

## **APPENDIX H**

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Comments and Responses to Environmental Issues



## COMMENTS AND RESPONSES TO ENVIRONMENTAL ISSUES

This appendix contains the comment letters received on the Environmental Impact Statement (EIS) and USACE's individual responses to environmental issues raised in those comments. All comments were considered by USACE and revisions were made to the EIS, as appropriate. Each letter, as well as each individual comment within the letter, has been given a number for cross-referencing. Responses are sequenced to reflect the order of comments within each letter.

A public meeting on the EIS was conducted on July 16, 2008, and public comments were received in writing. A court reporter was available to record public comments; however, no verbal comments were received.

All responses can be considered as part of the EIS. USACE wishes to thank the commenters for taking the time and effort to participate in the public review process.

The following lists all parties who submitted comments on the EIS during the public review period.

<b>Written Comments Received on the EIS</b>		
Letter #	Commenter	Date
<b>Federal Agencies (F)</b>		
F1	U.S. Department of Transportation, Federal Aviation Administration Robin K. Hunt, Manager	7/28/08
F2	U.S. Environmental Protection Agency Kathleen M. Goforth, Manager, Environmental Review Office	8/4/08
<b>Tribal Entities (T)</b>		
	None received	
<b>State Agencies (S)</b>		
S1	California State Lands Commission Gail Newton, Chief, Division of Environmental Planning and Management	7/17/08
<b>Regional Agencies (R)</b>		
	None received	
<b>Local Agencies (L)</b>		
L1	Sacramento County Airport System J. Glen Rickelton, Manager, Planning and Environment	7/28/08
L2	Reclamation District 2035 Hanspeter Walter, Counsel for Reclamation District 2035	7/28/08
<b>Individuals (I)</b>		
I1	Patricia Nealon and Dr. Del Wright	7/16/08
I2	Britt Johnson	7/16/08
I3	Larry Morris	7/16/08

<b>Written Comments Received on the EIS</b>		
<b>Letter #</b>	<b>Commenter</b>	<b>Date</b>
I4	Javed T. Siddiqui, Siddiqui Family Partnership	7/16/08
I5	LaTisha Burnaugh, River Oaks Ranch in Natomas, LLC.	7/20/08
I6	Roland L. Candee	7/24/08
I7	Barbara Walker	7/26/08
I8	Brian Fahey and Lauren Kondo	7/27/08
I9	Melvin Borgman	7/28/08
I10	John W. Norman, Brookfield California Land Holdings	7/28/08
I11	Doug Cummings, President, Garden Highway Community Association	7/24/08

## **LETTER F1**

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U.S. Department of Transportation, Federal Aviation Administration

Robin K. Hunt, Manager

July 28, 2008





U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

Western-Pacific Region  
Airports Division

San Francisco Airports District Office  
831 Mitten Road, Room 210  
Burlingame, CA 94010

July 28, 2008

Elizabeth Holland, Planning Division  
Army Corps of Engineers, Sacramento District  
1325 J Street  
Sacramento, California 95814

Subject: Comments on June 2008 Draft Environmental Impact Statement for 408  
Permission and 404 Permit to Sacramento Area Flood Control Agency for the Natomas  
Levee Improvement Project

Dear Ms. Holland:

The Federal Aviation Administration (FAA) thanks the U.S. Army Corps of Engineers (USACE) for the opportunity to provide comments on the June 2008 Draft Environmental Impact Statement (EIS) for the *408 Permission and 404 Permit to Sacramento Area Flood Control Agency for the Natomas Levee Improvement Project, Sacramento, CA*. The FAA, through the Airport Improvement Program, has provided federal funds for various aviation development activities at the Sacramento International Airport. The proposed flood protection improvements would increase protection of these developments for which federal funds have been expended. The FAA has identified several areas to comment on in the DEIS, and these are discussed below.

Sacramento International Airport is a certificated airport in accordance 14 CFR 139 of the FAA's regulations. As a result of prior 14 CFR 139 inspections at Sacramento International Airport, the airport is required to maintain and implement a Wildlife Hazard Management Plan. The Wildlife Hazard Management Plan represents an ongoing effort by the Sacramento County Airport System to reduce wildlife-aircraft strike hazards and habitat attracting wildlife hazardous to aircraft operations at Sacramento International Airport. Sacramento County's ongoing efforts to reduce wildlife-aircraft strike hazards at Sacramento International Airport would continue regardless of whether the Natomas Levee Improvement Project proceeds.

The DEIS in Sections 2.2.2.2, 2.2.3.2, and 2.2.4.2 states that the Aviation Safety Components for all action alternatives in the DEIS are the same. The action alternatives evaluate the benefits of the project in terms of reduced wildlife hazards to aviation as compared to a No-Action alternative where those habitat remain in rice habitat or fallowed rice fields. As implementation of the Sacramento International Airport Wildlife Hazard Management Plan is an ongoing effort, the EIS should address that the attractiveness of the rice and fallowed rice areas would likely also decrease under the No-Action alternative. This should be reflected in the discussion of the No-Action alternative in the Final EIS, and in comparisons of the benefits of the action alternatives to the No-Action alternative.

The DEIS Section 2.2.2.1, subheading *Managed Grasslands on Land Owned by Sacramento County*, discusses that managed grassland within 10,000 feet of airport runways would be managed primarily to reduce the attractiveness to wildlife hazardous to aircraft safety. Please note that FAA Circular 150/5200-33B, *Hazardous Wildlife Attractants on or Near Airports*, not only recommends a separation distance of 10,000 feet between airports serving turbine-powered (jet) aircraft and habitats that can attract wildlife hazardous to aircraft, but also recommends a separation distance of 5 miles between hazardous wildlife attractants and the edge of an airport's Area of Operations if the attractant could cause hazardous wildlife movement into or across the approach or departure airspace.

F1-2

The proposed borrow areas on airport property identified on Plate 19 are all within 5 miles of the airport and are located in the approach and departure paths. Also, most of the proposed airport borrow areas are within 10,000 feet of the airport Area of Operations. To be consistent with FAA Circular 150/5200-33B, these areas should be managed to minimize their attractiveness to wildlife hazardous to aircraft.

