



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

AUG 9 2011

OFFICE OF THE  
REGIONAL ADMINISTRATOR

Colonel R. Mark Toy  
District Engineer  
Los Angeles District  
U.S. Army Corps of Engineers  
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Subject: Decision Not to Seek Higher Level Review of Department of Army  
Permit 2003-01264-AOA

Dear Colonel Toy:

On July 25, 2011, we received the U.S. Army Corps of Engineers Notice of Intent to Proceed (NOI) and draft permit for the Newhall Ranch Resource Management and Development Plan (Newhall Ranch), dated July 22, 2011. Because EPA, the Corps and the applicant have agreed on specific changes to the draft permit memorialized in the attached "revision to Permit Special Conditions and Mitigation Plan", I am writing to inform you that I will not seek a higher level review of the draft permit at the EPA's Office of Water pursuant to paragraph 3(d)(1) of our agencies' Memorandum of Agreement (MOA) under Clean Water Act (CWA) Section 404(q).

I wish to thank you and your staff for working closely with us to reduce the adverse environmental impacts of this large project. This work has resulted in tangible and meaningful improvements to protect human health and the environment, including:

1. **Reducing Fill in Waters of the U.S.** – Through the redesign of several development areas, direct impacts to waters of the US (waters) have been cut in half (from the original 93.3 acres proposed to 47.9 acres in the draft permit). Within this total, wetland impacts were cut by 75% (from 20.5 acres to 5.1 acres). The effects of unavoidable fill have also been minimized with commitments to soft-bottom arched stream crossings and improved in-stream grade stabilization structures.
2. **Avoidance in Potrero Canyon** – The aquatic resources in Potrero Canyon are among the highest functioning on the project site. The draft permit includes a new configuration for Potrero Canyon Village that eliminates the proposal to bury the creek under 30 feet of fill material and includes the creation of a new 19-acre cismontane alkali wetland. Overall, direct impacts to waters in Potrero Canyon were reduced from 32.8 acres to 2.0 acres.

3. **Low Impact Development (LID)** – To minimize indirect impacts of the permit and protect the Santa Clara River from polluted stormwater runoff, the Record of Decision (ROD) requires the project to comply with a Low Impact Development (LID) performance standard more stringent than the current LA County requirements (requiring on-site infiltration and retention of all runoff from a ¾ inch storm event).
4. **No new oil and gas drilling** – A new Special Condition in the draft permit effectively prohibits any new oil or gas extraction to occur in the mitigation areas, confining extraction within the preserve area to the four active well sites.

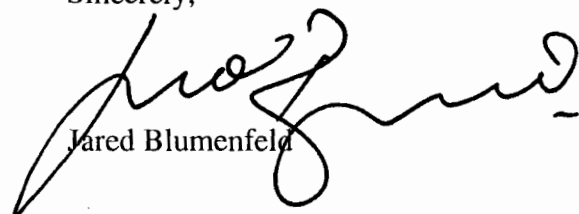
EPA, the Corps and the applicant have also negotiated the following changes to the draft permit since the NOI was issued, providing significant additional environmental benefits:

1. **Provide additional mitigation** – In consideration of the project’s impacts to the Santa Clara River, 115 acres of floodway and floodplain will be preserved (26 acres of the river’s 100-year floodplain downstream of the project will be preserved along with approximately 89 acres of Santa Clara River floodway) prior to any authorized discharges of fill material.
2. **Clarify mitigation credit** – No more than 5.24 acres of created waters will be credited for proposed constructed flood control channels on top of 5.24 acres of filled natural stream channel in Long Canyon.
3. **Further minimize uncertainty on resource extraction** – The draft permit conditions include date-certain closure for existing wells under lease, and provide for immediate protections for waters adjacent to extraction facilities with the installation of best management practices.

As you know, we remain concerned that there is currently not an implementable plan for ensuring that wastewater discharges from the project will not contribute to degradation of water quality in the Santa Clara River, which is already listed as impaired for chlorides under Section 303(d) of the CWA. The applicant’s current plans to pump sewage to a treatment plant that has been out of compliance with existing water quality requirements is troubling, and although a path to compliance may be emerging, many steps must be completed before the Valencia facility will be in a position to accept wastewater from Newhall Ranch. As this project moves forward over many years to come, it will be critical that the federal and state governments work together to integrate CWA actions and solutions to protect public health and the environment.

I appreciate your cooperation throughout this process, and the hard work and professionalism of your staff. If you have any questions or would like to discuss this matter further, please contact me at (415) 947-8702 or Alexis Strauss at (415) 972-3572.

Sincerely,



Jared Blumenfeld

Attachment: Revision to Permit Special Conditions and Mitigation Plan

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**EPA-Corps Revisions to Section 404 Permit Special Conditions – 9 august 2011**  
Newhall Land and Farming Company – Corps Permit #2003-01264-AOA

1. The permittee shall preserve and protect in perpetuity 612.2 acres of waters of the United States, including 271.8 acres of wetlands, in the project area 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. In addition, the permittee shall record a Declaration of Restrictive Covenant for Floodplain Protection in accordance with Special Condition 29 over approximately 115 acres, including 89 acres of waters of the United States in the Santa Clara River immediately downstream of the project area, as shown on Figure XX attached hereto.

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 over approximately 115 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 approximately 115 acres, including 89 acres of waters of the United States in the Santa Clara River immediately downstream of the

project area, as shown on Figure XX 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 59.8 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.

**New Special Conditions 28 and 29.**

28. The permittee shall:

(a) Ensure that the existing oil and gas wellsites numbered RSF076, RSF090, RSF093 and RSF122, identified Blow Down wells, and any associated Production Centers, on Figure XX 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 and RSF122, and XX, XX and XX and the adjacent 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.

Revisions to Table 1 of the Mitigation and Monitoring Plan for Impacts to Waters of the United States ("MMP")

**Table 1**  
**Development Projects and Associated Mitigation**

<b>Project Description</b>	<b>Mitigation Acres</b>	<b>Mitigation Location</b>
Advanced Mitigation	15.9	Santa Clara River. Mayo Crossing (River)
Advanced Mitigation	19.3	Lower Potrero Canyon/Lower Potrero Cismontane Alkali Marsh (Tributary)
Advanced Mitigation	19.7	Salt Creek Livestock Exclusion/Enhancement Portions of Mid- and Upper Salt Creek (Tributary)
Advanced Preservation – Floodplain and WUS preservation	89 <sup>1</sup>	Santa Clara River downstream of Ventura County line
Advanced Mitigation subtotal	143.9	
Landmark Village	2.7	Santa Clara River
Mission Village	20.6	Lion (Tributary) Lower-Middle Salt Canyon (Tributary)
WRP/Utility Corridor	—	
Homestead South	5.24	Long Canyon (Tributary) (5.24)
Homestead North	16.6	Chiquito (9.8) and San Martinez Grande (6.8) (Tributary)
Potrero Valley	14.0	Potrero Canyon (Tributary)
Total	203.7	
Additional Preservation	612.2	As Specified In Special Condition 7
	815.9	

<sup>1</sup> Project totals approximately 115 acres comprised of 89 acres of waters of the United States and 26 acres of upland floodplain (estimated).