality control facilities (sedimentation control, flood control, debris, and water quality basins).

- Temporary impacts to 35.3 acres of waters of the United States, including 11.8 acres of wetlands, associated with the construction of bank protection to protect land development projects along water courses (including buried soil cement, buried gunite, grouted riprap, ungrouted riprap, and gunite lining); utility crossings; activities associated with construction of a Water Reclamation Plant (WRP) adjacent to the Santa Clara River and required bank protection; water quality control facilities (sedimentation control, flood debris, and water quality basins); regular and ongoing maintenance of all flood, drainage, and water quality protection structures and facilities on the RMDP site (such activities would include periodic inspection of structures and monitoring of vegetation growth and sediment buildup to ensure that the integrity of the structures is maintained and that planned conveyance capacity is present, routine repairs and maintenance of bridges and bank protection, and emergency maintenance activities); and temporary haul routes for grading equipment and geotechnical survey activities.

The revised project design would include a total of approximately 26,851 linear feet (lf) of bank stabilization in the Santa Clara River (19,158 lf on the North Bank and 7,693 lf on the South Bank); 35 outlets in the Santa Clara River; construction of two bridges in the Santa Clara River (Commerce Center bridge and the Long Canyon bridge); modification of 39,792 lf of on-site tributary drainages; conversion of 47,195 lf of tributary drainages to buried storm drains; a total of 67,537 lf of bank stabilization in tributary drainages (30,068 lf on the West Bank and 37,469 lf on the East Bank); and construction of three bridges and 13 culvert road crossings in tributary drainages. The revised project design would preserve approximately 155,074 lf of on-site drainages, which is 64 percent of the total 242,049 lf of jurisdictional drainages on the project site.

Based on the preliminary jurisdictional determination that was included in the Final EIS/EIR, the spatial distribution of the 47.9 acres of permanent impacts to waters of the United States associated with the revised project design would be 5.8 acres in the main-stem of the Santa Clara River, 2.1 acres in Potrero Canyon, 5.2 acres in Long Canyon, 4.7 acres in Lion Canyon, 0.2 acre in San Martinez Grande Canyon, 0.2 acre in Salt Creek, 4.7 acres in Chiquito Canyon and 25 acres in unnamed drainages in the project area. The revised project design would avoid permanent impacts to approximately 612 acres of waters of the United States

(approximately 92% avoidance of the waters of the United States in the project area).

C. Purpose and Need for the Proposed Project:

1. The purpose of the proposed project under NEPA (and the objectives under CEQA) are as follows:

a. To implement an RMDP that achieves the following basic objectives of the Specific Plan. The basic objectives are:

Land Use Basic Objectives:

- Create a major new community with interrelated Villages that allows for residential, commercial and industrial development, while preserving significant natural resources, important landforms and open areas.

- Avoid leapfrog development and accommodate projected regional growth in a location which is adjacent to existing and planned infrastructure, urban services, transportation corridors, and major employment centers.

- Cluster development within the site to preserve regionally significant natural resource areas, sensitive habitat, and major landforms.

- Provide development and transitional land use patterns which do not conflict with surrounding communities and land uses.

- Arrange land uses to reduce vehicle miles traveled and energy consumption.

- Provide a complementary and supportive array of land uses which will enable development of a community with homes, shopping, employment, schools, recreation, cultural and worship facilities, public services, and open areas.

- Organize development into Villages to create a unique identity and sense of community for each.

- Design Villages where a variety of higher intensity residential and nonresidential land uses are located in proximity to each other and to major road corridors and transit stops.

- Establish land uses and development regulations that permit a wide range of housing densities, types, styles, prices, and tenancy (for sale and rental).

- Designate sites for needed public facilities such as schools, fire stations, libraries, water reclamation plant and parks.

- Allow for the development of community services and amenities by the public and private sectors, such as medical facilities, child care, colleges, worship facilities, cultural facilities, and commercial recreation.

- Create a physically safe environment by avoiding building on fault lines and avoiding or correcting other geologically unstable landforms; by constructing flood control infrastructure to protect urban areas; and by implementing a fuel modification program to protect against wildfire.

Economic Basic Objectives:

- Adopt development regulations which provide flexibility to respond to changing economic and market conditions over the life of Newhall Ranch.

- Provide a tax base to support public services.

- Adopt development regulations and guidelines which allow site, parking, and facility sharing and other innovations which reduce the costs of providing public services.

b. To develop and implement a practicable and feasible SCP that would permanently protect and manage a system of preserves designed to maximize the long-term persistence of the spineflower within the applicant's land holdings containing known spineflower populations, and to authorize the take of spineflower in areas located outside of designated preserves.

2. In terms of the proposed development project's need, the northern Los Angeles County region has experienced and continues to experience significant growth resulting in a high demand for housing and jobs, and the overall regional need for large-scale residential, nonresidential, and commercial development to accommodate approved and planned growth in the region. To facilitate the orderly accommodation of the high demand for housing and jobs, the Specific Plan was approved by the Los Angeles County Board of Supervisors on 27 May 2003. The County determined that build-out of the Specific Plan will foster regional economic development and job creation by providing approximately 21,000 homes, including affordable housing, and approximately 20,000 jobs. In addition, the County required the applicant to set aside significant open space areas for the benefit of its residents and the region. These areas are located in and adjacent to the Specific Plan area, and include the River Corridor Sensitive Ecological Area/Special Management Area (SEA/SMA) 23, High Country SMA/SEA 20, Salt Creek area, designated Open Areas, spineflower preserve areas, and oak resources. The County has further determined that the Specific Plan will provide a tax base to support public services and will provide approximately 20,000 jobs to the Santa Clarita Valley. By providing residential, commercial, mixed-use and nonresidential uses, and by setting aside significant open space acreage, the County has determined that implementation of the Specific Plan will facilitate a balanced development where residents may both live and work and where sensitive biological resources are conserved, managed, and protected in perpetuity.

II. DECISION

The LEDPA is Modified Alternative 3, as identified and evaluated in the Final Section 404(b)(1) Alternatives Analysis (**Appendix A**), which is similar to the Draft LEDPA in the Final EIS/EIR (June 2010). The LEDPA includes the following activities subject to regulation under section 404 of the CWA:

i. Discharges of fill material into waters of the United States, permanently impacting 47.9 acres of waters of the United States, including 5.1 acres of wetlands, associated with the construction of bank stabilization to protect land development projects along water courses (including buried soil cement, buried gunite, grouted riprap, ungrouted riprap, and gunite lining); drainage facilities such as storm drains or outlets and partially lined open channels; grade control structures; bridges and drainage crossings; building pads; and water quality control facilities (sedimentation control, flood control, debris, and water quality basins).

ii. Discharges of fill material into waters of the United States, temporarily impacting 35.3 acres of waters of the United States, including 11.8 acres of wetlands, for the construction of bank stabilization to protect land development projects along water courses (including buried soil cement, buried gunite, grouted riprap, ungrouted riprap, and gunite lining); utility crossings; activities associated with construction of a WRP adjacent to the Santa Clara River and required bank protection; water quality control facilities (sedimentation control, flood control, debris, and water quality basins); regular and ongoing maintenance activities for all flood, drainage, and water quality protection structures and facilities on the RMDP site; and temporary haul routes for grading equipment and geotechnical survey activities.

III. ALTERNATIVES CONSIDERED

As part of the preparation of the Draft EIS/EIR, initially the Corps and CDFG considered a wide range of on-site and off-site alternatives. The Draft EIS/EIR for the RMDP initially identified 23 alternative sites within the region that were considered potentially available. These sites were evaluated using initial screening criteria to determine whether they might have the potential to accommodate the proposed project. Twenty of the sites were eliminated from further analysis at this stage because (1) the site was too small to accommodate the development proposed; (2) site was not in the vicinity of Santa Clarita; (3) and the site was in an isolated location that cannot be connected with existing infrastructure, in consideration of cost, logistics and/or technology; and/or (4) the site was currently entitled for development and was actively being planned for development by the current owner or was already under construction. All but three of the 23 potential alternative sites were rejected from consideration based on the initial screening criteria. Temescal Ranch (Alternative Site A), the Newhall-Ventura Property (Alternative Site B), and Hathaway Ranch (Alternative Site C) were then carried forward for additional analysis. Based on the additional analysis discussed in the Draft and Final EIS/EIR, and the Draft and Final Section 404(b)(1) Alternatives Analysis, the three off-site alternatives were rejected from further consideration because they were found to not meet the purpose and need of the proposed project, did not meet the overall project purpose, and/or

are impracticable.

Based on comments received during the scoping process and coordination with several resource agencies, including the U.S. Environmental Protection Agency (USEPA) and the Regional Water Quality Control Board (RWQCB), at various meetings during the planning process, the Corps and CDFG initially developed and evaluated numerous on-site project alternatives to avoid and minimize impacts to aquatic resources and spineflower areas in the project area (**Appendix B** – Response to Comments). Based on this evaluation, one on-site alternative, the Total Avoidance Alternative (also known as Alternative 8), was considered and rejected from further consideration in the EIS/EIR because it did not meet the overall project purpose. Implementation of Alternative 8 would facilitate a master-planned urban development within the project site, comprising 2,144.9 net developable acres of residential, commercial, and industrial uses and public facilities. Compared to Alternative 2, the development facilitated under this alternative would be reduced by approximately 25.1 percent. All 660.1 acres of waters of the United States within the project site, including all 276.9 acres of jurisdictional wetlands, would be avoided and preserved under this alternative. Although this alternative was eliminated from consideration under NEPA, the Corps further considered the practicability of this alternative in its Section 404(b)(1) Alternative Analysis. This alternative was rejected under NEPA and the Section 404(b)(1) Guidelines because it did not meet the overall project purpose for the proposed project.

Alternatives analyzed in the Draft EIS/EIR included the No Action/No Project alternative, the originally proposed project (Alternative 2) and Alternatives 3 through 7. Alternatives 3 through 7 all included specific project design features to avoid and minimize impacts to waters of the United States, including special aquatic sites, in the project area. In response to comments received on the Draft EIS/EIR and based on the assessment in the Draft Section 404(b)(1) Alternatives Analysis, the Final EIS/EIR analyzed eight alternatives: No Action/No Project (Alternative 1), the proposed project (Alternative 2), and six other "build" alternatives (Alternatives 3 through 7 and the Draft LEDPA (Modified Alternative 3). The alternatives are summarized below and discussed in detail in the EIS/EIR and the attached Final Section 404(b)(1) Alternatives Analysis.

No Action/No Project (Alternative 1): The No Action alternative would not include any new actions in the project area and, as a result, the existing agriculture and oil production in the project area would continue.

Applicant's Proposed Project (Alternative 2): Alternative 2 is the applicant's original proposed project and is described in detail in Section 3.0 of the Final EIS/EIR. Of the 660.1 acres of waters of the United States within the project area, this alternative would permanently fill 93.3 acres, or approximately 14.1 percent of waters of the United States on site. Of the 660.1 acres of waters of the United States, approximately 276.9 acres are jurisdictional wetlands and, under this alternative, approximately 20.5 acres of wetlands would be permanently filled. As a result, this alternative would avoid approximately 88.6% of the total wetland area on-site. In total, this alternative would result in temporary discharges of fill material into approximately 33.3 acres of waters of the United States, including 11.2 acres of wetlands, in the Santa Clara River and its tributaries. Waters of the United States temporarily affected by the project would be restored and revegetated after completion of construction in the area. With this alternative,

approximately 533.5 acres of waters of the United States would be completely avoided (approximately 80% of the jurisdictional areas).

Alternative 3: Under this alternative, the project design would be modified in several respects. Similar to Alternative 2, this alternative calls for the construction of two bridges across the Santa Clara River with associated bank stabilization: (1) the Commerce Center Driver Bridge (already approved by the Corps and CDFG in 1999), and (2) the Long Canyon Road Bridge. The two alternatives differ, however, in that Alternative 3 eliminates the proposed bridge at Potrero Canyon Road. Under Alternative 3, major tributary drainages would be regraded and realigned; but the channels would be wider than those proposed under Alternative 2. Under Alternative 3, the cismontane alkali marsh in lower Potrero Canyon would be avoided and preserved. This alternative would facilitate similar urban development within the Specific Plan site, including 20,433 residential units and 5.48 msf of commercial/ industrial/business park floor area. For a complete description of Alternative 3, including infrastructure proposed and urban development facilitated, please refer to Section 3.0 of the Final EIS/EIR. Of the 660.1 acres of waters of the United States on the project site, implementation of Alternative 3 would result in the permanent fill of 70 acres of waters of the United States (approximately 11% of the total site jurisdiction and 25 percent less acreage than Alternative 2), and would temporarily disturb an additional 37.6 acres (12.9 percent more acreage than Alternative 2). These temporary impacts would be associated with construction zones adjacent to project facilities, which would be restored and revegetated following completion of construction. In some instances temporary impacts would also result from restoration activities, *i.e.*, when such activities require earthwork to be conducted in jurisdictional areas (correction of existing incised channel banks, for example). The increase in temporary impacts to waters of the United States under this alternative is due to the implementation of modified channels (temporary impacts) in areas where the project would feature storm drains (permanent impacts). Alternative 3 would avoid 552.4 acres of waters of the United States within the project site. Of the total 660.1 acres of waters of the United States that occur on the site, Alternative 3 would avoid all impacts to approximately 83 percent, compared to 80 percent avoidance for Alternative 2. Implementation of Alternative 3 would permanently disturb 9.2 acres of wetlands (55 percent reduction in impact acreage compared to Alternative 2), and would temporarily disturb 11.2 acres of wetlands (a similar impact compared to Alternative 2). The cismontane alkali marsh wetland in lower Potrero Canyon, which would be disturbed under Alternative 2, would be avoided and preserved under this alternative. In total, Alternative 3 would avoid approximately 93 percent of all wetlands on site, a 4 percent increase in wetland avoidance compared to Alternative 2.

Alternative 4: Under this alternative, the project design would be modified in several respects. Two bridges across the Santa Clara River and the associated bank stabilization would be constructed, including the Commerce Center Driver Bridge (already approved by the Corps and CDFG in 1999) and the Long Canyon Road Bridge. The proposed Potrero Canyon Road Bridge, however, would not be constructed under this alternative. Major tributary drainages would be regraded and realigned under this alternative. Under Alternative 4, the cismontane alkali marsh in lower Potrero Canyon would be avoided and preserved. This alternative would facilitate urban development within the project site, including 20,721 residential units and 5.48 msf of commercial/industrial/business park floor area. For a complete description of Alternative 4, including infrastructure proposed and urban development facilitated, please

refer to Section 3.0 of the Final EIS/EIR. Implementation of Alternative 4 would facilitate urban development in the project site, and would result in the placement of fill within waters of the United States. In total, this alternative would permanently fill 73.3 acres of waters of the United States (21.4 percent reduction compared to Alternative 2), and would temporarily disturb an additional 33.8 acres (approximate 1.5 percent increase compared to Alternative 2). Temporary impacts would be associated with construction zones adjacent to project facilities. Waters of the United States temporarily affected by the project would be restored and revegetated after completion of construction in the area. In some instances temporary impacts would also result from restoration activities, *i.e.*, when such activities require earthwork to be conducted in jurisdictional areas (correction of existing incised channel banks, for example). Alternative 4 would avoid 552.9 acres of waters of the United States within the project site. Of the total 660.1 acres of waters of the United States that occur on the site, Alternative 4 would avoid approximately 83 percent, compared to only 80 percent avoidance for Alternative 2. Implementation of Alternative 4 would permanently disturb 9.4 acres of wetlands (55 percent reduction in acreage compared to Alternative 2) and would temporarily disturb 11.7 acres of wetlands (similar impact to Alternative 2). The cismontane alkali marsh wetland in lower Potrero Canyon, which would be disturbed under Alternative 2, would be avoided and preserved under this alternative. In total, Alternative 4 would avoid approximately 93 percent of all wetlands on site, a 4 percent increase in avoidance area compared to Alternative 2.