Sacramento International Airport is located on property acquired using a combination of Sacramento County and federal funds and the airport has received federal funding from various FAA Airport Improvement Program federal grants. As a result, Sacramento County is subject to FAA "grant assurances" regarding land use and other activities. The grant assurances require that airport revenue and assets must be used to support aviation purposes. Any agreement between the Sacramento County Airport System and the Sacramento Area Flood Control Agency for use of borrow material or other airport resources must be structured in such a way that Sacramento County remains in compliance with its previous commitments to the FAA regarding grant assurances.

F1-3

Based on the description of the action alternatives in the Draft EIS, it appears that implementation of any of the action alternatives is likely to require one or more FAA approvals. Further discussions between the USACE, the Sacramento Area Flood Control Agency, the Sacramento County Airport System, and the Federal Aviation Administration prior to preparation and issuance of the Final EIS for this project are necessary to advise the USACE and Sacramento Area Flood Control Agency of FAA requirements and approvals that must be obtained before any action alternatives involving airport property could proceed.

F1-4

Please contact FAA Environmental Protection Specialist Doug Pomeroy, telephone, 650-876-2778, extension 612, or e-mail [Douglas.Pomeroy@faa.gov](mailto:Douglas.Pomeroy@faa.gov), if you have questions regarding this letter.

Sincerely,

*original signed by Raymond Chiang for*

Robin K. Hunt  
Manager

cc: G. Hardy Acree, Director of Airports, Sacramento County Airport System

- F1-1 Implementation of the Sacramento County Airport System's (SCAS's) *Airport Wildlife Hazard Management Plan* (WHMP) is an ongoing effort. As part of this effort, the Airport has not renewed its leases for rice production on fields north of the Airport that expired earlier this year, and they are now inactive (see Section 2.2.1, "No-Action Alternative," in the EIS for a revision of this text). The analysis of the effects of the project alternatives on giant garter snake habitat and the mitigation measures that would be implemented to compensate for these effects have been revised to reflect this baseline assumption (see Impact 4.9-c in the EIS for a revision of this text). Specifically, the proposal to create managed marsh habitat on Airport land largely within the 10,000-foot Airport Critical Zone has been eliminated from the project because this would represent a potential increase in wildlife attraction by comparison to the baseline condition.
- F1-2 The discussion in the EIS has been modified to specifically reference the Federal Aviation Administration (FAA) Circular 150/5200-33B and clarify the FAA's regulatory interest in managing wildlife attractants within 5 miles of the edge of the Airport's Area of Operations. This space includes a substantial portion of the Natomas Basin, including areas with competing land uses and management priorities including flood risk management, aviation safety, and habitat conservation. Potential borrow sites within these areas have been identified based on balancing these management priorities and minimizing the cost and environmental effects of borrow haulage activities. As noted in the EIS, within the 10,000-foot Airport Critical Zone, management of the grasslands created by borrow operations would be consistent with the Airport's WHMP.
- F1-3 The Natomas Basin is a levee-protected floodplain with a currently unacceptable risk of flooding. An uncontrolled flood in the Natomas Basin could have catastrophic impacts on Airport facilities and operations. Use of Airport lands for levee construction, irrigation facility relocation, and drainage canal construction is necessary to complete the project in a timely manner and reduce the risk that Airport revenue and assets could be lost or severely damaged by flooding. Use of Airport lands for borrow operations and woodland preservation and creation can be made consistent with grant assurances given by Sacramento County to the FAA that Airport lands will be used to support aviation purposes. The levee and related flood risk reduction facilities would provide direct benefits to the Airport through containment of high flows in the Sacramento River channel adjacent to the Airport. The relocated irrigation canal would permit construction of these facilities without interrupting agricultural activity on private lands near the Airport. Borrow operations on Airport land would result in land-form changes that would facilitate implementation of the Airport's WHMP. The drainage canal would serve as mitigation for decommissioning of the Airport West Ditch that runs through the Airport's Area of Operations and constitutes both a wildlife and operational hazard. The proposed woodland plantings would offset the removal of trees within the levee footprint and would be located entirely outside of the 10,000-foot Airport Critical Zone resulting in a net reduction in the number of trees within that zone.
- F1-4 Comment noted.



## **LETTER F2**

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U.S. Environmental Protection Agency  
Kathleen M. Goforth, Manager, Environmental Review Office  
August 4, 2008





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

August 4, 2008

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

**Subject:** Draft Environmental Impact Statement (DEIS) for 408 Permission and 404 Permit to Sacramento Area Flood Control Agency for the Natomas Levee Improvement Project (CEQ# 20080230)

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. Our comments are provided in accordance with the EPA-specific extension to the comment deadline date from July 28, 2008 to August 5, 2008 granted by you on July 21, 2008. The extension is appreciated.

As currently proposed, EPA is not able to determine whether or not the preferred alternative represents the Least Environmentally Damaging Practicable Alternative (LEDPA). We recommend that no 404 permit be issued without a more definitive demonstration of compliance with the Clean Water Act 404(b)(1) Guidelines. We recommend the final environmental impact statement (FEIS) include additional information to support the conclusion that the preferred alternative represents the LEDPA. Our comments in response to the Public Notice SPK-2007-211 for the proposed Natomas Levee Improvement Project are provided in the attached July 24, 2008 letter from David Smith, Supervisor, Wetlands Regulatory Office, to Colonel Thomas C. Chapman, Sacramento District Engineer.

F2-1

Significant planned growth is proposed for the Natomas Basin. EPA is concerned with the residual flood risk to development in a floodplain protected by levees. We recommend implementation of the proposed Natomas Basin flood safety plan prior to approval of additional development. We also recommend the FEIS describe how Sacramento Area Flood Control Agency (SAFCA) and its members will ensure development does not compromise the flood-damage-and-risk-reduction achievements of this project nor constrain effective flood protection management.

F2-2

We are also concerned with the indirect and cumulative environmental effects of planned development facilitated by this levee project. We recommend SAFCA and its members continue to work closely with the US Fish and Wildlife Service and California Department of Fish and Game 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.

F2-3

Based upon the above concerns, we have rated the DEIS as Environmental Concerns – Insufficient Information (EC-2) (see enclosed “*Summary of Rating Definitions*”). 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 Laura Fujii, the lead reviewer for this project, at (415) 972-3852 or [fujii.laura@epa.gov](mailto:fujii.laura@epa.gov), or me at (415) 972-3521.

F2-4

Sincerely,



Kathleen M. Goforth, Manager  
Environmental Review Office

Enclosures:

Summary of EPA Rating Definitions

Detailed Comments

EPA Letter on Public Notice SPK-2007-211 for the Natomas Levee Improvement Project

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

## SUMMARY OF EPA RATING DEFINITIONS

This rating system was developed as a means to summarize EPA's level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the EIS.

