



**DEPARTMENT OF THE ARMY**  
**LOS ANGELES DISTRICT, CORPS OF ENGINEERS**  
**P.O BOX 532711**  
**LOS ANGELES, CALIFORNIA 90053-2325**

REPLY TO

August 15, 2001

Office of the Chief  
Regulatory Branch

KB Homes  
Mr. Kurt Brausbeck  
12235 El Camino Real, Suite 100  
San Diego, CA 92130

Dear Kurt:

This letter concerns your after-the-fact permit application (No.199916057-RRS) for the Paloma/Santa Fe development. As part of your application, you propose to construct a road crossing over Aqua Hedionda Creek, which would impact 0.6 acres of waters of the United States. The road is presently proposed to terminate at the Murai Property boundary without connecting to any existing facility or project. In light of comments received during the Corps' public notice comment period and your responses to these comments, we have subsequently developed the scope of analysis for our combined environmental review of your proposed action. Our decision is based on the following considerations, and we hereby request additional information to complete our required analysis.

During a pre-application meeting held between you and the Corps concerning the San Marcos Highlands project, a future development adjacent to the proposed development, you indicated access to this future development would be achieved via the proposed Las Posas Road. The City of San Marcos in their letter of June 27, 2001 (copy attached) indicated a need for an arterial road to Buena Creek Road, of which Las Posas Road would fulfill that need. Your response to comments received on the public notice stated the "need" for the road was to comply with the perceived needs of the City of San Marcos and to promote development.

Our regulations at 33 CFR 325.1(d)(2) state, "[a]ll activities which the applicant plans to undertake which are reasonably related to the same project and for which a DA permit would be required should be included in the same permit application." Upon consideration of the above information, we have determined the presently proposed Las Posas Road crossing is reasonably related to both the San Marcos Highlands project and the arterial link connection to Buena Creek Road. The road, by itself, does not connect to any functionally independent approved project and thus lacks independent utility in which to narrow our review of direct, indirect and cumulative impacts. This means that "but for" the San Marcos Highlands Project and (or) the desire by the City to have an arterial road to Buena Creek Road, Los Posas Road would not be constructed, and is not needed. By segmenting the road, it appears the overall project is being piecemealed, preventing an adequate and thorough review of the direct,

-2-

indirect, and cumulative impacts associated with the overall project. If you desire to keep Las Posas Road as part of the project, we have determined the project description is incomplete for purposes of preparing and completing our environmental review. We have preliminarily determined the scope of analysis for completion of our environmental review includes the Paloma/Santa Fe development, the San Marcos Highlands Project and the entire road alignment for Las Posas Road, and the corresponding growth inducing impacts. At this time, we are unable to assess the indirect and cumulative effects associated with the San Marcos Highlands Project and the entire road alignment given the information you have provided.

Therefore the Corps is requesting, per 325.19(d)(9)(e), that you furnish us with the following information within the next 60 days in order for us to undertake our required environmental review of the proposed action:

- 1) The entire road alignment for Las Posas Road to Buena Creek Road, including an assessment of impacts to wetlands and waters of the United States for the different alternatives that are being evaluated including the overall project purpose and need for the entire Las Posas Road project.
- 2) The Final Environmental Impact Report for the entire Las Posas Road project and the San Marcos Highlands project or other appropriate CEQA documents.

In addition, our review needs to consider compliance with the Pilgrim Creek Mitigation Banking instrument and the BO. Therefore, a draft mitigation plan in the form of on-site wetland creation/restoration (or same water shed) needs to be provided. The plan needs to consider the revised project description.

As an alternative, we propose eliminating the Las Posas Road crossing from the application. This would reduce our scope of analysis to include the Paloma/Santa Fe development only. If this alternative were pursued, we would re-examine the possibility of combining nationwide permits with an individual permit. The mitigation plan that needs to be developed could also be reduced in scope.

If we do not receive the additional information we requested within the next 60 days or a letter requesting Las Posas Road be removed from the application, we may withdraw your permit application. If you have any questions, please contact Robert Smith of my staff at (213) 452-3419. Please refer to this letter and 199916057-RRS in your reply.

Sincerely,

Mark F. Sudol, D.Env.  
Chief, Regulatory Branch

-3-

Enclosure(s)

*ALL 15 PAGES 2001*  
SUDOL, D. ENV.  
CESPL-CO-R

DURHAM *[Signature]*  
CESPL-CO-R

~~SMITH~~ *[Signature]*  
CESPL-CO-R