Alternative 5: Under this alternative, the project design would be modified in several respects. Three bridges across the Santa Clara River and the associated bank stabilization would be constructed, including the Commerce Center Driver Bridge (already approved by the Corps and CDFG in 1999) the Potrero Canyon Bridge, and the Long Canyon Road Bridge. Major tributary drainages would be regraded and realigned under this alternative, but would result in impact reductions in the Chiquito Canyon, San Martinez Grande Canyon, and Potrero Canyon drainages compared to Alternative 2. This alternative would facilitate urban development within the project site, including 20,196 residential units and 5.42 msf of commercial/ industrial/business park floor area. For a complete description of Alternative 5, including infrastructure proposed and urban development facilitated, please refer to Section 3.0 of the Final EIS/EIR. Implementation of Alternative 5 would facilitate urban development in the project site, and would result in the placement of fill within waters of the United States. In total, this alternative would permanently fill 72.4 acres of waters of the United States (approximately a 22.5 percent reduction in acreage compared to Alternative 2), and would temporarily disturb an additional 41.6 acres (24.9 percent increase compared to Alternative 2). Temporary impacts would be associated with construction zones adjacent to proposed project facilities. Waters of the United States temporarily affected under this alternative would be restored and revegetated after completion of construction in the area. In some instances temporary impacts would also result from restoration activities, *i.e.*, when such activities require earthwork to be conducted in jurisdictional areas (correction of existing incised channel banks, for example). The increase in temporarily impacts to waters is due the implementation of modified channels (temporary impacts) in areas where the proposal would feature storm drains (permanent impacts). Alternative 5 would avoid all impacts to 546 acres of waters of the United States within the project site (3 percent more acreage than Alternative 2). Of the total 660.1 acres of waters of the United States that occur on the site, Alternative 5 would avoid approximately 83 percent, compared to only 80 percent avoidance for Alternative 2. Implementation of Alternative 5 would permanently disturb 14.6 acres of wetlands (28.8

percent reduction in impact acreage compared to Alternative 2), and would temporarily disturb 13.5 acres of wetlands (20.5 percent increase in impact acreage compared to Alternative 2). The cismontane alkali marsh wetland in lower Potrero Canyon, which would be disturbed under Alternative 2, would be avoided and preserved under this alternative. Alternative 5 would avoid approximately 90 percent of all wetlands on site, a one percent increase in avoidance area compared to Alternative 2.

Alternative 6: Under this alternative, the project design would be modified in several respects. Two bridges across the Santa Clara River and associated bank stabilization would be constructed, including the proposed Potrero Canyon Road Bridge (extended span similar to Alternative 5) and the Long Canyon Road Bridge. The previously-approved Commerce Center Drive Bridge would not be constructed under this alternative. Major tributary drainages would be regraded and realigned under this alternative, but the channels would be wider than under Alternative 2, and the majority of proposed road crossings along the channels would be bridges as opposed to culverts. This alternative would facilitate urban development within the project site, including 19,787 residential units and 5.33 msf of commercial and industrial/business park floor area. For a complete description of Alternative 6, please refer to Section 3.0 of the Final EIS/EIR. Implementation of Alternative 6 would facilitate urban development in the project site, and would result in the placement of fill material within waters of the United States. In total, this alternative would permanently fill 60.7 acres of waters of the United States (35 percent reduction in acreage compared to Alternative 2), and would temporarily disturb an additional 33.9 acres (similar impact acreage when compared to Alternative 2). Temporary impacts would be associated with construction zones adjacent to project facilities. Waters of the United States temporarily affected by the project would be restored and revegetated after completion of construction in the area. In some instances temporary impacts would also result from restoration activities, *i.e.*, when such activities require earthwork to be conducted in jurisdictional areas (correction of existing incised channel banks, for example). Alternative 6 would avoid 565.4 acres of waters of the United States within the project site. Of the total 660.1 acres of waters of the United States that occur on the site, Alternative 6 would avoid all impacts to approximately 85 percent of the waters of the United States in the project site (a 5 percent increase in avoidance acreage compared to Alternative 2). Implementation of Alternative 6 would permanently disturb 9.5 acres of wetlands (53.5 percent reduction in impact acreage compared to Alternative 2), and would temporarily disturb 12.0 acres of wetlands (7 percent increase in impact acreage when compared to Alternative 2). These impacts would result primarily from bridge construction along the Santa Clara River mainstem, but this alternative would also affect the cismontane alkali marsh wetland in middle Potrero Canyon. Under this alternative, elimination of the planned bridge across the river at Commerce Center Drive would reduce impacts to adjacent wetlands along the Santa Clara River and a spring complex in lower Middle Canyon. The cismontane alkali marsh wetland in lower Potrero Canyon, which would be disturbed under Alternative 2, would be avoided and preserved under this alternative. In total, Alternative 6 would avoid approximately 92 percent of all wetlands on the site, a 4 percent increase in avoidance area compared to Alternative 2.

Alternative 7: Under this alternative, the project design would be substantially modified in several areas. Only one bridge would be constructed across the Santa Clara River, including associated bank stabilization, which would be constructed for the proposed Long Canyon Road. With Alternative 7, the proposed Potrero Canyon Road Bridge and the previously

approved Commerce Center Drive Bridge would not be constructed. Under this alternative, major tributary drainages would not be regraded or realigned. In addition, the Middle Canyon and Magic Mountain Canyon drainages, which are proposed for conversion to buried storm drains under the proposed project (Alternative 2), would be avoided and preserved. This alternative would facilitate urban development within the project site, including 16,471 residential units and 3.76 msf of commercial/industrial/business park floor area. For a complete description of Alternative 7, including infrastructure proposed and urban development facilitated, please refer to Section 3.0 of the Final EIS/EIR. Implementation of Alternative 7 would facilitate urban development in the project site, and would result in the placement of fill material within waters of the United States. In total, this alternative would permanently fill 13.1 acres of waters of the United States (86 percent reduction in acreage compared to the proposed project), and would temporarily disturb 20.3 acres of waters of the United States (39 percent reduction in acreage compared to Alternative 2). Temporary impacts would be associated with construction zones adjacent to project facilities. Fill under this alternative would be greatly reduced compared to Alternative 2, because Alternative 7 would avoid all mapped 100-year floodplains (Santa Clara River and several major tributaries) within the project site. Waters of the United States temporarily disturbed would be restored and revegetated after completion of construction in the area. In some instances temporary impacts would also result from restoration activities, *i.e.*, when such activities require earthwork to be conducted in jurisdictional areas (correction of existing incised channel banks, for example). Alternative 7 would avoid all impacts to 626.7 acres of waters of the United States within the project site. Of the total 660.1 acres of waters of the United States that occur on the site, Alternative 7 would avoid approximately 95 percent (15 percent increase in acreage avoided when compared to Alternative 2). Under Alternative 7, the Potrero Canyon and Long Canyon tributaries, which would be filled and reconstructed under Alternative 2, would be avoided except for bridge impacts. Further, the Middle Canyon and Magic Mountain Canyon tributaries, which would sustain substantial impacts under all other alternatives, would be avoided under Alternative 7. This alternative would also reduce impacts to the Santa Clara River mainstem by eliminating the planned bridges at Potrero Canyon Road and Commerce Center Drive. Implementation of Alternative 7 would also avoid all mapped 100-year floodplains within the project site, except where proposed facilities would intercept floodplains to meet design requirements (bridges and grade control structures). This alternative would permanently disturb 3.2 acres of wetlands (84.4 percent reduction in acreage compared to Alternative 2), and would temporarily disturb 9.0 acres of wetlands (20 percent reduction in acreage compared to Alternative 2). These impacts would occur primarily due to construction of one bridge across the Santa Clara River mainstem, at Long Canyon Road. Impacts to wetlands under this alternative would be reduced through the elimination of the two planned bridges across the Santa Clara River at Commerce Center Drive and Potrero Canyon Road, and through avoidance of nearly all wetlands in Potrero Canyon. In total, Alternative 7 would avoid any impact to approximately 96 percent of all wetlands on site, a seven percent increase in avoidance area when compared to Alternative 2.

Draft LEDPA (Modified Alternative 3): With this alternative the total development area would be reduced to approximately 2,587 acres with the proposed 20,885 residential units would be reduced by approximately 1,073 units to a total of 19,812 units, and the approved 5.55 msf of commercial uses would be reduced by 140,000 square feet. In general, the design of this alternative is similar to Alternative 3, however, there would be increased avoidance along the

Santa Clara River, reduced impacts to the Middle Canyon Spring complex, augmented spineflower preserve acreage and larger riparian corridors within the five major tributary drainages under this alternative.

Under this alternative, two of the three bridges crossing the Santa Clara River and the associated bank stabilization would be constructed (Commerce Center Drive Bridge and the Long Canyon Road Bridge). However, the Potrero Canyon Road Bridge would not be constructed, further reducing impacts to jurisdictional waters and wetlands in the Santa Clara River and lower Potrero Canyon. Two major tributary drainages (Long Canyon and Potrero Canyon) would be regraded and realigned under this alternative; however, the channels would be wider than those of Alternative 2. In the three other major tributary drainages (Lion Canyon, San Martinez Grande Canyon, and Chiquito Canyon), this alternative incorporates additional areas of preserved jurisdiction with limited channel grading to expand the drainage and adjacent riparian areas and realign their banks to accommodate adjoining infrastructure and development area. This alternative includes additional spineflower preserve acreage in the Potrero, San Martinez Grande, Grapevine Mesa, and Airport Mesa preserves, however, the SCP and the related California Endangered Species Act incidental take permit decision is primarily within the jurisdiction of CDFG. This alternative would increase the acreage within the preserves from 167 acres under Alternative 2 to approximately 227 acres. In addition, the acreage of occupied spineflower habitat protected would increase from 13.88 acres under Alternative 2 to 15.4 acres, while the area of impacted occupied habitat would be decreased from 6.36 acres to 4.85 acres. In addition, this alternative does not involve areas outside of the project site, which is exclusive to the SCP and CDFG's spineflower permitting actions, specifically in Entrada and the Valencia Commerce Center.

Modified Alternative 3 would provide approximately 621 fewer residential units than Alternative 3 and result in a 0.07 msf reduction in commercial square footage. Under this alternative, the avoidance of floodplain area for the 100-year return event would be increased by 12.8 acres, resulting in a 100-year floodplain area of approximately 1,297 acres within the project area. This increase would constitute a one percent reduction in impact compared to the proposed project. Even with this reduction, impacts on surface water hydrology and flood control under this alternative would be substantially similar to those of Alternative 2. This alternative would preserve 131,769 lf of on-site drainages, which is 54 percent of the total 242,049 lf of jurisdictional drainages on the project site. In total, this alternative would modify 54,001 feet of on-site tributaries; convert 56,291 lf of tributary channel to buried storm drain; install 69,913 lf of bank stabilization; and provide three bridges and 13 culvert tributary road crossings and would result in substantially similar impacts to Alternative 3.

Because the originally proposed project and alternatives involve discharges of fill material into waters of the United States, the Corps is required to comply with USEPA's CWA section 404(b)(1) Guidelines promulgated at 40 C.F.R. Part 230. The Guidelines prohibit the Corps from issuing a permit unless it is the LEDPA, and where "practicable" is defined in terms of cost, logistics, and technology in light of the overall project purpose. In order to comply with the Guidelines, the Corps typically analyzes alternatives that reduce impacts to aquatic resources through alternative configurations, locations, construction methods, sizes, *etc*. The Guidelines provide that for actions subject to NEPA, the analysis of alternatives required for NEPA environmental documents will in most cases provide the information for the evaluation of alternatives under the Guidelines. On occasion, the NEPA document may not have

considered the alternatives in sufficient detail to respond to the requirements of the Guidelines, and, therefore, further information may be provided. Further, the Guidelines require an applicant for a Department of the Army permit to take all appropriate and practicable steps to first avoid and then minimize adverse impacts to aquatic resources, and then compensate for unavoidable adverse impacts remaining after all appropriate and practicable minimization has been undertaken.

The Final Section 404(b)(1) Alternatives Analysis draws on the analysis in the Final EIS/EIR and evaluates further avoidance and/or minimization of Corps jurisdiction based on the sequenced approach under the Guidelines and as a result of comments received on the Final EIS/EIR and Draft Section 404(b)(1) Alternatives Analysis. As part of the analysis, the Corps evaluated the practicability of the alternatives considered under NEPA as well as the practicability of further avoiding specific resource areas and reaches of tributaries in the project area. Specifically, additional analysis of potential avoidance and minimization of impacts to waters of the United States including wetlands was analyzed in the Santa Clara River for Potrero Canyon, San Martinez Grande, Long Canyon, Chiquito Canyon, Middle Canyon and a proposed utility corridor in the Santa Clara River. As part of this supplemental alternatives analysis, the Corps considered the practicability of avoiding all discharges of fill material in waters of the United States in the above tributaries as well as less damaging alternative designs that would further reduce permanent impacts to waters of the United States when compared to the proposed project as well as Modified Alternative 3.

During coordination with USEPA, an additional sub-alternative was developed to avoid impacts to approximately 7.4 acres of waters of the United States, including 3.5 acres of wetlands, in the middle reach of Potrero Canyon. With this alternative design, the majority of the manufactured open area would be relocated to upland areas immediately adjacent to the existing wetland areas in the middle reach of Potrero Canyon. With this sub-alternative, the total development area would be similar to Modified Alternative 3 (approximately 2,587 acres), but augmented infrastructure requirements would result in an increase of approximately $12,965 per net developable acre and a total of approximately $31 million of additional costs when compared to Modified Alternative 3.

As a result of coordination with USEPA, another sub-alternative was developed to avoid both the 7.4 acres of waters of the United States, including 3.5 acres of wetlands, in the middle reach of Potrero Canyon as well as 11.9 acres of waters of the United States in the upper reach of Potrero Canyon (total additional avoidance of approximately 19 acres of waters of the United States, including 3.5 acres of wetlands in Potrero Canyon). With this alternative design, the majority of the manufactured open area would be relocated to a narrow band of upland area immediately adjacent to the existing wetland and riparian corridor areas in the middle and upper reaches of Potrero Canyon. With this sub-alternative, development area would be reduced by approximately 17 acres (approximately 2,570 acres) when compared to the Modified Alternative 3 and, the combination of reduced development area and augmented infrastructure requirements would result in an increase of approximately $20,695 per net developable acre and a total of approximately $53 million of additional costs when compared to Modified Alternative 3.