### ENVIRONMENTAL IMPACT OF THE ACTION

#### *"LO" (Lack of Objections)*

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

#### *"EC" (Environmental Concerns)*

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

#### *"EO" (Environmental Objections)*

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

#### *"EU" (Environmentally Unsatisfactory)*

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

### ADEQUACY OF THE IMPACT STATEMENT

#### *Category 1" (Adequate)*

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

#### *"Category 2" (Insufficient Information)*

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

#### *"Category 3" (Inadequate)*

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

\*From EPA Manual 1640, "Policy and Procedures for the Review of Federal Actions Impacting the Environment."

**EPA DETAILED DEIS COMMENTS FOR 408 PERMISSION AND 404 PERMIT TO SACRAMENTO AREA FLOOD CONTROL AGENCY FOR THE NATOMAS LEVEE IMPROVEMENT PROJECT, SACRAMENTO, CA., AUGUST 4, 2008**

**Clean Water Act 404(b)(1) Guidelines**

***Demonstrate compliance with Clean Water Act 404(b)(1) Guidelines.*** EPA is not able to determine whether or not the preferred alternative, as currently proposed, represents the Least Environmentally Damaging Practicable Alternative (LEDPA).

***Recommendation:***

We recommend that no 404 permit be issued without a more definitive demonstration of compliance with the Clean Water Act 404(b)(1) Guidelines. We recommend the final environmental impact statement (FEIS) include additional information to support the conclusion that the preferred alternative represents the LEDPA. Our comments in response to the Public Notice SPK-2007-211 for the proposed Natomas Levee Improvement Project are provided in the attached July 25, 2008 letter from David Smith, Supervisor, Wetlands Regulatory Office, to Colonel Thomas C. Chapman, Sacramento District Engineer.

F2-5

**Residual Flood Risk**

***Implement flood safety plan and ensure development does not compromise project risk-reduction gains.*** The General Plans of the City of Sacramento and Sutter and Sacramento Counties, and the Blueprint for Regional Growth, propose significant urban growth for the Natomas Basin (pps. 5-23 to 5-24). The Natomas Basin would remain subject to a residual risk of flooding after project implementation and future achievement of a 200-year level of flood protection. EPA is concerned with urbanization in a deep floodplain protected by levees, and the exposure of people and property to the residual flood risk.

***Recommendations:***

We commend Sacramento Area Flood Control Agency's (SAFCA) commitment to a Natomas Basin flood safety plan and development fee to address the increase in residual risk as new development occurs in Natomas Basin. We recommend implementation of the flood safety plan as soon as possible and prior to approval of additional development.

We recommend the FEIS describe how SAFCA and its members will ensure existing and future development does not compromise the flood-damage and risk-reduction achievements of this project nor constrain effective flood protection management.

F2-6

***Describe how Smart Growth concepts will be used to reduce the residual flood risk.*** The 2005 Blueprint for Regional Growth integrates smart growth concepts such as higher-density, mixed-use developments and reinvestment in existing developed areas into the regional growth vision (5-26). As an already-built parcel with existing transportation and utility infrastructure, Natomas Basin is assumed as a reinvestment area for future development. While EPA supports smart growth concepts, we remain concerned with the

F2-7

potential indirect and cumulative impacts of development in a floodplain protected by levees.

***Recommendation:***

We recommend the FEIS include specific information on how Smart Growth concepts will be implemented to avoid and minimize residual flood risk to future development and populations, and indirect and cumulative impacts on environmental resources.

F2-7  
Cont'd

**Indirect and Cumulative Effects**

***Ensure the project adheres to the assumptions, goals, and objectives of the Natomas Basin Habitat Conservation Plan.*** Significant urban growth is proposed for the Natomas Basin which would contribute to indirect and cumulative loss in habitat acreage and values, effects on special-status species and sensitive habitats, and an increase in air pollutant emissions (Chapter 5 Cumulative and Growth-Inducing Effects). The project incorporates habitat creation, modification, and preservation components, and preparation and approval of management plans to reduce adverse effects. Given the magnitude of planned development, EPA remains concerned with the potential adverse indirect and cumulative effects of development facilitated by this levee improvement project.

F2-8

***Recommendation:***

We recommend that SAFCA and its members continue to work closely with the US Fish and Wildlife Service and California Department of Fish and Game to ensure this project adheres to, and does not undermine, the underlying assumptions, goals, and objectives of the Natomas Basin Habitat Conservation Plan (NBHCP). We recommend SAFCA continue to refine the project design to avoid and minimize potential impacts to the maximum extent feasible.

***Provide concurrence by the U.S. Army Corps of Engineers that construction of the adjacent setback levee would eliminate the need to remove waterside vegetation.*** The preferred alternative would construct an adjacent setback levee along the Sacramento River east levee to provide adequate freeboard to prevent wind- and wave-induced overtopping (p. 2-20). An objective of constructing an adjacent setback levee would be to move the waterside slope of the levee landward, thus reducing the need to remove 30 acres of mature vegetation on the waterside of the levee in accordance with U.S. Army Corps of Engineers (USACE) levee operation and maintenance requirements (pps. 2-10, 4-41). Waterside vegetation provides important habitat for anadromous fish, Swainson's Hawk, and other sensitive fish and wildlife species.

F2-9

EPA supports efforts to avoid and minimize the removal of mature vegetation on the waterside and landside of the levees. It is not clear in the draft environmental impact statement (DEIS) whether the USACE has concurred with the position that the adjacent setback levee would eliminate the requirement to remove waterside vegetation.

***Recommendation:***

We recommend the FEIS include concurrence by the USACE that construction of the adjacent setback levee would eliminate the need to remove waterside vegetation pursuant to their levee operation and maintenance requirements.

F2-9  
Cont'd

***Consider implementation of Alternative 3 – Adjacent Levee with Setback.*** EPA recognizes that the preferred alternative, Alternative 1 – Adjacent Setback Levee, reduces adverse environmental effects since it theoretically eliminates the need to remove waterside riparian woodland habitat, reduces disruptions to the Garden Highway and local residences, and reduces the urgency of fixing bank erosion sites which would adversely affect waterside habitat. We note that Alternative 3 – Adjacent Levee with Setback would implement the preferred alternative in addition to a setback levee along 1.5 miles of the Sacramento River east levee in Reaches 1 and 2. It appears that Alternative 3 would provide the same environmental benefits as the preferred alternative plus the potential advantage of enhanced habitat along the river within the levee setback area.

