



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105
October 13, 2009

Ms. Elizabeth Holland
Environmental Resources Branch
U.S. Army Corps of Engineers
Sacramento District
1325 J Street, 10th Floor
Sacramento, California 95814-2922

Subject: Draft Environmental Impact Statement (DEIS) Natomas Levee
Improvement Program Phase 4a Landside Improvements Project
(CEQ# 20090298)

The U.S. Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act.

EPA's primary concern is that the DEIS analysis of conformity applicability shows mitigated nitrogen oxide (NO_x) emissions exceeding the conformity threshold. Prior to completing the Final EIS, the Corps should either revise the project so that the emissions no longer exceed the threshold, or complete a conformity determination for the project. Whichever the case, EPA is ready to coordinate with the Corps to avoid project delays. To clarify a point of apparent confusion, off-site mitigation (or offsets) may be included in a conformity determination, but may not be considered in an analysis to determine the applicability of conformity.

We are pleased to learn of the cooperation of the Corps and the Sacramento Area Flood Control Agency (SAFCA) with the US Fish and Wildlife Service, California Department of Fish and Game, and the Natomas Basin Conservancy to ensure this project and future development adhere to, and do not undermine, the underlying assumptions, goals, and objectives of the Natomas Basin Habitat Conservation Plan.

While we acknowledge the urgent need for the levee improvements and the benefits of the Proposed Action, we have rated the DEIS as Environmental Concerns – Insufficient Information (EC-2) (see enclosed "*Summary of Rating Definitions*") due to our concerns regarding the conformity analysis, described above, and the management of the residual flood risk, discussed in our enclosed detailed comments.

We appreciate the opportunity to review this DEIS. When the FEIS is released for public review, please send one hard copy and one CD ROM to the address above (mail code: CED-2). If you have any questions, please contact Tom Kelly, the lead reviewer for this project, at (415) 972-3856 or kelly.thomasp@epa.gov, or me at (415) 972-3521.

Sincerely,

/s/

Kathleen M. Goforth, Manager
Environmental Review Office

Enclosures:

Summary of EPA Rating Definitions

Detailed Comments

cc: Ken Sanchez, U.S. Fish and wildlife Service
Robert Solecki, Central Valley RWQCB
Jeff Drongesen, California Department of Fish and Game
John Bassett, Sacramento Area Flood Control Agency
Helen Thomson, Sacramento Area Council of Governments
Larry Greene, Sacramento Metropolitan Air Quality Management District
David A. Valler Jr., Feather River Air Quality Management District
John Roberts, The Natomas Basin Conservancy

EPA'S DETAILED DEIS COMMENTS ON DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS) NATOMAS LEVEE IMPROVEMENT PHASE 4A LANDSIDE IMPROVEMENTS PROJECT (CEQ# 20090298) SACRAMENTO AND SUTTER COUNTY, CA, OCTOBER 13, 2009

Incorporate Residual Flood Risk into Land Use Planning

In our letters on earlier phases of this project, dated August 4, 2008 and April 3, 2009, respectively, we raised concerns about residual flood risk to future development in a floodplain protected by the project's improved levees. The Corps responded in the Final EISs, dated November 14, 2008 and August 21, 2009, by describing county flood safety plans and Sacramento Area Flood Control Agency (SAFCA) development impact fees to avoid any substantial increase in the expected damage due to an uncontrolled flood. While we are pleased to learn of these steps, we remained concerned.

In 1995, the National Research Council published "Flood Risk Management and the American River Basin; an Evaluation." After acknowledging that specific improvements were planned or foreseeable to alleviate flood risk, the report suggested, "[d]evelopment within the Natomas Basin thus should be subject to prudent flood-plain management requirements under *federal*, state and local authority" (emphasis added). We concur and suggest the Corps take a more active role to ensure adequate safeguards are in place to manage the area's residual risk.

As the National Research Council report noted, the risk of flooding over a 50 year period, even for systems designed to withstand 200-year flood, is 22% or 1 in 5. It also stated, "[p]erhaps the worst thing that might be done is to create a false sense of security or to encourage people to think that any proposed project provides complete protection from flooding."

EPA is not opposed to development in the Natomas Basin. Development close to urban centers is a tenet of EPA's Smart Growth Program, but such development must adequately address residual flood risk. Section 2.5.1 of the DEIS contains many prudent measures to manage residual risk, including some land use planning measures. EPA suggests the Corps consider additional measures, contained in the SAFCA white paper titled, "Legislative Framework for Flood Control Flood Risk Management in the Sacramento Valley (Endorsed by SACOG [Sacramento Area Council of Governments] – 4/20/06)." As SAFCA acknowledges, many measures are beyond their authority to implement. EPA notes that the Corps brought this document to our attention in the previously mentioned responses to comments.

Recommendation:

The Corps should request local implementation of land use controls suggested in the white paper, or suitable alternatives. EPA noted the following land use measures from the white paper, which were not discussed in the DEIS:

- require property owners to obtain flood insurance (page 2 and 7)
- ensure that occupants of areas protected by levees have adequate notice or disclosure about the risk of flooding (page 6)
- outline a comprehensive flood risk management program that promotes appropriate land use planning (page 9),
- design urbanizing areas to ensure that there is no net increase in the peak flow of stormwater (e.g. low impact development, see <http://www.epa.gov/nps/lid/>) discharged from the floodplain (page 5).