During coordination with the RWQCB, an additional sub-alternative was developed to avoid temporary impacts to approximately 0.5 acre of waters of the United States in the middle reach

of San Martinez Grande Canyon. With this alternative design, a small development area would be relocated allowing proposed bank stabilization to be constructed entirely in upland areas and reducing temporary impacts to aquatic resources. With this sub-alternative, development area would be identical to Modified Alternative 3 and would result in a total of $1,005,000 of additional costs when compared to Modified Alternative 3.

IV. EVALUATION OF ALTERNATIVES

The direct, indirect/secondary, and cumulative impacts associated with the originally proposed project and the other alternatives are included in the Final EIS/EIR. The evaluation of alternatives assessed under NEPA and the Section 404(b)(1) Guidelines is summarized below:

Alternative 1: As documented in the attached Final EIS/EIR and Final Section 404(b)(1) Alternatives Analysis, the No Action/No Project Alterative would neither meet the purpose and need of the project nor any of the basic objectives of the Specific Plan and therefore, would not meet the overall project purpose. Therefore, the No Action/No Project alternative does not represent the LEDPA.

Alternative 2: Alternative 2 would permanently impact 93.3 acres, including 20.5 acres of wetlands. Alternative 2 meets the purpose and need of the project, as well as the overall project purpose and is considered practicable to construct in terms of cost, logistics and technology. However, Alternative 2 has greater permanent impacts to waters of the United States when compared to several other less damaging practicable alternatives and, therefore, further avoidance and minimization of impacts to waters of the United States can be practicably achieved. As a result, this alternative does not represent the LEPDA.

Alternative 3: Alternative 3 would permanently impact 70 acres of waters of the United States, including 9.2 acres of wetlands. This alternative is considered practicable to construct in terms of cost, logistics, and technology, and would achieve the overall project purpose by providing a master-planned community that meets the basic objectives of the Specific Plan, including approximately 20,433 residential units and 5.48 msf of commercial/industrial/ business park floor area. Although Alternative 3 would reduce permanent impacts to waters of the United States when compared to Alternative 2, further avoidance and minimization of impacts to waters of the United States can be practicably achieved. In addition, Alternative 3 could result in other potentially significant adverse impacts to spineflower individuals and habitat. Therefore, this alternative does not represent the LEDPA.

Alternative 4: Alternative 4 would permanently fill 73.3 acres of waters of the United States (21.4 percent reduction compared to Alternative 2), and would temporarily disturb an additional 33.8 acres (approximate 1.5 percent increase compared to Alternative 2). Including residential, commercial and industrial development, Alternative 4 would result in approximately 2,712 acres of total development area (of the 2,712 acres approximately 2,329.6 acres would be residential development area). Alternative 4 would increase the cost of the proposed project by approximately 1.0% and is considered practicable in light of cost, logistics, and technology (total development cost of approximately $2,878,781,000, which yields a cost of $1,061,458 per net developable acre). In addition, Alternative 4 would provide a master-planned community that meets the basic objectives of the Specific Plan and, therefore, would also meet the overall project purpose. Although Alternative 4 has

reduced impacts to waters of the United States when compared to Alternative 2, the Corps has identified other practicable alternatives that have reduced impacts to waters of the United States and, therefore, further avoidance and minimization of impacts to waters of the United States can be practicably achieved. As a result, this alternative does not represent the LEDPA.

Alternative 5: Implementation of Alternative 5 would result in the placement of fill within waters of the United States. In total, this alternative would permanently fill 72.4 acres of waters of the United States (22.5 percent reduction in acreage compared to Alternative 2), and would temporarily disturb an additional 41.6 acres (24.9 percent increase compared to the Alternative 2). Including residential, commercial and industrial development, Alternative 5 would result in approximately 2,621.9 acres of total development area (of the 2,621.9 acres approximately 2,232 acres would be residential development area). With a total of 2,621.9 net developable acres, Alternative 5 would result in a total development cost of approximately $2,894,539,000. This yields a cost of $1,103,985 per net developable acre. Alternative 5 would increase the cost per net developable acre by approximately 5.0% and would be marginally practicable in light of cost, logistics and technology. In addition, Alternative 5 would provide a master-planned community that meets the basic objectives of the Specific Plan and, therefore, would also meet the overall project purpose. Although Alternative 5 has reduced impacts to waters of the United States when compared to Alternative 2, the Corps has identified other practicable alternatives that have reduced impacts to waters of the United States and, therefore, further avoidance and minimization of impacts to waters of the United States can be practicably achieved. As a result, this alternative does not represent the LEDPA.

Alternative 6: Implementation of Alternative 6 would facilitate urban development in the project site, and would result in the placement of fill within waters of the United States. In total, this alternative would permanently fill 60.7 acres of waters of the United States (35 percent reduction in acreage compared to Alternative 2), and would temporarily disturb an additional 33.9 acres (similar to impact acreage when compared to Alternative 2). Alternative 6 would facilitate urban development within the project site, but less than Alternative 2. However, because this alternative would not include the bridge across the Santa Clara River at Commerce Center Drive, a substantial portion of the development reduction would occur in the easternmost section of the project site. The configuration of developable space under Alternative 6 would result in a substantial reduction in development in one section of the project area and, as a result, preclude the construction of a coherent village in the eastern section of the project area. Alternative 6 would yield a total of 2,310.7 net developable acres at a total development cost of approximately $2,757,365,000, which yields a substantial increase in the development cost of $1,193,303 per net developable acre (approximately a 13.4 percent increase compared to Alternative 2). In consideration of the relatively high cost for the proposed project, a 13.4% increase in cost per net developable acre is not considered practicable. Furthermore, although Alternative 6 would have reduced impacts to waters of the United States when compared to Alternative 2, the Corps has identified other practicable alternatives that have further reduced impacts to waters of the United States and, therefore, further avoidance and minimization of impacts to waters of the United States can be practicably achieved. As a result, this alternative does not represent the LEDPA.

Alternative 7: Implementation of Alternative 7 would facilitate urban development in the project site, and would result in the placement of fill within waters of the United States. In total, this alternative would permanently fill 13.1 acres of waters of the United States (86 percent reduction in acreage compared to Alternative 2), and would temporarily disturb an additional 20.3 acres (39 percent reduction in acreage compared to Alternative 2). In addition, Alternative 7 would avoid all mapped 100-year floodplains (Santa Clara River and several major tributaries) within the project site. Implementation of Alternative 7 would facilitate a master-planned urban development within the project site, comprising approximately 1,596 net developable acres of residential, commercial, and industrial uses and public facilities. Compared to Alternative 2, the development facilitated under this alternative would be reduced by 44.3 percent. In addition, Alternative 7 would facilitate the development of 1,352.4 acres of residential uses, a reduction of approximately 45.0 percent when compared to Alternative 2. Even after incorporating feasible increases in density, Alternative 7 would allow the construction of 16,471 dwelling units, a reduction of 21 percent compared to Alternative 2. Because the number of dwelling units available under Alternative 7 would be reduced substantially (more than 20 percent compared to the number approved in the Specific Plan), Alternative 7 would fail to achieve the basic objectives of the Specific Plan for residential uses. Alternative 7 would facilitate the development of approximately 125.4 acres of commercial uses, a reduction of approximately 51 percent compared to Alternative 2. With feasible increases in density, such as vertical construction, this acreage would support only 3.76 msf of commercial floor space, a substantial reduction of 32 percent when compared to Alternative 2. Because the commercial floor space available under Alternative 7 would substantially reduce (more than thirty percent) the floor space that would result from build-out of the Specific Plan, Alternative 7 would fail to achieve the basic objectives of the Specific Plan for commercial uses. Alternative 7 would yield 1,596 net developable acres at a development cost of approximately $2,538,137,000, which yields a substantial increase in the development cost of $1,590,311 per net developable acre (approximately a 51.2 percent increase compared to Alternative 2). Based on the above information, Alternative 7 would not meet the overall project purpose and is not considered practicable in light of the substantial increase in cost per net developable acre. As a result, Alternative 7 does not represent the LEDPA.

Alternative 8 (Total Avoidance Alternative): Implementation of Alternative 8 would facilitate a master-planned urban development within the project site, comprising approximately 2,145 net developable acres of residential, commercial, and industrial uses and public facilities. Compared to the proposed project, the development facilitated under this alternative would be reduced by 25.1 percent. Due to this substantial reduction, Alternative 8 would not meet the basic objective with regard to net developable acreage. Of the 2,145 acres of total development area, approximately 1,831.7 acres would be residential development area. Alternative 8 would facilitate urban development within the project site, but less than Alternative 2 (12 percent reduction in dwelling units as compared to Alternative 2). In addition, a substantial portion of the development reduction would occur in the easternmost portion of the project site. The configuration of developable space under Alternative 8 would preclude the construction of a coherent village in this location. For this reason, Alternative 8 would fail to achieve the basic objectives of the Specific Plan for villages. Alternative 8 would yield a total of approximately 2,145 net developable acres at a total development cost of approximately $2,890,933,000, which yields a substantial increase

in the development cost of $1,347,817 per net developable acre (28.1 percent increase compared to Alternative 2). Based on the above information, Alternative 8 would not meet the overall project purpose and is not considered practicable in light of the substantial increase in cost per net developable acre. As a result, Alternative 8 does not represent the LEDPA.

Sub-Alternatives: As part of the Final Section 404(b)(1) alternatives analysis, the Corps evaluated the practicability of avoiding specific resource areas and reaches of tributaries in the project area. As documented in the attached Final 404(b)(1) Alternatives Analysis, with the exception of two sub-alternatives in Potrero Canyon and one sub-alternative in San Martinez Grande Canyon, all other sub-alternatives in the Santa Clara River (for a proposed utility corridor), Chiquito Canyon, Long Canyon, San Martinez Grande Canyon, Middle Canyon and Potrero Canyon that would augment avoidance and minimization of impacts to waters of the United States would not meet the overall project purpose and/or were not practicable in light of a substantial increase in cost.

An additional sub-alternative was developed to avoid impacts to approximately 7.4 acres of waters of the United States, including 3.5 acres of wetlands, in the middle reach of Potrero Canyon by relocating the majority of the manufactured open area to upland areas immediately adjacent to the existing wetland areas. When the comparison is limited to the proposed development area in Potrero Canyon, the cost per net developable acre would increase by approximately $30,429, or approximately 10% when compared to Alternative 2; however, in the context of the entire project area, the cost per net developable acre would increase by approximately 5.4% when compared to Alternative 2 (increased cost of $56,464 per net developable acre when compared to Alternative 2). Furthermore, although this sub-alternative would have reduced impacts to waters of the United States when compared to Alternative 2, the Corps has identified another practicable alternative that would further reduce impacts to waters of the United States in Potrero Canyon and, therefore, further avoidance and minimization of impacts to waters of the United States can be practicably achieved. As a result, this sub-alternative was not included in the LEDPA.

As a result of coordination with USEPA, another sub-alternative was developed to avoid both the 7.4 acres of waters of the United States, including 3.5 acres of wetlands, in the middle reach of Potrero Canyon as well as 11.9 acres of waters of the United States in the upper reach of Potrero Canyon (total additional avoidance of approximately 19 acres of waters of the United States, including 3.5 acres of wetlands). With this alternative design, the majority of the manufactured open area would be relocated to a narrow band of upland area immediately adjacent to the existing wetland and riparian corridor areas in the middle and upper reaches of Potrero Canyon. With this sub-alternative, development area would be reduced by approximately 294 acres when compared to Alternative 2 and would result in an increase in cost of approximately $60,079 per net developable acre, resulting in a total cost of approximately $1,111,800 per net developable acre. With the alternative design for San Martinez Grande Canyon, a small development area would be relocated allowing proposed bank stabilization to be constructed entirely in upland areas and reducing temporary impacts to aquatic resources. With this sub-alternative, development area would be identical to the Modified Alternative 3 and would result in a total of $1,005,000 of additional costs. With the additional avoidance of 0.5 acre in San Martinez Grande and Potrero Canyon, in the context of the entire project the cost per net developable acre would

be $1,112,097, with an increase of approximately 5.7% when compared to Alternative 2. In light of the limited reduction in the net developable acreage combined with the increase in cost per net developable acre, the above alternative designs for Potrero Canyon and San Martinez Grande are considered practicable. Therefore, the above alternative design, when combined with the Modified Alternative 3, represents the LEDPA.

Modified Alternative 3 (Draft and Final LEDPA): With the Draft LEDPA design, this alternative would permanently fill approximately 66.3 acres of waters of the United States (29 percent reduction in acreage compared to Alternative 2), and would temporarily disturb 32.2 acres (3 percent decrease in acreage compared to Alternative 2). With the additional avoidance of approximately 19 acres in Potrero Canyon, including 3.5 acres of wetlands, and the avoidance of 0.5 acres of temporary impacts in San Martinez Grande, this alternative would result in reduced placement of fill material within waters of the United States. In total, this alternative would permanently fill 47.9 acres of waters of the United States (48 percent reduction in acreage compared to Alternative 2), and would temporarily disturb 35.2 acres (2 percent increase in acreage compared to Alternative 2). Of the total 660.1 acres of waters of the United States that occur on the site, this alternative would avoid all impacts to approximately 87 percent (576.9 acres), compared to 80 percent avoidance under Alternative 2. Implementation of this alternative would permanently disturb 5.1 acres of wetlands (approximately an 80 percent reduction in impact acreage compared to Alternative 2), and would temporarily disturb 11.8 acres of wetlands. Under this alternative, there would be 5.8 acres of permanent impact and 15.7 acres of temporary impact to waters of the United States in the main stem of the Santa Clara River. For all the tributaries in the project area, this alternative would result in approximately 42.1 acres of permanent impact and 19.6 acres of temporary impact in waters of the United States. In addition, this alternative would avoid the lower mesic meadow (cismontane alkali marsh) wetland and the majority of the wetland in the middle reach as well as the upper reach of Potrero Canyon, providing substantially reduced impacts to wetlands in both the Santa Clara River and the tributary drainages. In total, this alternative would avoid permanent impacts to approximately 98 percent of all wetlands on site.

In light of the relatively small reduction in the net developable acreage (approximately 17 acres resulting in a total of 2,570 acres) combined with the 2% increase in cost per net developable acre resulting in a total increase in cost per net developable acre of approximately 5.7 percent, the above less damaging sub-alternatives in Potrero and San Martinez Grande, when combined with Modified Alternative 3, would met the overall project purpose by providing a master-planned community that meets the basic objectives of the Specific Plan and is considered practicable in consideration of cost, logistics and technology.

Consideration of Cost: To determine if further avoidance and minimization of impacts to waters of the United States would be practicable in light of cost logistics and technology, the Corps utilized the Technical Report by Developers Research to establish the cost typical of similar development projects in southern California. When compared to Alternative 2, the increased cost of approximately 5.7% associated with the Modified Alternative 3, including increased avoidance and minimization of impacts in Potrero and San Martinez Grande, would result in a cost per net developable acre of approximately $1,112,097 (an increase of

approximately $60,079 per net developable acre when compared to Alternative 2). With an overall increase in cost of approximately 5.7 percent, the Modified Alternative 3, including the avoidance of 19.3 acres of waters of the United States in Potrero and San Martinez Grande, would represent the most expensive development project when compared to all the other development projects identified in the Technical Report by Developers Research. As stated in the preamble to the Section 404(b)(1) Guidelines at 45 FR 85343, "under the 404(b)(1) Guidelines if an alternative is unreasonably expensive to the applicant the alternative is not considered to be practicable." For the purposes of this analysis, once an alternative exceeds a cost of $1,097,298 per net developable (highest documented cost for any development project in the Developer Research Technical Report), it is clearly very close to the threshold where an alternative would be considered unreasonably expensive to the applicant.