F2-10

***Recommendation:***

We recommend the FEIS evaluate whether Alternative 3 may better represent the LEDPA. If determined to be the LEDPA, we recommend implementation of Alternative 3 - Adjacent Levee with Setback given its potential to provide additional environmental benefits.

**Air Quality**

***Aggressively implement all feasible mitigation measures to reduce construction-related emissions.*** Even with proposed mitigation measures, construction-related emissions would result in exceedences of significance criteria for reactive organic gases (ROG) and particulate matter with aerodynamic diameter of 10 micrometers or less (PM<sub>10</sub>) in Sutter County and PM<sub>10</sub> in Sacramento County (p. 4-101). Sutter and Sacramento Counties are in nonattainment for one or more of the state and federal standards for these pollutants (p. 3-56).

***Recommendations:***

In addition to all applicable local, state, and federal requirements, EPA recommends that the following mitigation measures be included in the Construction Emissions Mitigation Plan, if not already proposed, in order to reduce impacts associated with emissions of particulate matter (PM) and other emissions from construction-related activities:

F2-11

***Fugitive Dust Source Controls:***

- Install wind fencing and phase grading operations where appropriate, and operate water trucks for stabilization of surfaces under windy conditions.
- When hauling material and operating non-earthmoving equipment, prevent spillage and limit speeds to 15 miles per hour (mph). Limit speed of earth-moving equipment to 10 mph.

*Mobile and Stationary Source Controls:*

- Reduce use, trips, and unnecessary idling from heavy equipment.
- Maintain and tune engines per manufacturer's specifications to perform at California Air Resources Board (CARB) and/or EPA certification (where applicable) levels and to perform at verified standards applicable to retrofit technologies. Employ periodic, unscheduled inspections to limit unnecessary idling and to ensure that construction equipment is properly maintained, tuned, and modified consistent with established specifications. CARB has a number of mobile source anti-idling requirements. See their website at: <http://www.arb.ca.gov/msprog/truck-idling/truck-idling.htm>.
- Prohibit any tampering with engines and require continuing adherence to manufacturer's recommendations.
- If practicable, lease new, clean equipment meeting the most stringent of applicable Federal or State Standards. In general, only Tier 2 or newer engines should be employed in the construction phase.
- Utilize EPA-registered particulate traps and other appropriate controls where suitable to reduce emissions of diesel particulate matter and other pollutants at the construction site.

*Administrative controls:*

- Identify all commitments to reduce construction emissions, and update the air quality analysis to reflect additional air quality improvements that would result from adopting specific air quality measures.
- Identify where implementation of mitigation measures is rejected based on economic infeasibility.
- Prepare an inventory of all equipment prior to construction and identify the suitability of add-on emission controls for each piece of equipment before groundbreaking. (Suitability of control devices is based on: whether there is reduced normal availability of the construction equipment due to increased downtime and/or power output, whether there may be significant damage caused to the construction equipment engine, or whether there may be a significant risk to nearby workers or the public.) Meet CARB diesel fuel requirement for off-road and on-highway (i.e., 15 parts per million (ppm)), and, where appropriate, use alternative fuels such as natural gas and electric.
- Develop a construction traffic and parking management plan that minimizes traffic interference and maintains traffic flow.
- Identify sensitive receptors in the project area, such as children, elderly, and infirm, and specify the means by which you will minimize impacts to these populations. For example, locate construction equipment and staging zones away from sensitive receptors and fresh air intakes to buildings and air conditioners.
- Consider additional phasing of the project to reduce emissions to below significance thresholds.

F2-11  
Cont'd

### **Climate Change**

#### ***Describe climate change and its effects on the Natomas Levee Improvement Project.***

The potential for climate change is now considered a significant possibility. Current research estimates that climate change could cause sea level rise and change the amount, timing, and intensity of rain and storm events. A significant change in the weather patterns of our region could have important implications for how we manage flood control facilities and the long-term reliability of our levee systems.

F2-12

#### ***Recommendation:***

We recommend the FEIS include a description of climate change and its implications for Natomas Basin flood protection efforts. For example, describe and evaluate projected climate change consequences such as sea level rise, frequency of high intensity storms, and amplified rain events, and their effects on the levees protecting Natomas Basin and the proposed levee improvements.

### **General Comments**

#### ***Describe and minimize energy use. Salvage, recycle, and reuse demolition waste.***

***Obtain a firm, reliable water supply for environmental mitigation measures.*** The proposed action would require energy for construction and generate construction-related waste. In addition, the project design includes managed marsh creation and rice paddy preservation which would require procurement of a firm, reliable water supply of good quality. The DEIS does not appear to describe the project energy use, reuse or recycling of construction-related waste, or the procurement of a mitigation water supply.

#### ***Recommendations:***

We recommend the FEIS evaluate and minimize the proposed action's energy use. Potential measures to reduce energy use should be described in the FEIS.

EPA recommends maximization of resource conservation and pollution prevention in accordance with Executive Order 13148 Greening the Government Through Leadership in Environmental Management. We recommend the project design include the salvage, recycling, and reuse of the construction-related waste. We also recommend new construction maximize the use of materials with recycled content, where appropriate. The following websites provide useful information on pollution prevention, green building, and waste recycling:

<http://www.epa.gov/region09/waste/p2/business.html>

<http://www.epa.gov/opptintr/p2home/index.htm>

<http://www.epa.gov/epaoswer/osw/pubs/recycling.htm>

<http://www.epa.gov/osw/infoserv.htm#other>

We recommend procurement of a firm, reliable water supply for the managed marsh creation and rice paddy preservation be a stated component of the selected project alternative.

F2-13

**U.S. Environmental Protection Agency Rating System for  
Draft Environmental Impact Statements  
Definitions and Follow-Up Action\***

**Environmental Impact of the Action**

**LO – Lack of Objections**

The U.S. Environmental Protection Agency (EPA) review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

**EC – Environmental Concerns**

EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce these impacts.

**EO – Environmental Objections**

EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no-action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

**EU – Environmentally Unsatisfactory**

EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

**Adequacy of the Impact Statement**

**Category 1 – Adequate**

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis of data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

**Category 2 – Insufficient Information**

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses or discussion should be included in the final EIS.

**Category 3 – Inadequate**

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the National Environmental Policy Act and or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

\* From EPA Manual 1640 Policy and Procedures for the Review of Federal Actions Impacting the Environment. February, 1987.



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

JUL 24 2008

Colonel Thomas C. Chapman  
District Engineer  
U.S. Army Corps of Engineers  
Sacramento District  
1325 J Street, 14<sup>th</sup> floor  
Sacramento, California 95814-2922

Subject: Public Notice (PN) SPK-2007-211 for the proposed Natomas Levee Improvement Project, Sacramento County, California

Dear Colonel Chapman:

We have reviewed the subject PN dated July 1, 2008, for the Natomas Levee Improvement Project proposed by the Sacramento Area Flood Control Agency (SAFCA) in northern Sacramento County and southern Sutter County, CA. The proposed project would result in the permanent destruction of approximately 15.15 acres of waters of the United States, including 7.58 acres of wetlands with an additional 69.32 acres of temporary impacts to waters of the US. The following comments have been prepared under the authority of, and in accordance with, the provisions of the Federal Guidelines (40 CFR 230) promulgated under section 404(b)(1) of the Clean Water Act (CWA). These comments are being provided under the circumstances of our current limited staffing. As outlined in these comments, we recommend that no permit be issued without a more definitive demonstration of compliance with the 404(b)(1) Guidelines (Guidelines).

According to the PN, the applicant proposes to improve the Natomas area levee system to provide additional flood protection to the 53,000-acre area. The proposed project is the first phase of the overall Landside Improvements Project and includes work to correct levee freeboard deficiencies and seepage potential along the Natomas Cross Canal south levee, Sacramento River east levee, and the Pleasant Grove Creek Canal west levee, as well as related landscape and irrigation/drainage infrastructure improvements in a portion of the Natomas Basin.

To comply with the CWA 404(b)(1) Guidelines, the applicant must clearly demonstrate that the "preferred" alternative is the Least Environmentally Damaging Practicable Alternative (LEDPA) that achieves the basic project purpose. The Guidelines describe a series of independent tests against which a proposed discharge must be evaluated [40 CFR 230.10 (a)-(d)]. As currently proposed, we cannot determine whether or not the applicant's preferred alternative represents the LEDPA, or complies with many of the other restrictions on discharges.

Analyses of Alternatives -- 40 CFR 230.10(a)

Although the PN does not contain detailed information on the alternatives analysis, it does refer to the EIS entitled "408 Permission and 404 Permit to Sacramento Area Flood Control Agency for the Natomas Levee Improvement Project, Sacramento," which appears to have sufficient information to make a determination of the consistency of the proposed project with this

provision of the Guidelines. While it appears the proposed project is the LEDPA, we encourage the applicant to continue to work closely with the US Fish and Wildlife Service and the California Department of Fish and Game (Wildlife Agencies) to ensure that this project adhere to, and not undermine, the underlying assumptions of the Natomas Basin Habitat Conservation Plan (NBHCP) and protect habitat for the giant garter snake, Swainson's hawk, burrowing owl, and sensitive plant species which the NBHCP is supposed to protect in perpetuity. Many of the detailed concerns are addressed in a letter to SAFCA from the Wildlife Agencies dated October 26, 2007, and we support the efforts of the Wildlife Agencies to address these concerns as they pertain to compliance with the Guidelines.

*Water Quality, Toxic Effluent, and Endangered Species – 40 CFR 230.10(b)*

As you know, this project area is known to support threatened or endangered species and is suitable or critical habitat for listed species. As mentioned above, the NBHCP is a major controlling plan in the matter of wetland and wildlife habitat protection for the Natomas Basin. To be consistent with this section of the Guidelines, SAFCA needs to work closely with the Wildlife Agencies to ensure there is adequate compensation for permanent and temporary impacts to ESA habitat in a manner that is completely consistent with the NBHCP and to the satisfaction of the Natomas Basin Conservancy.

*Minimize Potential Adverse Impacts – 40 CFR 230.10(d)*

Mitigation of project impacts begins with the avoidance and minimization of direct, indirect and cumulative impacts to the aquatic ecosystem, followed by compensatory measures if a loss of aquatic functions and/or acreage is unavoidable. Compensatory mitigation is therefore intended only for unavoidable impacts to waters after the LEDPA has been determined.

The PN states that the applicant will prepare a mitigation plan to offset the permanent loss of 15.15 acres of waters by creating 14 acres of Giant Garter Snake (GGS) canals and 19 acres of irrigation canal according to a Conceptual Mitigation, Management, and Monitoring Plan which is being developed in coordination with the Wildlife Agencies. While the details of this plan have yet to be developed, we encourage the Corps to ensure that adequate compensation will occur for both the permanent and temporary impacts in a manner commensurate with the requirements of the NBHCP.

The draft EIS entitled "408 Permission and 404 Permit to Sacramento Area Flood Control Agency for the Natomas Levee Improvement Project, Sacramento, CA" states on page 210:

"At least 1 acre of irrigation/drainage canal or 1 acre of seasonal wetland shall be created for every acre that is lost. This 1:1 compensation is exceeded in the habitat components of the proposed project design, which includes the following: creation of approximately 45 acres of jurisdictional habitat resulting from construction of the new GGS/Drainage Canal and expansion of the existing West Drainage Canal; creation of approximately 60 acres of new irrigation canal; and creation of 230 acres of managed marsh habitat.

SAFCA shall complete detailed design of habitat creation components and management protocols in coordination with and subject to approval of USACE, USFWS, and DFG. SAFCA shall also enter into agreements with entities responsible for long-term management of created canals and marsh habitats to ensure that performance standards

and long-term management goals will be met and provide assurances of adequate funding for habitat creation and management. Such agreements and funding assurances shall be subject to approval of USACE, USFWS, and DFG.

The PN and the EIS both state that the applicant will compensate for permanent impacts at a ratio of 1:1 (impact to compensation acreage). However, it appears as if considerably more than a 1:1 ratio will be achieved according to the proposal above from the EIS. Provided that these conditions listed in the EIS are adhered to and become special conditions of a 404 permit, we believe that the project should be in compliance with the mitigation section of the Guidelines. As stated above, many of the concerns the Wildlife Agencies have regarding the detailed implementation of compensatory mitigation actions are discussed in the aforementioned letter from them to SAFCA. We stress the importance of ensuring these issues are fully addressed and subsequently incorporated into the permitting process as appropriate.