As a component of the Corps' independent review of the cost information and analysis that is utilized to support the applicant-prepared Section 404(b)(1) Alternatives Analysis, the cost information in the above study was reviewed by the Corps' Cost Engineering Section. The purpose of the technical review was to ensure the cost estimates were consistently applied to each alternative and that the estimates were consistent with standard industry estimates for infrastructure associated with development projects. Based on the Cost Engineering Section memorandum dated 1 June 2011, the majority of the cost estimates utilized in the applicant-prepared Section 404(b)(1) Alternatives Analysis are reasonable and consistent with standard industry estimates for infrastructure associated with residential development projects.

Cost estimates in the Developer Research report provided an average cost per net developable acre for similar development projects as approximately $673,114, with a median cost of approximately $707,784. Considering all the development projects in the report, the cost per net developable acre ranges from a low of $493,889 to a high of $928,504 (with a relatively small 139-acre development project in Riverside County exhibiting a cost of $1,097,298 per net developable acre). In considering the practicability of less damaging alternatives compared to Alternative 2, the Corps did not utilize the estimated average or the median cost for development, but instead considered numerous alternatives that exceeded the average and median cost per net developable acre by over $400,000. Based on the above information, the cost per net developable acre for the Modified Alternative 3, combined with the additional avoidance of impacts to 19.3 acres of waters of the United States in Potrero and San Martinez Grande, would exceed the average and median cost per net developable acre by approximately $431,253 and $396,583, respectively. In addition, Modified Alternative 3, when combined with the additional avoidance in Potrero and San Martinez Grande, would exceed the cost per net developable acre for the most expensive project in the Developers Research Technical Report by approximately $14,799. Because Modified Alternative 3, when combined with the above additional avoidance, represents the most expensive development project in terms of cost per net developable acre, the Corps determined that further avoidance and minimization of impacts to waters of the United States, including wetlands, would be unreasonably expensive to the applicant and, therefore, would not be practicable.

Conclusion: Modified Alternative 3, with the inclusion of additional avoidance and minimization measures in Potrero Canyon and San Martinez Grande, would reduce total developable acreage by 10.3 percent compared to Alternative 2. Specifically, the residential development acreage is reduced by approximately 9.5 percent, and, with feasible increases in density, the corresponding unit count for this alternative is reduced by approximately 5

percent (1,073 units). Commercial acreage is reduced by approximately 14 percent (35.6 acres), but, with feasible increases in density, commercial square footage is reduced by only 3 percent (140,000 square feet). Acreage for public facilities acreage is reduced by 4 percent (6 acres), while open space acreage increases by approximately 290 acres compared to Alternative 2. There are no disproportionate impacts that threaten the viability of any of the proposed villages. Therefore, this alternative, with the inclusion of additional avoidance and minimization measures in Potrero Canyon and San Martinez Grande, would allow for a master-planned development consistent with the basic objectives of the Specific Plan. Modified Alternative 3 would preserve approximately 155,074 lf of on-site drainages, which is 64 percent of the total 242,049 lf of jurisdictional drainages on the project site. With the proposed residential, commercial and industrial development, Modified Alternative 3, with the inclusion of additional avoidance and minimization measures in Potrero Canyon and San Martinez Grande, would result in approximately 2,570 acres of total development area (of the 2,570 acres approximately 2,180.6 acres would be residential development area). Total development costs would be $2,857,977,754, compared to $3,013,189,367 for Alternative 2, resulting in a cost per net developable acre increase of approximately 5.7 percent ($1,112,097) when compared to Alternative 2. Based on the above information, Modified Alternative 3, with the inclusion of additional avoidance and minimization measures in Potrero Canyon and San Martinez Grande, would meet the overall project purpose and is considered practicable. In addition, Modified Alternative 3, with the inclusion of additional avoidance and minimization measures in Potrero Canyon and San Martinez Grande, would also include additional spineflower preserve areas, including a total of seven preserves consisting of 227 acres, further reducing impacts to this sensitive plant species. As a result, this alternative would not result in other significant adverse impacts to spineflower individuals or habitat and, therefore the Corps has made a determination that Modified Alternative 3, with the inclusion of additional avoidance and minimization of permanent impacts to approximately 19 acres of waters of the United States in Potrero Canyon and 0.5 acre of temporary impacts in San Martinez Grande, represents the LEDPA. With the above additional avoidance and minimization measures, the LEDPA would result in permanent impacts to 47.9 acres, including 5.1 acres of wetlands, and 35.3 acres of temporary impact to waters of the United States in the project area.

V. IDENTIFICATION OF THE ENVIRONMENTALLY PREFERABLE ALTERNATIVE

The Environmentally Preferable Alternative would consist of that alternative which most closely fulfills the national environmental policy found in Section 101 of the NEPA. Essentially, it is the alternative that causes the least damage to the biological and physical environment; it also means the alternative that best protects, preserves, and enhances historic, cultural, and natural resources. Absent any consideration of the ability of alternatives to achieve the overall purpose of the proposed project, I find that due to avoidance of temporary and permanent impacts to aquatic and upland resources associated with discharging fill material in waters of the United States the No Action/No Project Alternative (Alternative 1) would be the Environmentally Preferable Alternative.

The reason for selecting the Final LEDPA over the No Action/No Project Alternative (Alternative 1) is based on the ability to achieve the overall project purpose of completing the Newhall Ranch RMDP. While it would be less environmentally damaging than the LEDPA (no

impacts to waters of the United States, or other significant adverse impacts in adjacent upland areas), the No Action/No Project Alternative would not meet the basic objectives of the Specific Plan, and, as a result, this alternative does not meet the stated purpose and need or the overall project purpose.

VI. MEASURES TO AVOID AND MINIMIZE ENVIRONMENTAL HARM

To avoid and minimize direct and indirect/secondary impacts to water quality during the proposed construction activities, the project design for the LEDPA would include preparation and implementation of a Storm Water Pollution Prevention Plan (SWPPP). The SWPPP itself would include erosion and sediment control BMPs to reduce or eliminate the discharge of sediment and other potential construction-related pollutants. The SWPPP must also contain a Construction Site Monitoring Program that identifies monitoring and sampling requirements during construction. Preliminary analysis indicates that the LEDPA would most likely be categorized as a Risk Level 2. BMPs and monitoring required by the Construction General Permit would be incorporated into the project design to comply with the Risk Level 2 requirements, as described in Attachment D of the Construction General Permit. If final design analysis indicates that the LEDPA would fall under Risk Level 3, the additional Level 3 permit requirements would be implemented as necessary.

Pursuant to NPDES requirements, Best Management Practices (BMPs) would be implemented at the project site under the LEDPA to avoid and minimize direct and indirect/secondary impacts to water quality in waters of the United States. These BMPs include the following water quality control facilities: (1) water quality basins; (2) debris basins, located just upstream of the interface between developed and undeveloped areas, primarily to trap debris coming from the upper watersheds; (3) detention basins, which are typically sized to capture the predicted runoff volume and retain the water volume for a period of time (usually 24 to 48 hours); (4) catch basin inserts or screens/filters installed in existing or new storm drains to capture pollutants in the stormwater runoff; (5) bioretention, such as vegetated grassy swales, that provide water quality benefits and convey storm water runoff; and (6) solids separator units or in-line structures that reduce or manipulate runoff velocities such that particulate matter falls out of suspension and settles in a collection chamber. With the implementation of the above measures, impacts to water quality would be substantially reduced, avoiding and minimizing direct and indirect/secondary impacts to water quality in the project area.

To further minimize less than significant direct and indirect/secondary impacts to water quality, the Low Impact Development (LID) project design for the LEDPA has been modified. LID project design features will be selected and sized to retain the volume of stormwater produced from a 0.75 inch storm event to reduce the percentage of Effective Impervious Area (EIA) to five percent or less of the total project area within the Newhall Ranch Specific Plan. Runoff from all EIA will be treated with effective treatment control measures that are selected to address pollutants of concern and are sized to capture and treat 80 percent of the average annual runoff. Compliance with the LID Performance Standard will be evaluated by the RWQCB for each phase of the project (Villages) within the RMDP as part of the Tier 2 evaluation process. Each Tier 2 project must demonstrate that the LID Performance Standard is achieved cumulatively considering the retention volume provided by the current project phase and all previous project phases within the RMDP area. In addition, it is important to note that

the RWQCB has separate authorities and obligations under the CWA and the State of California's Porter-Cologne Water Quality Control Act to ensure that State water quality standards are met and beneficial uses supported. The State of California via the RWQCB will require that State water quality standards, which may go beyond the section 404(b)(1) standards stated below, are met.

The current LID Performance Standard will be implemented for institutional, commercial, multi-family residential, recreation and park land use parcels using retention or biofiltration BMPs on-site to the extent feasible. Based on an assessment of feasibility, one of three BMP strategies would be applied. In areas where infiltration is feasible for all of the runoff produced from the 0.75 inch design storm volume, bioretention (without an underdrain, permeable pavement, infiltration galleries, infiltration basins or trenches, or an equivalent infiltration BMP) would be utilized. In areas where infiltration is allowable but low infiltration rates or deep fills are present, bioretention facilities (with an underdrain) would be used to retain a portion of the runoff from the design storm, then the remaining runoff would be biofiltered. In areas where infiltration is not technically feasible due to geotechnical hazards, high groundwater table or other factors identified as part of the Tier 2 evaluation process, biofiltration BMPs would be used to biofilter the runoff produced from the design storm in developed areas.

In addition, runoff from roofs, patios and walkways in single family residential parcels would be disconnected over landscape areas designed to retain the volume from the 0.75 inch storm event. Runoff from the remaining parcels that does not infiltrate would flow through the storm drain system to the regional/sub-regional infiltration/biofiltration facilities. Runoff from roadways would be retained or biofiltered in retention or biofiltration BMPs sized to capture the design storm volume or flow, as stipulated by USEPA's "Managing Wet Weather with Green Infrastructure/Green Streets.". Furthermore, no more than five percent of the total project area would be treated using conventional treatment methods that address the pollutants of concern, including the use of media filters to capture and treat 80% of the average annual runoff volume from the allowable EIA. Regional and sub-regional infiltration/ biofiltration facilities would also be implemented. These facilities would be designed to incorporate a biofilter in the bottom of the facility, which will allow for infiltration if feasible, with detention storage above the biofilter. These facilities would infiltrate or biofilter the design storm volume that has not been retained or biofiltered on the parcels in the area tributary to the facility and would provide extended detention treatment for the additional runoff volume required to provide 80% capture and treatment of the average annual runoff volume as stipulated in the Newhall Ranch Specific Plan Sub-Regional Stormwater Mitigation Plan treatment performance standard and the Newhall Ranch Specific Plan LID Performance Standard. The above LID performance standards would be revised if more stringent standards are adopted in a renewed Municipal Separate Storm Sewer System permit for Los Angeles County.

Wastewater generated by the build-out of the LEDPA would be treated in the proposed Newhall Ranch WRP. Treatment at the Newhall Ranch WRP would consist of screening, activated sludge secondary treatment with membrane bioreactors, nitrification/denitrification, ultraviolet disinfection, and partial reverse osmosis. The result of the above is that the effluent discharged to the Santa Clara River through the permitted Newhall Ranch WRP outfall would result in discharge equivalent to 100 mg/L chloride (or other applicable standard). The NPDES

Permit and WDRs for the Newhall Ranch WRP (Order No. R4-2007-0046, effective October 27, 2007 (Los Angeles RWQCB, 2007)) include effluent limitations that are protective of surface receiving water quality and designated beneficial uses. Treated effluent from the WRP would be used to supply distribution of recycled water throughout the proposed development area in the form of irrigation of landscaping and other approved use.

To confirm full and complete compliance with the chloride TMDL, the first two phases of the development would include interim chloride reduction treatment at the Valencia WRP. This project design feature involves chloride treatment of the effluent amount originating from Newhall Ranch (up to 6,000 units) at the Valencia WRP during the operation period of the 2002 Interconnection Agreement. The result of the above is that the effluent originating from Newhall Ranch that is discharged to the Santa Clara River through the permitted Valencia WRP outfall would be equivalent to 100 mg/L chloride (or other applicable standard). The NPDES Permit and WDRs for the Newhall Ranch WRP (Order No. R4-2007-0046, effective October 27, 2007 (Los Angeles RWQCB, 2007)) include effluent limitations that are protective of surface receiving water quality and designated beneficial uses. During the first two phases of the development, treated effluent from the Valencia WRP would be used to supply distribution of recycled water throughout the proposed development area in the form of irrigation of landscaping and other approved uses.

To compensate for unavoidable permanent impacts to 47.9 acres, including 5.1 acres of wetlands, and temporary impacts to 35.3 acres of waters of the United States, including 11.8 acres of wetlands, the LEDPA would implement a variety of on-site compensatory mitigation measures. In total, the compensatory mitigation would include the establishment, rehabilitation and enhancement of 114.04 acres of waters of the United States, including 35.2 acres of wetlands, in both the Santa Clara River and tributary drainages. The 114.04 acres include only waters of the United States and excludes non-jurisdictional riparian habitat and other buffer areas associated with CDFG mitigation requirements. As a standard measure to minimize impacts to waters of the United States, the 35.3 acres of temporary impact areas would be restored to pre-project contours and revegetated as stipulated in Corps and CDFG approved mitigation and monitoring plans. The required monitoring for the restored temporary impact areas would utilize the Hybrid Assessment of Riparian Condition (HARC) methodology to document adequate restoration of the physical and biological functions and services in the temporary impact areas.

With the LEDPA project design, approximately 612.2 acres of waters of the United States, including 271.8 acres of wetlands, would be avoided and protected in perpetuity by a conservation easement or restrictive covenant. To compensate for permanent impacts to waters of the United States, large areas in the Santa Clara River floodplain that are currently utilized for agriculture would be restored to active floodplain, resulting in an increase in the acreage of waters of the United States, including wetlands, as well as augmented functions and services. In addition, to further minimize and mitigate for less than significant impacts to floodplain areas, a restrictive covenant for floodplain protection would be recorded on approximately 119 acres, consisting of approximately 89 acres of waters of the United States and 30 acres of adjacent floodplain area in the Santa Clara River immediately downstream of the project area. Furthermore, to maintain existing functions and services in the preserved and compensatory mitigation jurisdictional features and adjacent upland areas shown on Figure 12 of the Newhall Ranch Project Description dated August 11, 2011, no new drilling, mining,

exploring and operating, storing in, and removing of oil, minerals, natural gas and other hydrocarbons would occur through the surface of the above areas or the upper 500 feet of the subsurface and no new or additional surface entry associated with the above activities would occur at the surface. In addition, suitable erosion control best management practices (BMPs) would be installed between any existing oil wells and waters of the United States and the BMPs would be required to be maintained in good working condition until the existing wells were abandoned and remediated. Establishment, rehabilitation and enhancement activities in Salt Creek, Potrero Canyon and other tributary drainages would also result in a net increase in the acreage of waters of the United States, including wetlands, with similar augmented functions and services. Lastly, major tributaries, such as Long Canyon, temporarily and/or permanently impacted as part of the LEDPA project design would either be replaced by created channels or structures that include establishment, rehabilitation and enhancement activities to accommodate vegetated waters, providing additional compensation for permanent impacts to waters of the United States.