**Summary**

Given the available information, it appears the proposed project complies with the restrictions on discharges under the Guidelines. We strongly encourage the applicant to continue to work closely with the Wildlife Agencies and your office to ensure that a programmatic, comprehensive approach is developed, with an accompanying mitigation and monitoring plan, to the full satisfaction of all key stakeholders so that the underlying assumptions of the NBHCP are adhered to as these important flood protection measures are put in place in the Natomas Basin.

Thank you for considering our concerns and recommendations. If you wish to discuss this matter, please contact me at (415) 972-3464 or Paul Jones of my staff at (415) 972-3470.

Sincerely,



David Smith, Supervisor  
Wetlands Regulatory Office

cc:

Ken Sanchez, U.S. Fish and Wildlife Service, Region 8, Sacramento  
Jeff Drongesen, CA Department of Fish and Game, Rancho Cordova  
Todd Gardner, CA Department of Fish and Game, Rancho Cordova  
Robert Solecki, Central Valley RWQCB

- F2-1 The EPA 404(b)(1) Guidelines (subpart B) acknowledge that in some cases for actions subject to NEPA where USACE is the permitting agency, the NEPA document prepared may not consider the alternatives in sufficient detail to respond to the requirements of the 404(b)(1) Guidelines. In such cases, the EPA Guidelines recognize the necessity of supplementing the NEPA document with the necessary additional information. A 404(b)(1) Alternatives Analysis has been prepared to supplement the EIS and to support USACE's 404 permit decision. This document includes additional information to support the conclusion that the preferred alternative represents the Least Environmentally Damaging Practicable Alternative (LEDPA). A copy of the 404(b)(1) Alternatives Analysis will be available to EPA for review upon request.
- F2-2 The City of Sacramento and the Counties of Sacramento and Sutter have developed and are administering flood safety plans affecting the Natomas Basin within their jurisdictions. These plans will be updated as additional development in the Natomas Basin is approved.
- Section 5.2.6, "Residual Risk," in the EIS describes SAFCA's ongoing efforts to manage the residual risk of flooding in the Natomas Basin, which would persist even with achievement of a 200-year level of flood protection. As noted in Section 5.2.6, these efforts include providing the state with a safety plan (including a flood preparedness plan, levee patrol plan, flood-fight plan, and evacuation plan). Additionally, SAFCA has implemented a development impact fee program with the objective of avoiding any substantial increase in the expected damage due to an uncontrolled flood as new development proceeds in the floodplain. The revenue generated by the fee program will be used to offset and reduce flood damages.
- F2-3 Chapter 6.0, "Compliance with Other Environmental Laws and Regulations," and Chapter 7.0, "Consultation and Coordination," of the EIS describe the consultation between USACE and SAFCA and the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (DFG) that has taken place in connection with the Natomas Levee Improvement Program (NLIP). Additionally, Impact 4.9-f in the EIS specifically addresses the project alternatives' potential to result in conflicts with the provisions of the Natomas Basin Habitat Conservation Plan (NBHCP). Mitigation Measure 4.9-f helps ensure that the project alternatives would be implemented in a manner that is consistent with and does not jeopardize successful implementation of the NBHCP. The City of Sacramento and the Counties of Sacramento and Sutter will continue to work with USFWS, DFG, and The Natomas Basin Conservancy (TNBC) regarding mitigation for future development that is expected to occur in the Natomas Basin in accordance with the Sacramento Area Council of Government's (SACOG's) Preferred Blueprint Scenario, which includes smart growth principles.
- F2-4 See Response to Comments F2-1 through F2-3, F2-7, and F2-9 through F2-13.
- F2-5 See Response to Comment F2-1.

- F2-6 See Response to Comment F2-2.
- F2-7 This is a local land planning issue and is not in the purview of USACE or SAFCA. Section 5.2.4, “Blueprint for Regional Growth,” in the EIS describes how the Preferred Blueprint Scenario will serve as the framework to guide local government in growth and transportation planning for the next 50 years. The Preferred Blueprint Scenario integrates smart growth principles such as higher-density, mixed-use developments and reinvestment in existing developed areas. A map of the Preferred Blueprint Scenario is shown in Plate 17 in the EIS. Additionally, Section 5.2.5, “State Plan of Flood Control,” in the EIS describes the bond measures approved by California voters in November 2006 and the major bills approved by the California Legislature in October 2007 for flood control system improvements in the Central Valley. Part of the smart growth concept is to protect urbanizing basins such as Natomas to a high degree and minimize the spread of urban development into basins that are primarily agricultural.
- F2-8 See Response to Comment F2-3.
- F2-9 As described in Impact 4.8-a in the EIS, construction of the adjacent setback levee would *substantially reduce* [emphasis added] the need for removal of waterside vegetation to conform with USACE guidance regarding levee encroachments; however, several landside woodland groves and individual trees would require removal to facilitate construction and the setback levee. It is not anticipated, however, that the adjacent setback levee would entirely eliminate the USACE requirement to remove waterside vegetation, as the commenter suggests, because the existing levee will remain part of the engineered levee structure.
- F2-10 USACE has not identified the LEDPA. To represent the LEDPA, Alternative 3 would need to have a lesser adverse impact on environmental resources than Alternative 1.
- See Response to Comment F2-1. The 404(b)(1) Alternatives Analysis prepared for the project considers the potential advantages of enhanced habitat along the Sacramento River within the levee setback area in evaluating whether Alternative 3 may better represent the LEDPA.
- The 404(b)(1) Alternatives Analysis acknowledges that under Alternative 3, the 1.5-mile setback area has a potential environmental benefit associated with allowance for the establishment of riparian vegetation along the Sacramento River within the setback area. The 404(b)(1) Alternatives Analysis also acknowledges that with the potential for establishment of a 500-foot wide corridor of vegetation along the 1.5-mile setback area, Alternative 3 could result in establishment of approximately 91 acres of riparian vegetation over time. However, with construction of the setback levee under Alternative 3, approximately 5 acres of additional rice fields would be affected. Although these rice fields were determined not to constitute jurisdictional waters of the United States, they are still considered habitat for the Federally listed giant garter snake. Although in the overall scope of the project this would not be a substantive difference in the amount of giant garter snake habitat lost, the remainder of the setback area would no longer have potential to become suitable giant garter snake habitat in the future because it would be vulnerable to flooding.