Because the LEDPA would involve various construction phases in waters of the United States over at least a 20 year period, the compensatory mitigation would also be implemented in phases. To avoid and minimize temporal losses, the applicant would initiate establishment, enhancement and restoration activities in upper Salt Creek, lower Potrero Canyon and the Santa Clara River (Mayo Crossing area) prior to any permanent impacts in waters of the United States. The proposed compensatory mitigation includes a combination of rehabilitation and establishment in and adjacent to existing streams and wetland areas as well as establishment in recreated channels. In this initial phase, approximately 19.3 acres of compensatory mitigation would be implemented in lower Potrero Canyon contiguous with the lower mesic meadow, 19.7 acres of enhancement in the upper Salt Creek watershed and 15.9 acres in the Santa Clara River (conversion of agricultural fields), for a total of 54.9 acres of available mitigation area prior to any permanent impacts in waters of the United States. Concurrent with construction activities in waters of the United States associated with the various phases of the proposed development, additional compensatory mitigation capacity would be available including approximately 9.8 acres in Chiquito Canyon, 6.8 acres in San Martinez Grande, 5.24 acres in Long Canyon, 14 acres in Potrero Canyon, 2.1 acres in Lion Canyon, 18.5 acres in middle and lower Salt Creek and 2.7 acres of river bed expansion areas in the Santa Clara River (conversion of agricultural fields), ensuring no net loss of functions and services in the project area. Based on the above information, the total available compensatory mitigation for waters of the United States in the project area would be approximately 114.04 acres. The above compensatory mitigation areas would be distributed between rehabilitation, enhancement and establishment in natural stream channels and wetlands (108.78 acres) and reconstructed stream channels (5.24 acres). The required monitoring for the compensatory mitigation areas would utilize the Hybrid Assessment of Riparian Condition (HARC) methodology to calculate HARC-AW (Area-Weighted) units to document adequate restoration of the functions and services in all the compensatory mitigation areas.

With the proposed compensatory mitigation schedule, 54.9 acres of compensatory mitigation would be required prior to any permanent impacts to waters of the United States. With the construction of the first proposed village (Landmark Village), there would be approximately 4 acres of permanent impact to waters of the United States and 2.7 acres of additional mitigation area. As a result, with the completion of the first phase a total of approximately 57.6 acres of

compensatory mitigation would be initiated with only 4 acres of permanent impact to jurisdictional areas. With the second proposed village (Mission Village), there would be approximately 19.9 acres of additional permanent impact to waters of the United States and 20.6 acres of additional mitigation area. As a result, with the completion of the second phase a total of approximately 78.2 acres of compensatory mitigation would be initiated with 23.9 acres of permanent impact to jurisdictional areas. With the construction of the third proposed phase (WRP/Utility), there would be approximately 2.6 acres of additional permanent impact to waters of the United States. As a result, with the completion of the third phase a total of approximately 78.2 acres of compensatory mitigation would be initiated with only 26.5 acres of permanent impact to jurisdictional areas. With the construction of the fourth phase (third village area - Homestead Village South), there would be approximately 7.4 acres of permanent impact to waters of the United States and 5.24 acres of additional compensatory mitigation. As a result, with the completion of the fourth phase a total of approximately 83.44 acres of compensatory mitigation would be initiated with only 33.9 acres of permanent impact to jurisdictional areas. With the construction of the fifth phase (fourth village area - Homestead Village North), there would be approximately 12.0 acres of permanent impact to waters of the United States and 16.6 acres of additional compensatory mitigation. As a result, with the completion of the fifth phase a total of approximately 100.04 acres of compensatory mitigation would be initiated with 45.9 acres of permanent impact to jurisdictional areas. The final phase of the proposed project would be Potrero Village, which would result in 2 acres of impact to waters of the United States with 14 acres of potential compensatory mitigation. With the completion of the final phase of the currently proposed project a total of approximately 114.04 acres of compensatory mitigation would be initiated with 47.9 acres of permanent impact to jurisdictional areas. Appropriate legal restrictions would be placed on both the preservation and compensatory mitigation sites to ensure long-term protection and maintenance for these aquatic/riparian resources as well as no net loss of functions and services. For additional information regarding the proposed compensatory mitigation program, please reference the Final Mitigation Plan in Appendix A.

The majority of the mitigation measures to avoid and minimize direct and indirect/secondary impacts to the environment are summarized in the Executive Summary of the EIS/EIR and discussed in detail for each resource/issue impact in Section 4 of the EIS/EIR. It is recognized that Los Angeles County and CDFG as the local and state agencies with continuing program and responsibility over the entire project throughout its useful life, will implement, maintain, and monitor the full suite of mitigation measures identified in the December 2010 certified EIR for the project. Mitigation measures the USACE has determined enforceable and subject to our continuing program responsibility are included in this Record of Decision (ROD) (see VII.B(10) below).

VII. DETERMINATIONS AND FINDINGS

A. **Status of Other Authorizations and Legal Requirements**:

1. Water Quality Certification: Before proffering a permit authorizing the LEDPA, the applicant will need to obtain a 401 Certification.

2. Compliance with Section 106 of the National Historic Preservation Act (NHPA): On

behalf of the Corps, a consultant contacted the Native American Heritage Commission (NAHC) on 17 June 2004, to request information about traditional cultural properties, such as cemeteries and sacred places, in the proposed project area. According to NAHC's 24 June 2004 written response, their record search of the Sacred Lands file failed to indicate the presence of Native American cultural resources in the immediate project area. On 13 July 2004, the consultant, on behalf of the Corps, sent written correspondence to individuals identified on the NAHC's list of Native American tribes and individuals interested in consulting on development projects, to determine whether any of them had information about traditional cultural properties within the proposed project area. The Corps did not receive any responses to these initial letters. However, the Corps forwarded copies of the draft historic properties treatment plan and the draft Programmatic Agreement to the above Native American representatives for review and comment on 23 June 2010. In addition, in letters dated 25 October 2010 all the above Native American representatives were invited to sign the Final Programmatic Agreement as a concurring party. In response to the Corps' letter dated 25 October 2010, the Fernandeno Tataviam Band of Mission Indians signed the Final Programmatic Agreement as a concurring party on 9 November 2010.

Considering all available information, it is expected that two cultural resources listed or eligible for listing on the National Register of Historic Places would be adversely affected by the currently proposed project. On 7 July 2005, the Corps forwarded a letter to the State Historic Preservation Officer (SHPO) to initiate consultation for adverse effects to two sites and provided additional information regarding the presence and impacts to cultural resources in the project area. On 17 August 2005 SHPO responded to the Corps' initial letter and requested additional information. The Corps forwarded a second letter to SHPO on 15 July 2009 providing the requested additional information to support the original determination and responding to questions raised in the 17 August 2005 letter. With the submission of the additional information to SHPO, a Draft Programmatic Agreement was forwarded SHPO, the Advisory Council on Historic Preservation and several other interested parties, including Native American representatives, on 23 June 2010. Comments were received via E-mail from SHPO on 15 September 2010. On 22 September 2010, the Corps received a letter from the Advisory Council on Historic Preservation indicating that, based on the information provided they did not believe their participation in the consultation to resolve adverse effects was needed. The signed Programmatic Agreement was forwarded to SHPO on 23 September 2010 and SHPO returned the signed document to the Corps on 29 September 2010. Several of the concurring parties signed the Programmatic Agreement by 15 November 2010, which included the permittee, the Fernandeno Tataviam Band of Mission Indians and the California Department of Transportation. In addition, The Newhall Land and Farming Company has finalized a separate agreement with the Fernandeno Tataviam Band of Mission Indians to address any sensitive cultural resources discovered during construction and to monitor construction activities during the currently proposed project. As a result, with the completion of the above Programmatic Agreement, the Corps made a final determination that this permit decision would be in full compliance with the requirements of Section 106 of the NHPA (**Appendix C**).

3. Compliance with the federal Endangered Species Act (ESA): As discussed in Section 4.5 of the Final EIS/EIR and in the Final Section 404(b)(1) Alternatives Analysis, there is nesting or breeding habitat and high quality foraging habitat for several federally listed species in the

project area as well as designated critical habitat for several endangered species. Based on the above information, the Corps determined the project may affect several federally listed endangered species, including least Bell's vireo (*Vireo bellii pusillus*), unarmored threespine stickleback (*Gasterosteus aculeatus* ssp. *williamsoni*), arroyo toad (*Bufo californicus*), southwestern willow flycatcher (*Empidonax traillii extimus*), California red-legged frog (*Rana aurora draytonii*), California condor (*Gymnogyps californianus*), and coastal California gnatcatcher (*Polioptila californica californica*), known to utilize habitat in the vicinity of the proposed project. The Corps has also determined the proposed project may affect designated critical habitat for the above species. In addition, the Corps has determined the proposed project may affect vernal pool fairy shrimp (*Branchinecta lynchi*) and Riverside fairy shrimp (*Streptocephalus wootoni*), but is not likely to adversely affect these two species. On 26 February 2008 the Corps initiated formal consultation under Section 7 of the ESA with the U.S. Fish and Wildlife Service (USFWS). As part of the formal consultation package, the Corps provided the required biological assessment to describe impacts to the above endangered and threatened species as well as their designated critical habitat. In their letter dated 12 November 2008, the USFWS requested additional information for some of the above species and concurred with the Corps' determination that the proposed project is not likely to adversely affect vernal pool fairy shrimp and Riverside fairy shrimp. In a letter dated 24 July 2009, the USFWS indicated that they had received sufficient information to prepare a biological opinion (Log Number 8-8-09-F-44). The USFWS completed a Final Biological Opinion for the Corps' proposed federal action on 6 June 2011, which concluded that the above effects would not jeopardize the continued existence of the above endangered species and would not adversely modified any designated critical habitat (**Appendix D**).

4. Compliance with Section 176(c) of the Clean Air Act: The requested USACE permit to authorize discharges of fill material in waters of the United States has been analyzed for conformity applicability pursuant to regulations implementing Section 176(c) of the Clean Air Act. Appendix 7.0 to the Final EIS/EIR, which included a draft general conformity determination, was published on 19 Jun 2010 for a 30-day review. On 10 August 2010, the South Coast Air Quality Management District provided a letter that confirmed that the Newhall Ranch RMDP was included in the 2007 South Coast SIP and that the 2007 South Coast SIP satisfies the individual elements for SIP revisions that may be relied upon for conformity determinations, as set forth in 40 C.F.R. 93.158(a)(5)(i)(B). In addition, the above 10 August 2010 letter stated that the Draft General Conformity Determination conforms to federal conformity regulations and was conducted in accordance with the requirements of 40 C.F.R. parts 6, 51, and 93. The draft general conformity determination is for the Federal action associated with the applicant's currently proposed project, including all emissions resulting from construction activities in waters of the United States as well as those associated with temporary staging, storage, and access needed to complete the in-water activities. Other indirect construction emissions, such as development in upland areas, and any later indirect emissions from operations of any of the facilities expected to be constructed are outside the USACE's continuing program responsibility and cannot be practicably controlled by the USACE, and were therefore not included in the analysis.

The USACE believes there is adequate allowance in the emissions budgets under the EPA-approved SIP and the 2007 Air Quality Management Plan to accommodate the total of direct

and indirect NOx emissions under the Federal action (as evaluated in Appendix 7.0 in the Final EIS/EIR). Based on the above information, USACE has completed a final air quality conformity analysis that determines that the project meets the conformity requirements pursuant to Section 176(c)(1) of the Clean Air Act, as amended (**Appendix E**).

B. Section 404(b)(1) Compliance: Detailed preliminary discussion of compliance with the Section 404(b)(1) Guidelines was provided in Appendix 1.0 of the Final EIS/EIR. The Final Section 404(b)(1) Alternatives Analysis is provided as Appendix A to this ROD. In summary, the applicant's originally proposed project (identified and evaluated as Alternative 2 in the EIS/EIR), which would permanently impact 93.3 acres of waters of the United states, is not the LEDPA because additional avoidance and minimization of impacts to waters of the United States was determined to be practicable. Based on the Final Section 404(b)(1) Alternatives Analysis, Modified Alternative 3, which would permanently impact 47.9 acres of waters of the United States is the LEDPA and is reflected in the applicant's revised project description. All of the appropriate and practicable conditions set forth in the EIS/EIR to minimize pollution or adverse effects to the affected aquatic ecosystem will be included as part of the Federal action or will be required by special conditions of the SIP (see (10) below). Our determination of compliance was based on the following findings:

(1) The project applicant has demonstrated that there are no available, practicable alternatives having less adverse impact on the aquatic ecosystem and without other significant adverse environmental consequences that do not involve discharge into waters of the U.S.

(2) The discharge will not violate state water quality standards.

(3) The discharge will not violate toxic effluent standards.

(4) The discharge will not jeopardize endangered or threatened species or their critical habitat.

(5) The discharge will not violate standards set by the Department of Commerce to protect marine sanctuaries.

(6) The proposed discharge material will meet testing exclusion criteria because the material is not a carrier of contaminants.

(7) The discharge will not contribute to significant degradation of waters of the U.S. through adverse impacts to human health or welfare, through pollution of municipal water supplies, fish, shellfish, wildlife and special aquatic sites.

(8) The discharge will not contribute to significant degradation of waters of the U.S. through adverse impacts to diversity, productivity, and stability of the aquatic ecosystem, such as the loss of fish or wildlife habitat, or loss of the capacity of wetland to assimilate nutrients, purify water or reduce wave energy.

(9) The discharge will not contribute to significant degradation of waters of the U.S. through adverse impacts to recreational, aesthetic, and economic values.

(10) All appropriate and practicable steps (40 C.F.R. §§ 230.70-77) will be taken to minimize the potential adverse impacts of the discharge on the aquatic ecosystem. Toward this end, the following special conditions are being included in the SIP being proffered for this project: See Special Conditions listed below.

(11) The discharge complies with the 404(b)(1) guidelines pursuant to 40 C.F.R. Part 230.12.

Special Conditions:

1. The permittee shall preserve and protect in perpetuity 612.2 acres of waters of the United States, including 271.8 acres of wetlands consistent with the Mitigation and Monitoring Plan for the Newhall Ranch Resource Management and Development Project, Santa Clarita, California dated August 2011, and prepared by Dudek, Inc. (Mitigation Plan). The permittee shall protect the 612.2 acres with a conservation easement (CE) or restrictive covenant (RC) in accordance with Special Condition 7.

2. The permittee shall compensate for permanent impacts to 47.9 acres of waters of the United States, including 5.1 acres of wetlands, in the Santa Clara River and tributary drainages by rehabilitating, enhancing and establishing 114.04 acres of waters of the United States, including 35.2 acres of wetlands, that provide functions and services equal to those in the permanent impact areas, as stipulated in the Mitigation Plan. In addition, the permittee shall record a Declaration of Restrictive Covenant for Floodplain Protection in accordance with Special Condition 29 over 119.25 acres, including 89 acres of waters of the United States in the Santa Clara River immediately downstream of the project area. To demonstrate a minimum of 1:1 replacement of functions and services, permanent impact and compensatory mitigation areas shall be compared annually using HARC-AW (Hybrid Assessment of Riparian Condition - Area Weighted) units and/or a similar Corps-approved method to assess functions and services as described in the above Mitigation Plan. For the purposes of this special condition, "implementation" of a mitigation site is defined as: a) preparation and approval by the Corps of a site specific mitigation plan; b) completion of site preparation; c) installation of temporary irrigation; d) seeding and/or planting of the mitigation site as stipulated in the Mitigation Plan; and e) as-built drawings of the mitigation grading, planting, and irrigation submitted to the Corps. The required compensatory mitigation shall include the following:

a. The permittee shall implement 54.9 acres of compensatory mitigation in the form of establishment, rehabilitation and enhancement in lower Potrero Canyon (19.3 acres), the Mayo Crossing site (15.9 acres) and the upper Salt Creek watershed (19.7 acres) prior to any permanent impacts to waters of the United States;

b. The permittee shall record a Declaration of Restrictive Covenant for Floodplain Protection over 119.25 acres, including 89 acres of waters of the United States, in the Santa Clara River immediately downstream of the project area, as shown on Exhibit 1 attached hereto, and the permittee shall submit a copy of the recorded Declaration of Restrictive Covenant for Floodplain Protection to the Corps prior to any permanent impacts to waters of the United States;

c. The permittee shall implement a minimum of 59.14 acres of mitigation establishment, rehabilitation and enhancement consistent with the Mitigation Plan – Section 1.3.1 and Table 1, Development Project and Associated Mitigation. Compensatory mitigation for each phase of the project shall be implemented prior to or within two years of the impacts to waters of the United States for that phase of the project.

The permittee's responsibility to complete the required compensatory mitigation shall not be considered fulfilled until they have met or exceeded all performance criteria and have written verification of successful completion of the compensatory mitigation requirement from the Corps. If any compensatory mitigation site fails to meet the performance criteria, including acreage and functions and services, after ten years of monitoring, the permittee shall provide additional compensatory mitigation to offset the unmitigated permanent impacts, as required by the Corps to ensure a minimum 1:1 replacement of functions and services.

3. The permittee shall mitigate all temporary construction impacts affecting waters of the United States, by restoring pre-project contours and revegetating temporary impact areas with appropriate native vegetation after completion of construction in the area, in accordance with the Mitigation Plan. At a minimum, the acreage and functions and services of the revegetation area shall equal or exceed the acreage and functions and services of the temporary impact areas. Functions and services for temporary impact and revegetation areas shall be compared annually using HARC-AW units and/or a similar Corps-approved method to assess functions and services as described in the Mitigation Plan. The permittee's responsibility to complete the required revegetation as set forth in this Special Condition shall not be considered fulfilled until they have met or exceeded all performance criteria for a given site and have written verification of successful rehabilitation of the specific temporary impact area from the Corps. If a review area fails to meet the performance criteria, including no net loss of functions and services, after five years of monitoring, the permittee shall provide compensatory mitigation to offset the unmitigated temporary impacts as required by the Corps to ensure a minimum 1:1 replacement of functions and services.

4. Prior to initiation of the various phases of grading and project construction in waters of the United States, as described in Table 6 of the Mitigation Plan, the permittee shall provide written notification ("Construction Notification") to the Corps. The Construction Notification shall include the following:

a. An updated preliminary or approved jurisdictional delineation of waters of the United States and a site-specific mitigation plan as defined in Special Condition 5 and the Mitigation Plan. Based on the updated jurisdictional delineation, the acreages and locations of all impacts to waters of the United States, as well as the acreage and location of the recalculated compensatory mitigation shall be included in the required notification;

b. Written description for all the proposed structures (including RMDP Project Name), a description of the permanent and temporary impacts in waters of the United States, maps showing project location, impact acreages and drawings for all proposed structures, written documentation regarding compliance with all applicable special conditions of this permit and a description of all measures to avoid and minimize

impacts to waters of the United States;

c. Name and address of contractor performing the work, an onsite point of contact and the size and type of equipment that shall be performing the work;

d. For projects located in the Potrero Canyon watershed, a written description documenting compliance with the required design criteria for grade control structures (Special Condition 25) and road crossings (Special Condition 26);

e. Schedule for beginning and ending the project; and

f. Summary of all temporary and permanent impacts to waters of the United States that have been completed as part of previous project phases as well as a summary of all the initiated and completed compensatory mitigation areas for previous project phases.

Upon receipt of a Construction Notification, the Corps will determine whether the activity is authorized by this permit. If the activity is not authorized, the Corps will notify the permittee that they may request that the Corps modify the permit to include the activity as described in the procedures at 33 C.F.R. Part 325.7. If the activity is authorized by the permit, the Corps will determine if the avoidance and minimization measures in the Construction Notification and the site-specific compensatory mitigation plan comply with the terms and conditions of this permit. If the Corps determines that the proposed activity complies with the terms and conditions of the permit, a Notice to Proceed will be issued to the permittee. If the Corps determines that that all or part of the proposed activity does not comply with the terms and conditions of the permit, the Corps will issue a letter stating that the proposed activity does not meet the terms and conditions of the permit and, as a result, the proposed discharges of fill material in waters of the United States are not authorized. No work in waters of the United States shall occur until the permittee has received a Notice to Proceed from the Corps that states that the proposed discharges of fill material in waters of the United States comply with the terms and conditions of this permit.

5. As stipulated in the Mitigation Plan, the permittee shall prepare a site-specific mitigation plan subject to Corps approval as part of the required Construction Notification in Special Condition 4. Once the Corps has approved the site-specific mitigation plan, the permittee shall implement all the terms and conditions stipulated in the site-specific mitigation plan in full. The site specific mitigation plan shall include all the information specified in 33 C.F.R. Part 332.4(c)(2)-(14) including:

a. identify the goals (objectives) of the plan (see section 2.0 of the Mitigation Plan) and includes a description of the process of selecting the compensatory mitigation sites (see Section 3.0);

b. identify site protection instruments that are proposed for the compensatory mitigation areas (see section 2.1 of the Mitigation Plan ["All compensatory mitigation areas . . . would be protected in perpetuity by a conservation easement or covenant."]);

c. include existing baseline information (see sections 1.4 and 3.4 of the Mitigation Plan);

d. state that the HARC methodology is used to evaluate and characterize the functional quality of waters of the United States, including wetlands, and that HARC-AW scores were used to select mitigation sites and determine the appropriate acreage of the required compensatory mitigation (see sections 1.5.1 and 2.1 of the Mitigation Plan);

e. contain extensive mitigation plan information (see sections 2.0, 3.0, and 4.0 of the Mitigation Plan);
f. include a description of the maintenance activities to be conducted during the required monitoring (see section 5.0 of the Mitigation Plan);
g. set forth performance criteria (see sections 6.1 through 6.4 of the Mitigation Plan);
h. describe the compensatory mitigation monitoring requirements (see sections 6.5 through 6.7 of the Mitigation Plan);
i. contain a long-term management plan component (see section 9.0 of the Mitigation Plan - includes at a minimum trash removal; invasive, non-native plant species removal; repairs and maintenance to fencing and signage; and repair of damage to the mitigation area);
j. include an adaptive management plan (see section 8.5 of the Mitigation Plan);
k. describes the financial assurances required to ensure successful completion of the mitigation and maintenance and monitoring programs (see section 4.3 of the mitigation Plan);
l. provide all final specifications and topography-based layout grading, planting, and irrigation (with 0.5-foot contours). All wetland mitigation areas shall be graded to the same elevation as the adjacent existing wetlands and/or within approximately one foot of the groundwater table, and shall be left in a rough grade state with microtopographic relief (including channels) that mimics natural wetland topography, as directed by the Corps. Planting and irrigation shall not be installed until the Corps has approved the mitigation site grading. The permittee shall contact the Corps for verification of proper grading of the mitigation site a minimum of 15 days prior to the planned date of initiating planting;
m. require that all planting shall be installed in such a manner that mimics natural plant distribution (e.g., random distribution rather than uniform rows);
n. within 45 calendar days of complete installation for each mitigation site, require as-built drawings of the mitigation grading, planting, and irrigation infrastructure to the Corps;
o. require at the first anniversary of plant installation, all dead plants shall be replaced unless their function has been replaced by natural recruitment as verified by the Corps;
p. include a final implementation schedule that indicates when all wetland/waters impacts, as well as mitigation site grading, planting, and irrigation shall begin and end;
q. require a minimum of five years of maintenance, monitoring and attainment of performance criteria for all waters of the United States, including wetlands, mitigation areas;
r. include planting pallets (plant species, size, and number per acre) and seed mix (plant species and pounds per acre); and
s. require a wetland delineation to confirm that Corps jurisdictional wetlands have been successfully created prior to Corps final approval of the mitigation.

6. Prior to permanent impacts to waters of the United States for each phase of the authorized project, the permittee shall post financial assurance in an amount and form approved by the Corps Regulatory Division to ensure a high level of confidence that the compensatory mitigation projects will be successfully completed, in accordance with applicable performance criteria. Mitigation areas required in Special Condition 2a and 2c may be secured by separate financial assurances and approval of the financial assurances will be provided with the approval of the

Construction Notification for each phase of the project (Phases 1 through 6). The financial assurance may be in the form of a performance bond, escrow account, letter of credit or other appropriate instruments, subject the approval of the Corps. Our preferred form of a financial assurance is a letter of credit. For letters of credit, the credit must be issued by a federally insured financial institution rated investment grade or higher. The required financial assurance for some project phases may take the form of a letter of credit, escrow account or surety bond that is held by the CDFG, subject to the approval of the Corps Regulatory Division. For performance bonds, the corporate surety must appear on the Department of Treasury Circular 570, Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and Acceptable Reinsuring Companies. For a current list of Treasury-authorized companies, write or call the Surety Bond Branch, Financial Management Services, Department of the Treasury, Washington DC 20227; (202) 874-6850 or at the following website: http://www.fms.treas.gov/c570/c570.html. The financial assurance shall be released only upon a determination by the Corps Regulatory Division that successful mitigation has been completed for the given phase of the project.

7. The permittee shall record conservation easements (CE) or restrictive covenants (RC) to protect the 612.2 acres of preserved waters of the United States and 114.04 acres of compensatory mitigation. The approximate boundaries and phasing of the CEs and RCs are shown in the attached Figure 12 and Table 10: LEDPA Conservation Land Dedication/Recordation Schedule, but the final boundaries and acreages to be protected by the CEs/RCs shall be determined by the Corps, in coordination with the California Department of Fish and Game (CDFG). If the permittee does not record the required CE or RC according to the schedule in Table 10, subsequent discharges of fill material in waters of the United States are not authorized until the required CE or RC for the previous phase is recorded. The CE or RC shall be in a form approved by the Corps' Regulatory Division, which shall run with the land, obligating the permittee, its successors and assigns to protect and maintain the preserved waters of the United States and compensatory mitigation areas. The CE must include a qualified third-party easement holder pursuant to California Civil Code 815.3 and Government Code section 65965. The permittee must provide monies in the form of an endowment (endowment amount to be determined by Property Analysis Record or similar methodology) for the purposes of fulfilling the third-party easement holder's responsibilities under the CE, including long-term maintenance activities described in the long-term management section of the Mitigation Plan and site-specific mitigation plan, and compliance inspections one or more times per year. The CE or RC shall preclude establishment of fuel modification zones, paved public trails, maintained public trails, drainage facilities, walls, maintenance access roads and/or future easements, except as provided in the Newhall Ranch Resource Management and Development Plan (RMDP) authorized by this permit. Further, to the extent practicable, any such facilities or trails outside the CE or RC shall be sited to minimize potential indirect impacts on the avoided, established, rehabilitated and enhanced wetland and non-wetland waters of the United States. The permittee shall receive written approval of the CE or RC from the Corps' Regulatory Division prior to each being executed and recorded.

8. During all construction activities in waters of the United States, the permittee shall clearly mark the limits of the workspace with silt fencing to ensure mechanized equipment does not enter the 576.9 acres of avoided waters of the United States, including adjacent wetland areas. Adverse impacts to waters of the United States beyond the Corps-approved construction footprint are not authorized. Such impacts could result in permit suspension and revocation,

administrative, civil or criminal penalties, and/or substantial, additional, compensatory mitigation requirements.

9. The permittee shall provide all on-site contractors, subcontractors, and forepersons a copy of this permit. The permittee shall ensure that all of the above personnel read, understand, agree to, and comply with all terms and conditions of the authorization. A copy of this authorization shall be included in all bid packages for the project and shall be available at the work site at all times during periods of work and must be presented upon request by any Corps personnel. The permittee shall provide the Corps written confirmation of compliance with this special condition prior to initiating construction activities in waters of the United States, including names, phone numbers, and addresses of all of the above personnel, including signatures indicating their understanding and agreement with this permit. As new personnel are brought onto the project during the construction phase, the permittee shall provide monthly written confirmation of compliance with this special condition to the Corps.

10. The permittee shall staff a qualified biologist on site during project grading and construction in the vicinity of waters of the United States to ensure compliance with all requirements of this permit. The qualified biologist shall document compliance with this permit. The permittee shall submit the biologist's name, address, telephone number, email address (if available), and work schedule on the project to the Corps a minimum of fifteen (15) days prior to the planned date of initiating impacts to waters of the United States authorized by this permit. The biologist/permittee shall report any non-compliance with the permit to the Corps Ventura field office (805-585-2148) within one day of its occurrence. The biologist/permittee shall submit a written report summarizing the non-compliance with the permit and any measures implemented to rectify the incident to the Corps Ventura field office within three days of the non-compliance.

11. The permittee shall ensure that all vehicle maintenance, staging, storage, and dispensing of fuel occurs in designated upland areas. The permittee shall ensure that these designated upland areas are located in such a manner as to prevent any runoff from entering waters of the United States.

12. No debris, soil, silt, sand, sawdust, rubbish, cement or concrete washings thereof, oil or petroleum products, from construction shall be allowed to enter into or placed where it may be washed by rainfall or runoff into waters of the United States. Therefore, the permittee shall employ all standard Best Management Practices to ensure that toxic materials, silt, debris, or excessive erosion do not enter waters of the United States during project construction. Upon completion of the activities authorized by this permit, any excess material or debris shall be removed from the work area and disposed of in an appropriate upland site.

13. The permittee shall install silt fence and fiber-fill barriers prior to grading to trap eroded sediments on-site and to divert runoff around disturbed soils. Silt fences and fiber-fills shall be placed along the tops and slopes of the access roads and at the limits of the construction corridor and project area, and any area that could pass sediment in the vicinity of any waters of the United States to prevent additional waters of the United States impacts and the spread of silt from the construction zone into adjacent waters of the United States.

14. The permittee shall discharge only clean fill materials suitable for the activities permitted herein.

15. Within 60 calendar days of completion of each phase of the authorized work in waters of the United States, the permittee shall submit to the Corps Regulatory Division a post-project implementation report providing the following information:

a. As-built construction drawings with an overlay of waters of the United States that were impacted;
b. Dated and labeled color photographs of waters of the United States that were permanently and temporarily impacted (including latitude and longitude coordinates); and
c. A summary of all project activities which documents that authorized impacts to waters of the United States were not exceeded, and demonstrated compliance with all the terms and conditions of the permit.