The adverse effects associated with the loss of 5 acres of existing giant garter snake habitat and potential loss of opportunity for establishing giant garter snake habitat, albeit somewhat offset by the potential for establishing additional riparian/shaded riverine aquatic (SRA) habitat in the levee setback area, would constitute a net adverse effect on the aquatic environment. In consideration of the additional 0.02 acre of permanent impacts to waters of the United States and the additional loss of 5 acres of giant garter snake habitat, Alternative 3 would result in slightly greater overall adverse impacts on aquatic resources than Alternative 1.

F2-11 Many of the mitigation measures proposed by the commenter to reduce impacts associated with construction-related emissions are very similar to those included in the EIS (see Mitigation Measure 4.13-a). In some instances, the commenter's proposed mitigation measures are less specific/restrictive than the ones identified in the EIS.

Some measures proposed by the commenter that were not included because they were infeasible include the following:

- Phase the project to reduce emissions below significance thresholds.

The NLIP is phased over several years, as described in Chapter 2, "Alternatives," of the EIS. This measure is infeasible because the nature of the project requires construction to occur during the phased time period identified to avoid impacts to other resources (e.g., endangered species, flood control, and water quality), as well as reducing emissions. This impact would be unavoidable despite an attempt to phase the project over a longer period of time, and would increase the potential and severity of effects on other resources.

- Identify sensitive receptors in the project area and specify means to minimize impacts to these populations.

The project area is rural in nature. Some residential uses would, at times, be within 100 feet of project construction activities. However, construction activities in proximity to any residences would be temporary, and exposure to construction-generated pollutant emissions would be short term (see Impact 4.13-d). In addition, fugitive dust regulations would require the control of dust leaving the project site and reduce effects at off-site receptors. The commenter proposes locating construction staging areas as far away from sensitive receptors as possible. This is not practicable because staging areas are, by the very nature, next to construction sites; not necessary to prevent a significant, adverse effect on sensitive receptors; and increasing the distance equipment would travel each day to reach the work site could have the indirect effect of exacerbating criteria air pollutant emissions, as well as having adverse effects associated with traffic and noise.

F2-12 With respect to river flows and capacity, SAFCA's hydraulic engineering team evaluated the effects of a 3-foot rise in sea levels in the Sacramento–San Joaquin Delta on water surface elevations in the Sacramento River channel at flood stage in connection with SAFCA's Natomas Levee Evaluation Program<sup>1</sup>. The analysis showed that the effects of an increase in sea level attenuated at approximately the town of Freeport, which is approximately 12 miles downstream of the project location.

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<sup>1</sup> Sacramento Area Flood Control Agency. 2008 (October). *Impact of Sea Level Rise on the Natomas Levee Improvement Program Design Water Surface Elevation*. Technical Memorandum prepared by MBK Engineers. Sacramento, CA.

Hydrology of the Sacramento and San Joaquin River system is highly dependent on the interaction between Sierra Nevada snowpack, runoff, and management of reservoirs. Potential changes made to the amount of reservoir space retained for flood storage, retained annual carryover volumes, and other reservoir management factors in response to altered Sierra runoff patterns could substantially alter how those runoff patterns are experienced in the lower Sacramento and American River watersheds. Although changed runoff patterns related to decreasing snowpack are reasonably foreseeable, significant uncertainties remain regarding how those changes may affect flow patterns in the Lower American and Sacramento River watersheds. Runoff patterns in these watersheds depend not just on how climatic conditions might change, but also on a wide range of human actions and management decisions. Given the uncertainty associated with projecting changes in runoff patterns in water bodies at and upstream of the project area, this potential climate change effect is too speculative to reasonably draw a conclusion regarding the significance of foreseeable direct effects on physical conditions at the project site.

F2-13

SAFCA has designed the project in an effort to minimize energy use, recycle and/or reuse materials, and obtain a firm, reliable water supply for environmental mitigation measures. Potential borrow sites were selected, in part, based on a desire to minimize energy use. As described on pages 2-13 and 2-14 of the EIS, preference was given to sites nearest to the construction areas. The use of borrow sites near the construction areas would reduce the potential costs and environmental effects (e.g., air emissions) of hauling material. In addition, scrapers rather than trucks may be used in some instances to move soil material from a borrow site to a construction area when the borrow site is within approximately 1 mile of the point of use, thereby reducing the amount of material handling required and further associated construction costs and air pollutant emissions.

Additionally, SAFCA would reuse aggregate base material and minimize off-site haulage of waste materials.

With respect to a water supply for its proposed mitigation sites, SAFCA intends to operate the proposed mitigation sites in concert with TNBC. SAFCA anticipates a long-term agreement with the Natomas Central Mutual Water Company (NCMWC), similar to NCMWC's agreement with TNBC, for a firm, reliable water supply.

## **LETTER S1**

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California State Lands Commission

Gail Newton, Chief, Division of Environmental Planning and Management

July 17, 2008



**CALIFORNIA STATE LANDS COMMISSION**  
100 Howe Avenue, Suite 100-South  
Sacramento, CA 95825-8202



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July 17, 2008

File Ref: SCH# 2007062016

US Army Corps of Engineers  
Sacramento District  
ATTN; Ms. Liz Holland  
1325 J Street, 10<sup>th</sup> Floor  
Sacramento, Ca 95814-2922

**Subject: Natomas Levee Improvement Program**

Dear Ms. Holland:

The purpose of this letter is to provide you with comments on the Federal Draft Environmental Impact Statement (EiS) for the 403 Permission and 404 Permit to Sacramento Area Flood Control Agency (SAFCA) for the Natomas Levee Improvement Project (NLIP), Sacramento, CA. The State Lands Commission (Commission), which is a Responsible and Trustee Agency, has previously commented on this project during review of the California Environmental Quality Act (CEQA) documents.

By way of background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all people of the State for statewide Public Trust purposes, which include waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation and open space. The boundaries of these State-owned lands generally are based upon the last naturally occurring location of the ordinary high or low water marks prior to artificial influences. On tidal waterways, the State's sovereign fee ownership extends landward to the Ordinary High Water Mark as it last naturally existed. On navigable non-tidal waterways, the State holds fee ownership of the bed landward to the ordinary low water mark and a Public Trust easement landward to the ordinary high water mark, as they last naturally existed. Such boundaries may not be readily apparent from present day site inspections. The State's sovereign interests are under the jurisdiction of the Commission.