16. All correspondence and submittals shall reference the Corps project name and File Number (SPL-2003-01264-AOA), conspicuously on any transmittal letter and/or the first page/paragraph of the text, and on any graphics or photographs. All plans and photographs shall be labeled and dated. Failure to provide this information may cause the Corps to determine that the submittals are incomplete, not submitted by the due date, or non-existent, and therefore, not compliant with permit conditions.

17. Annual mitigation maintenance and monitoring reports shall be submitted to the Corps in April of each year, after the annual maintenance and monitoring has been performed. All required mitigation maintenance and monitoring reports shall be required for a minimum of 5 years for each mitigation area or as required until all performance criteria have been met. All annual mitigation and monitoring reports shall include all the information stipulated in the Mitigation Plan as well as the site specific mitigation plan.

18. Within 45 calendar days of complete implementation for each mitigation site, the permittee shall submit to the Corps Regulatory Division two copies of a memo indicating the following:

a. Date(s) all mitigation (grading, planting and irrigation infrastructure) was installed and monitoring was initiated;
b. Schedule for future mitigation monitoring, implementation and reporting pursuant to the Corps-approved Mitigation Plan and site-specific mitigation plan;
c. Color photographs taken at the mitigation site before and after grading, planting and placement of irrigation infrastructure; and
d. One copy of "as built" drawings for the mitigation site (all sheets must be signed, dated, to-scale, and no larger than 11 x 17 inches).

19. This permit does not authorize you to take an endangered species, in particular least Bell's vireo (*Vireo bellii pusillus*), unarmored threespine stickleback (*Gasterosteus aculeatus* ssp. *williamsoni*), arroyo toad (*Bufo californicus*), southwestern willow flycatcher (*Empidonax traillii extimus*), California condor (*Gymnogyps californianus*), and coastal California gnatcatcher

(*Polioptila californica californica*) or adversely modify designated critical habitat for any of the above endangered species. In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA). The enclosed U.S. Fish and Wildlife (USFWS) Biological Opinion (BO) No. 8-8-09-F-44 contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with incidental take that is also specified in the BO. Your authorization under this Corps permit is conditional upon the permitttee's compliance with all of the mandatory terms and conditions associated with incidental take in the attached BO, which terms and conditions are incorporated by reference in this permit. Failure to comply with the terms and conditions associated with incidental take of the BO, where a take of the listed species occurs, would constitute non-compliance with this permit. The USFWS is the appropriate authority to determine compliance with the terms and conditions of its BO, and with the ESA.

20. At the completion of construction for each phase of the project, education material, as approved by the Corps, regarding open space preservation, ESA and the Clean Water Act shall be developed to be distributed to all future homeowners. The permittee shall include in the Covenants, Codes, Restrictions and Easements for the development of the requirement that the homeowners association shall be responsible, in perpetuity, to ensure the information is available to all new homeowners. The above shall be completed prior to issuance of any occupancy.

21. The permittee shall comply with all the terms and conditions stipulated in the National Historic Preservation Act Section 106 Programmatic Agreement (PA) for the Newhall Ranch Resource Management and Development Plan dated 4 October 2010.

22. The permittee shall retain a qualified archaeologist to perform archaeological monitoring of the project site during earthmoving activities. The onsite archaeological monitoring activities shall be conducted by an archaeological monitor under the supervision of a person or persons meeting at a minimum the *Secretary of the Interior's Professional Qualifications Standards* (36 CFR Part 61). The archaeologist should be onsite during earthmoving activities on a full-time basis.

23. Pursuant to 36 C.F.R. § 800.13, in the event of any discoveries during construction of either human remains, archaeological deposits, or any other type of historic property, the permittee shall notify the Corps Archeology staff within 24 hours (Mr. Steve Dibble at 213-452-3849, Ms. Amy Holmes at 213-452-3855, or Mr. John Killeen at 213-452-3861. The permittee shall immediately suspend all work in any area(s) where potential cultural resources are discovered. The permittee shall not resume construction in the area surrounding, i.e., immediately adjacent to, the potential cultural resources, until the Corps re-authorizes project construction, per 36 C.F.R. § 800.13.

24. The permittee shall bear the expense of treatment of all historic properties set forth in the treatment plan and PA. Such costs shall include, but not be limited to, pre-field planning, field work, post-field analysis, research, and interim, summary, and final report preparation (including draft and final versions) and costs associated with the curation of project documentation and all collections made from the historic properties. The permittee shall provide (10) bound hard copies and one electronic (PDF) copy of all draft and final reports to the Corps.

25. The permittee shall limit the total number of grade control structures in Potrero Canyon to a maximum of 60. The average height of the grade control structures shall not exceed 4 feet, with a maximum allowable height of 5 feet. The grade control structures shall be located to minimize impacts to or avoid localized aquatic vegetation or habitats, stabilize existing headcuts, and be sited in conjunction with road crossings. The preferred grade control design shall be a 3-foot-high step pool structure and constructed using ungrouted boulders. Ungrouted boulder step pools are the preferred method of stabilization however, in some locations specific site conditions could require an alternative design to provide adequate grade control. To deviate from the above grade control design criteria, the permittee shall prepare a detailed hydrologic justification and alternative design proposal for review and approval by the Corps as part of the required Construction Notification process in Special Condition 4. The permittee shall forward a copy of any Construction Notification that includes a deviation from the above grade control design criteria to the USEPA, Region 9 Wetlands Section (Attn: Chief, Wetlands Section).

26. All road crossings in Potrero Canyon shall be constructed using soft-bottom, clear span arch culverts. The culverts shall be designed to have natural channel substrate placed at the equilibrium slope. Grade control structures shall be located at the upstream and downstream boundaries of road crossings and the arches for all the road culverts shall be designed to allow wildlife passage along the creek corridor. To deviate from the above road crossing design criteria, the permittee shall prepare a detailed justification and alternative design proposal for review and approval by the Corps as part of the required Construction Notification process in Special Condition 4. The permittee shall forward a copy of any Construction Notification that includes a deviation from the above road crossing design criteria to the USEPA, Region 9 Wetlands Section (Attn: Chief, Wetlands Section).

27. To maintain existing functions and services in the preserved and compensatory mitigation areas shown in Figure 12 of the Final Newhall Ranch Project Description dated August 11, 2011 attached hereto, the permittee shall neither undertake any new drilling, mining, exploring and/or operating, storing in, and/or removing of oil, minerals, natural gas and other hydrocarbons through the surface or the upper 500 feet of the subsurface for such resources nor allow new or additional surface entry associated with the above activities. This special condition does not apply to maintenance and construction activities located in existing pipeline corridors, defined as a 25-foot-wide area on either side of an existing pipeline, entry and surface disturbance associated with remediation and well field closure or new pipelines that are directly drilled under the preserved and compensatory mitigation areas, where the entry and the exit points of the pipeline are located outside of the preserved and compensatory mitigation areas.

28. The permittee shall:

a. Ensure that the existing oil and gas well sites (RSF076, RSF090, RSF093, RSF119, RSF122 and RSF139) specified on Exhibit 2 attached hereto located in or adjacent to future Corps mitigation areas, are plugged and abandoned and surrounding areas remediated no later than October 15, 2028;

b. Within 180 days after the effective date of this Permit, install suitable erosion control best management practices (BMPs) between oil wells (RSF076, RSF090, RSF093,

RSF 119, RSF122 and RSF139) specified on Exhibit 2 and the waters of the United States and maintain such BMPs in good working condition until the wells are abandoned and remediated as described in section (a) above.

29. The permittee shall record a Declaration of Restrictive Covenant for Floodplain Protection that prohibits any development within the restricted area that would increase the base flood elevation (as defined by the Federal Emergency Management Agency) above that existing at the time of recordation, whether within the restricted area or upstream or downstream of the restricted area. The Declaration of Restrictive Covenant for Floodplain Protection shall prohibit any development within the restricted area that would otherwise contribute to increased risk of downstream flooding, whether or not resulting from increased base flood elevation. For purposes of the Declaration of Restrictive covenant, the term "development" shall be defined to mean any man-made change to improved or unimproved real estate, including but not limited to buildings, other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, and storage of equipment or materials, but excluding the following: agricultural activities, including farming, ranching, orchards and vineyards; installation of pipelines or utility lines of any kind; water diversions; outfall structures; or any activities associated with habitat restoration and enhancement.

30. In circumstances where construction and/or maintenance activities that include discharges of fill material in waters of the United States within the project site are transferred by the Permittee to other entities (sale of the Property as a whole is governed by the Corps' standard transfer procedures) and the Permittee intends to transfer permit authorization and its associated obligations to the transferee specifically related to subsequent construction and/or maintenance of that portion of the project that is transferred to other entities, the Permittee and the intended transferee shall submit a joint written notice to the Corps of the transfer. Permit responsibilities for the subsequent construction and/or maintenance activities in waters of the United States shall be transferred to the other entity in accordance with the procedures of this condition.

a. The notice shall indicate the precise total acreage, type, and location of permitted discharges of fill material into jurisdictional waters and the transferee's mitigation obligations, if any.

b. The notice shall contain an acknowledgment signed by the transferee that it accepts and will comply with the applicable terms and conditions of the permit as it pertains to the subsequent construction and/or maintenance of the constructed drainage improvements located within the transferred land.

c. Permit responsibilities shall be divided as follows:

i. The transferee shall be authorized to impact jurisdictional waters on the transferred land in accordance with the applicable terms, conditions, and special conditions of this permit;

ii. The transferee shall be responsible for complying with all the applicable terms and conditions of this permit as it pertains to the subsequent construction and/or maintenance of the constructed drainage improvements located within the transferred land. The Permittee shall remain solely responsible for implementing all other terms and conditions of this permit. The Permittee shall also remain solely responsible for implementing all terms, conditions, conservation measures

and mitigation requirements included in the referenced Biological Opinion (No. 8-8-09-F-44).

iii. The Permittee and each transferee shall be solely responsible for its own actions under this permit. The Permittee shall not be liable for a violation of a term or condition of the permit by the transferee and vice versa.

31. Within 60 days following written Corps approval of the project-specific mitigation plan for each phase of the authorized project, the permittee shall provide to this office GIS data (polygons only) depicting the boundaries of all compensatory mitigation sites, as authorized in the project-specific mitigation plan referenced above. All GIS data and associated metadata shall be provided on a digital medium (CD or DVD) or via file transfer protocol (FTP), preferably using the Environmental Systems Research Institute (ESRI) shapefile format. GIS data for mitigation sites shall conform to the data dictionary, as specified in the current Map and Drawing Standards for the Los Angeles District Regulatory Division, and shall include a text file of metadata, including datum, projection, and mapper contact information. Within 60 days following completion of compensatory mitigation construction activities, if any deviations have occurred from the approved project-specific mitigation plan, the permittee shall submit as-built GIS data (polygons only) accompanied by a narrative description listing and explaining each deviation.

C. Public Interest Review: I find that my decision to issue a permit for Modified Alternative 3 (LEDPA) for the Newhall Ranch RMDP project, as prescribed by regulations published in 33 C.F.R. Parts 320 to 332 and 40 C.F.R. Part 230, is not contrary to the public interest. While I considered all the public interest factors listed in 33 C.F.R. Part 320.4, the discussion that follows focuses on those factors relevant to this project. During the Draft EIS/EIR comment period, there was opposition to several aspects of Alternative 2. Specifically, several public citizens, environmental groups and agencies expressed concern about potentially significant impacts associated with water supply, general water quality, air quality, including global climate change, biological and aquatic resource impacts associated with Alternative 2. Based in part on some of the above comments, the applicant's originally proposed project (Alternative 2) was not selected as the LEDPA. In evaluating all comments, the USACE not only worked with the applicant and the resource agencies to identify alternative project designs, but also to develop appropriate mitigation measures to avoid and minimize project impacts (i.e., Modified Alternative 3 as identified and evaluated in the Final EIS/EIR and the Final Section 404(b)(1) Alternatives Analysis), as stated above.

As summarized in Section 4 and Section 5 in the Final EIS/EIR, under NEPA, the Federal action associated with the applicant's revised project description (LEDPA), with the inclusion of applicable mitigation measures, would not result in significant adverse effects to most of the public interest factors, including surface water hydrology, fluvial geomorphology, water resources, cultural resources, geology, parks, recreation and trails, hazards/public safety, socioeconomics/environmental justice, global climate change and traffic. In addition, even with the implementation of all mitigation mitigations, project-specific adverse effects would remain significant with regard to air quality, noise, agricultural resources, land use, visual resources and solid waste services. In many cases, these impacts would occur beyond the USACE's statutory authorities under section 404 of the CWA to require effective mitigation. However, they would still be subject to the County of Los Angeles and CDFG's authority, as

the local and state agencies with continuing program and responsibility over the project throughout its useful life.

One public interest factor that was referenced by many public comments was potentially significant adverse impacts to water supply, both for local groundwater and imported water resources. The EIS/EIR, Section 4.3, Water Resources, thoroughly evaluated the water supply sources associated with the originally proposed project and alternatives, including constraints to the availability and reliability of imported State Water Project (SWP) supplies. In addition, the Draft and Final EIS/EIR, Section 4.3, Water Resources, specifically, Subsection 4.3.4.2.2, and Topical Response 5: Water Litigation and Regulatory Action Update and Topical Response 9: State Water Project Supply Reliability, adequately disclosed the operational and regulatory constraints affecting SWP supply. The Draft and Final EIS/EIR, Section 4.3, also relied on supply estimates of SWP delivery reliability provided by the California Department of Water Resources (DWR). Specifically, the EIS/EIR assessed SWP delivery capability under current and future conditions, relying upon DWR computer modeling that simulated operations of the SWP and Central Valley Project (CVP), and utilized DWR's most-recently published estimates of SWP delivery reliability included in the draft 2009 DWR Delivery Reliability Report (See Section 4.3, pp. 4.3-25-4.3-28; and Appendix F4.3 [2009 DWR Delivery Reliability Report]). In addition, the Final EIS/EIR updated the discussion of constraints to the SWP system, including constraints imposed by the 2008 and 2009 Biological Opinions (see Section 4.3, pp. 4.3-28-4.3-34). The Final EIS/EIR concluded as follows: "Based on this updated information, CLWA has determined that its revised estimate of the water supply projections for all of the scenarios in the 2005 UWMP (*i.e.*, normal/average, dry, and multiple dry years), which incorporates the results of the draft DWR 2009 Delivery Reliability Report, and the additional sources of supply identified since issuance of the 2005 UWMP, represent a reasonable estimate of the available supplies for the CLWA service area. According to CLWA, the revised estimate shows that, for the demand projected in the 2005 UWMP, the water supply projections would be adequate for all normal and dry year scenarios through 2030. CLWA's revised estimate of water supply is reflected in the water supply/demand tables incorporated into this section of the EIS/EIR" (Final EIS/EIR, Section 4.3, pp. 4.3-34-4.3-35). Based on the above information, the Corps has determined that the information in the Draft and Final EIS/EIR documents shows that there is adequate water supply and the currently proposed project would not significantly affect local or regional water supplies.

Furthermore, the Specific Plan portion of the project site includes approval for construction of the Newhall Ranch WRP, which will generate recycled water; construction of the plant and recycled water system, and use of recycled water on site, will substantially reduce the demand for potable water supplies. The Newhall Ranch WRP will be built in stages as the currently proposed project is developed, and will ultimately be sized to treat up to 6.8 million gallons per day (mgd) of wastewater at build-out of the project. The NPDES Permit and WDRs for the Newhall Ranch WRP (Order No. R4-2007-0046, effective October 27, 2007 (Los Angeles RWQCB, 2007)) include effluent limitations that are protective of surface receiving water quality and designated beneficial uses. Newhall WRP effluent will comply with all requirements of Title 22 of the California Code of Regulations, which regulates recycled water, to facilitate recycling the maximum feasible amount of wastewater generated by the proposed development to meet a significant portion of the non-potable water demand of the residents in the project area. A corresponding recycled water distribution system also will be constructed

with capacity to convey the resulting recycled water throughout the development area for irrigation and other approved non-potable purposes.

The EIS/EIR also contains a thorough survey of scientific literature that addresses the effect of global climate change on California's water supplies (see Appendix 8.0 of the Draft EIS/EIR, and Appendix F8.0 of the Final EIS/EIR). The literature survey provided in the Draft EIS/EIR was updated prior to circulation of the Final EIS/EIR in order to ensure that it accounted for recent developments in the field. Appendix 8.0 of the Draft EIS/EIR also includes a technical memorandum, prepared by GSI Water Solutions, Inc., regarding the potential effects of climate change on groundwater supplies for the Newhall Ranch Specific Plan. GSI found that groundwater resources in the western portion of the Santa Clarita Valley are relatively unaffected by local fluctuations in rainfall; consequently, "if rainfall and groundwater recharge rates were to decline in the future because of climate change, these changes are likely to be fairly small." Finally, Section 4.3, Water Resources, of the Final EIS/EIR evaluated the ability of the existing and projected water supply to meet the water demands of the originally proposed project and alternatives, and determined that direct and indirect/secondary impacts to water supply and groundwater resources would not be significant.

The present state of air quality in Santa Clarita was discussed in Section 4.7, Air Quality, of the Final EIS/EIR. Relative to the NEPA baseline, significant and unavoidable (even with mitigation) adverse impacts would be expected to air quality (construction exceedances of air quality standards). The applicant has implemented numerous mitigation measures to reduce the above significant impacts associated with construction emissions, including implementation of more rigorous standards for construction equipment (MM AQ-2.1), but even with numerous and substantial mitigation measures, the impacts remain significant after mitigation. The EIS/EIR also explained that particulate matter can cause aggravation of chronic respiratory diseases such as asthma (Final EIS/EIR, p. 4.7-31). The EIS/EIR included mitigation measures to reduce the emissions of ozone precursors and particulate matter to the extent feasible (Final EIS/EIR, pp. 4.7-119 to 4.7-143). In conclusion, the EIS/EIR adequately disclosed and analyzed potential health-related effects of air pollution, including effects on individuals with asthma.

As discussed in the Final EIS/EIR, the areas proposed for development within the floodplain would be elevated above floodplain levels, thereby removing the development from flood hazards (see Final EIS/EIR, p. 4.1-2). Moreover, Executive Order 11988 states that modification or development in floodplains shall be avoided "wherever there is a practicable alternative." As determined by the Corps, the alternatives that would further reduce or eliminate floodplain modification (beyond the amount such modification has been already reduced by the LEDPA) have been determined to be impracticable (see Final Section 404(b)(1) Alternatives Analysis). Since the floodplain avoidance alternatives were determined to be impracticable, the proposed floodplain modifications are not contrary to the intent of Executive Order 11988. As part of the Final EIS/EIR, the Corps completed detailed evaluation of additional floodplain avoidance and specifically developed and assessed Alternative 7, which would avoid the mapped 100-year floodplain within the project site, except where bridges and grade control structures would intercept floodplain areas to meet design requirements. Implementation of Alternative 7 would facilitate a master-planned urban development within the project site, comprising 1,596 net developable acres of residential, commercial, and industrial uses and public facilities.

Compared to Alternative 2, the development facilitated under this alternative would be reduced by 44.3 percent. In addition, Alternative 7 would facilitate the development of 1,352.4 acres of residential uses, a reduction of approximately 45.0 percent when compared to Alternative 2. Even after incorporating feasible increases in density, Alternative 7 would allow the construction of 16,471 dwelling units, a reduction of 21 percent compared to Alternative 2. In addition, the Corps determined that Alternative 7 was impracticable because, compared to Alternative 2, the cost per net developable acre under Alternative 7 would be increased by approximately 51.2 percent. Because the residential component under Alternative 7 would be reduced substantially (more than 20 percent compared to Alternative 2) and the cost per net developable acre would be increased by approximately 51.2 percent, the Corps determined that Alternative 7 does not represent the LEDPA.

The LEDPA would avoid an additional 12.8 acres of floodplain impacts in the Santa Clara River by not authorizing construction of the Potrero Canyon Road Bridge and pulling back bank stabilization along sections of the Santa Clara River. Modified Alternative 3 (LEDPA) would include a net loss of approximately 110 acres of 100-year floodplain out of 1,408 acres of floodplain in 5.5 linear miles of the Santa Clara River in the project area (of the approximate 110 acres of developed floodplain area only approximately 5.8 acres are jurisdictional waters of the United States). To address potential downstream effects to floodplain areas, Sikand Engineering characterized the hydrology of the river in two technical reports that were completed in 2000. The Sikand reports estimated that the maximum extent of indirect/ secondary impacts to hydrology and associated floodplain areas were limited to a point about four miles downstream of the Specific Plan site in Ventura County. Sikand found that after a certain distance downstream of the Los Angeles County/Ventura County line, the predicted increases in peak flows in the Santa Clara River dissipates. This downstream distance varies by return frequency, with the change in the 2-year peak flow dissipating approximately 2.1 miles downstream and the change in the 100-year peak flow attenuating to pre-project conditions at approximately 3.2 miles downstream of the Los Angeles County/Ventura County line. Therefore, indirect/secondary effects to downstream floodplain areas would be less than significant. Furthermore, the applicant has already successfully processed Conditional Letters of Map Revision (CLOMR) applications for both the Landmark Village and Mission Village subdivision projects. Based on the CLOMR applications, neither subdivision would encroach upon a regulatory floodway, as that area is delineated on the effective Flood Insurance Rate Map (FIRM), nor cause any rise in basic flood levels in any such area. To further minimize and mitigate for less than significant impacts to floodplain areas, a restrictive covenant for floodplain protection would be recorded on approximately 119 acres, consisting of approximately 89 acres of waters of the United States and 30 acres of adjacent floodplain area in the Santa Clara River immediately downstream of the project area. Based on the above information, the LEDPA would avoid and minimize impacts to floodplain values to the maximum extent practicable and is consistent with the intent of Executive Order 11988.

The Final EIS/EIR determined (page 4.4-186) that the originally proposed project and alternatives would not result in significant water quality impacts after applying the required project design features (PDFs), Best Management Practices (BMPs), regulatory requirements, and identified mitigation measures. The water quality modeling provided by the EIS/EIR demonstrated that at a Specific Plan level of detail, compliance with water quality regulatory standards can feasibly be achieved after the implementation of the proposed mitigation

measures. The water quality model was not conceptual (see modeling details in Appendix B of Final EIS/EIR, Appendix F4.4), but did conservatively assume extended detention basins would be used as the baseline BMP and that these BMPs would achieve a 20 percent reduction of the flows to the basin. This modeling showed that this type of BMP would be protective of receiving water quality; thus, BMPs that achieve more volume reduction through infiltration and evapotranspiration will be more certain of reducing pollutant loads. The runoff model used to predict the average annual runoff volume for the impact analysis contained in the Final EIS/EIR is conservative, as it does not account for the Low Impact Development (LID) implementation that would be required as a condition of project approval for future tract maps (Tier 2). The originally proposed project and alternatives have committed to a variety of site design/LID practices and vegetated BMPs that would further reduce the predicted runoff volume, including bioretention areas, vegetated swales, filter strips, and extended detention basins. Infiltration trenches and dry wells also would be used to promote infiltration of treated flows (see Final EIS/EIR, p. 4.4-110). In addition, the originally proposed project and alternatives would incorporate site design/LID and treatment control BMPs to promote evapotranspiration and infiltration (where technically feasible) and reduce pollutant loads in stormwater discharges when compared to traditional site design practices and treatment BMPs. The use of recycled wastewater from the approved Newhall WRP will take precedence over harvest and use of stormwater runoff for irrigation and other approved uses in order to minimize the discharge of treated wastewater to the Santa Clara River from the WRP. Furthermore, it is anticipated that when subsequent water quality modeling is conducted in Tier 2 at a tract map level of detail (*i.e.*, when actual parcel size, location, and design details are known), and when project-specific BMP and LID project design features required by the Newhall Ranch Sub-Regional SWMP are included in the water quality model, project-related impacts to water quality will be reduced to a less-than-significant level as documented in the analysis results currently provided by the EIS/EIR.

To further minimize less than significant direct and indirect/secondary impacts to water quality, the Low Impact Development (LID) project design for the LEDPA has been modified. LID project design features will be selected and sized to retain the volume of stormwater produced from a 0.75 inch storm event to reduce the percentage of Effective Impervious Area (EIA) to five percent or less of the total project area within the Newhall Ranch Specific Plan. Runoff from all EIA will be treated with effective treatment control measures that are selected to address pollutants of concern and are sized to capture and treat 80 percent of the average annual runoff. Compliance with the LID Performance Standard will be evaluated by the RWQCB for each phase of the project (Villages) within the RMDP as part of the Tier 2 evaluation process. Each Tier 2 project must demonstrate that the LID Performance Standard is achieved cumulatively considering the retention volume provided by the current project phase and all previous project phases within the RMDP area. In addition, it is important to note that the RWQCB has separate authorities and obligations under the CWA and the State of California's Porter-Cologne Water Quality Control Act to ensure that State water quality standards are met and beneficial uses supported. The State of California via the RWQCB will require that State water quality standards, which may go beyond the section 404(b)(1) standards stated below, are met.

The current LID Performance Standard will be implemented for institutional, commercial, multi-family residential, recreation and park land use parcels using retention or biofiltration

BMPs on-site to the extent feasible. Based on an assessment of feasibility, one of three BMP strategies would be applied. In areas where infiltration is feasible for all of the runoff produced from the 0.75 inch design storm volume, bioretention (without an underdrain, permeable pavement, infiltration galleries, infiltration basins or trenches, or an equivalent infiltration BMP) would be utilized. In areas where infiltration is allowable but low infiltration rates or deep fills are present, bioretention facilities (with an underdrain) would be used to retain a portion of the runoff from the design storm, then the remaining runoff would be biofiltered. In areas where infiltration is not technically feasible due to geotechnical hazards, high groundwater table or other factors identified as part of the Tier 2 evaluation process, biofiltration BMPs would be used to biofilter the runoff produced from the design storm in developed areas.

In addition, runoff from roofs, patios and walkways in single family residential parcels would be disconnected over landscape areas designed to retain the volume from the 0.75 inch storm event. Runoff from the remaining parcels that does not infiltrate would flow through the storm drain system to the regional/sub-regional infiltration/biofiltration facilities. Runoff from roadways would be retained or biofiltered in retention or biofiltration BMPs sized to capture the design storm volume or flow, as stipulated by USEPA's "Managing Wet Weather with Green Infrastructure: Green Streets.". Furthermore, no more than five percent of the total project area would be treated using conventional treatment methods that address the pollutants of concern, including the use of media filters to capture and treat 80% of the average annual runoff volume from the allowable EIA. Regional and sub-regional infiltration/ biofiltration facilities would also be implemented. These facilities would be designed to incorporate a biofilter in the bottom of the facility, which will allow for infiltration if feasible, with detention storage above the biofilter. These facilities would infiltrate or biofilter the design storm volume that has not been retained or biofiltered on the parcels in the area tributary to the facility and would provide extended detention treatment for the additional runoff volume required to provide 80% capture and treatment of the average annual runoff volume as stipulated in the Newhall Ranch Specific Plan Sub-Regional Stormwater Mitigation Plan treatment performance standard and the Newhall Ranch Specific Plan LID Performance Standard. The above LID performance standards would be revised if more stringent standards are adopted in a renewed Municipal Separate Storm Sewer System permit for Los Angeles County.

In addition to the above project-specific significant and unavoidable impacts, the proposed project would also result in cumulatively significant impacts, as discussed in Section 6 of the Final EIS/EIR, with respect to air quality with the implementation of Modified Alternative 3 (note that all project-specific significant impacts are also cumulatively significant). As described in Sections 5 and 7 of the EIS/EIR, the project would provide substantial economic benefits, including construction related activities that would result in local spending by contractors on materials, equipment, food, entertainment and other miscellaneous purchases. In addition, Modified Alternative 3 would include mitigation measures that would reduce air quality impacts and associated health risks in the vicinity of the project area.

As evaluated in Section 4 of the EIS/EIR, numerous measures, many of which are innovative, are being required to avoid and minimize a broad array of direct and indirect/secondary impacts that are of interest to the public. While a few of the impacts would remain significant and unavoidable even with mitigation, there is a clear public interest locally, and at the state

and national levels, to move forward with the proposed discharges of fill material and construction activities in waters of the United States associated with the completion of the Newhall Ranch RMDP to address current and projected population growth and the associated need for additional housing in Los Angeles County. As discussed in Sections 1 and 4.19 of the EIS/EIR, the population in Los Angles County is expected to continue to increase over the next 20 years. The Newhall Ranch RMDP is a critical component in meeting the projected housing needs in Los Angeles County, although the currently proposed project will not satisfy all the expected increases in population (i.e., demand will continue to exceed capacity). In addition, the Newhall Ranch RMDP would include approximately 5.4 msf of commercial areas which would provide an estimated total of 20,000 jobs. Based on the above information, the currently proposed project would meet an important public need by providing additional housing opportunities, including affordable housing as well as providing a substantial number of additional jobs in northern Los Angeles County. When the extent and permanence of the expected benefits and detrimental effects of the proposed work and structures would have on the public and private uses to which the area is suited are considered, in light of the substantial mitigation measures in the Final EIS/EIR that would be implemented to avoid and minimize environmental impacts, the Corps has determined that issuance of a Department of the Army Permit with the above special conditions, as prescribed by regulations published in 33 C.F.R. Parts 320 to 330, and 40 C.F.R. Part 230, is not contrary to the public interest.

VIII. CONCLUSION

For the reasons outlined above, Modified Alternative 3, with the inclusion of additional avoidance and minimization measures in Potrero Canyon and San Martinez Grande, is the alternative that best meets the purpose and need of the project and will have the least impact on the human and natural environment, including waters of the United States. The Corps will ensure that the commitments outlined above will be implemented as part of the project design and construction.

Based upon a careful consideration of all the social, economic, and environmental evaluations contained in the Final EIS/EIR; the input received from other agencies, organizations, and the public; and the factors and project commitments outlined above, it is my decision to issue a Department of the Army permit authorizing discharges of fill material pursuant to section 404 of the CWA associated with the LEDPA.

DATED: 31 August 2011

R. Mark Toy
Colonel, US Army
District Commander