There are numerous locations on the Sacramento River where the proposed levee project will encroach onto state sovereign lands waterward of the ordinary high water mark in the bed of the river which are under the jurisdiction of the Commission. A lease will be required for the use of sovereign lands for any portion of the project(s) located waterward of the ordinary high water mark in the Sacramento River.

As part of the levee project, borrow material will be used to construct the new levees. On page 2-11 in section 2.2.2.1 the document discusses the use of borrow material and the process for preserving the topsoil and using the subsoil as suitable material for levee improvement. A provision to test the borrow material prior to placement onto sovereign lands should be incorporated as a mitigation measure, with contingencies should contaminants be discovered. Specifically, prior to construction, a Phase I Environmental Site Assessment (ESA, Phase I) should be required to investigate and possibly analyze the soil from the three borrow sites and one potential borrow site used for the project. Within the EIS, it does not mention initiating or completing an ESA, Phase I. The ESA, Phase I expires 180 days after completion and would require an update if construction is not initiated within the original 180-days in the borrow sites. The ESA, Phase I includes that "all appropriate inquiry into the previous ownership and uses of the property consistent with good commercial or customary practice" as defined at 42 U.S.C. 9601(35) (B) be conducted. The US EPA standard for All Appropriate Inquiry (AAI) is under the AAI rule 40 CFR Part 312. This is consistent with the American Standards for Testing and Materials (ASTM) standards E-1527-05 for ESA, Phase I.

S1-2

If you have any jurisdictional questions, please contact Mary Hays, Public Land Manager, at (916) 574-1812 or by e-mail at [haysm@slc.ca.gov](mailto:haysm@slc.ca.gov). If you have any questions on the environmental review, please contact Chris Huitt at (916) 574-1938 or by e-mail at [huittc@slc.ca.gov](mailto:huittc@slc.ca.gov).

Sincerely,

- Gail Newton, Chief  
Division of Environmental Planning  
and Management

cc: Office of Planning and Research  
State Clearinghouse

C. Huitt, CSLC  
M. Hays, CSLC

**Letter**  
**S1**  
**Response**

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California State Lands Commission  
Gail Newton, Chief, Division of Environmental Planning and Management  
July 17, 2008

S1-1 Comment noted.

S1-2 Mitigation Measure 4.18-b(2) has been modified to specify that prior to ground disturbing activities at borrow sites, Phase I Environmental Site Assessments (ESAs) and, if appropriate, Phase II ESAs shall be completed.



## **LETTER L1**

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Sacramento County Airport System  
J. Glen Rickelton, Manager, Planning and Environment  
July 28, 2008





## County of Sacramento

July 28, 2008

Liz Holland – NLIP Landside DEIS Comments  
Environmental Resources Branch  
U.S Army Corps of Engineers, Sacramento District  
1325 J Street, 10<sup>th</sup> Floor  
Sacramento, CA 95814-2922

**RE: Comment Letter – Draft Environmental Impact Statement  
Natomas Levee Improvements Program (NLIP)  
Landside Improvement Project**

Dear Ms. Holland:

Thank you for the opportunity to review the Natomas Levee Improvement Program (NLIP) Landside Improvements Project Draft Environmental Impact Statement (DEIS). The staff of the Sacramento County Airport System (County Airport System) has reviewed the document, and wishes to convey the comments below. Overall, the County Airport System regards the proposed NLIP as an innovative and comprehensive strategy for protecting lives and property from the risk of flooding, while simultaneously having the potential to enhance habitat resources and reduce wildlife hazards near Sacramento International Airport (Sacramento International or Airport). U.S. Army Corps of Engineers and Sacramento Area Flood Control Agency (SAFCA) is to be congratulated for developing an innovative, balanced approach that addresses interrelated regional goals. Still, the County Airport System does have additional concerns relating to the project:

- Use of Airport Land. County Airport System and SAFCA have been in negotiations as this project relates to the ownership, land use changes and SAFCA mitigation on Airport land. At this time, no agreement for the use of any Airport land as part of the NLIP has been finalized. All elements of the DEIS based on the presumption of an agreement between the County Airport System and SAFCA are premature and must be considered conditional and subject to change until an agreement is reached, approved, and executed.

L1-1

- Project Objectives. There are several places in the DEIS that refer to the Project Objectives (examples include pages ES-1 and 1-4). The second project objective is to “use flood control projects in the vicinity of Sacramento International Airport (Airport) to facilitate changes in the management of Airport lands that reduce hazards to aviation safety.” We suggest this objective would be more appropriately worded as “use flood control projects in the vicinity of Sacramento International Airport to facilitate better management of Airport lands while reducing hazards to aviation safety.”
- Land Use Changes Near Airport. Much of the mitigation provided in the DEIS requires land use changes on Airport land. The governing body of a commercial service airport which operates under the authorization of the Federal Aviation Administration (FAA) cannot commit to land use changes or mitigation measures that have not been approved by the FAA. Changing Airport land at the borrow sites to managed grassland or managed marsh, and increasing densities of existing woodland areas has yet to be formally reviewed, much less approved, by the FAA. That being said, however, our analysis of the proposed NLIP indicates that the project will provide the essential level of flood protection required to keep the airport operating, while simultaneously facilitating a long-term net reduction in land use patterns near the airport which are capable of attracting wildlife hazardous to aircraft operations. The County Airport System has informally discussed the proposed NLIP with the staff of the FAA District and Regional offices, and we are preparing to make a second, formal presentation to FAA management. The County Airport System is committed to working with SAFCA to facilitate the FAA’s expeditious review of the NLIP in the hope that the FAA will concur with the net positive attributes of the proposed project.
- Ownership of Airport Land. In several places in the DEIS (examples include pages 1-8, 2-14, 2-41, 3-65, and 4-127), Airport land is referred to as being owned by the County of Sacramento. While this is in fact the case, Airport property was acquired using a combination of County funds and FAA grants. An airport’s use of FAA grant funding commits that facility to a number of conditions known as “grant assurances.” Airport land therefore has additional requirements with regard to development and acceptable land uses than is the case for other property owned by the County of Sacramento. The NLIP has, however, been developed with the explicit goal of being complementary to the goal of minimizing flood risk and threats to aircraft safety from hazardous wildlife. Based on our analysis, therefore, the County Airport system is hopeful that the FAA will reach the same conclusion.
- Airport Wildlife Strike Rate. In several places (examples include pages 1-8 and 3-65), the DEIS states “The Airport has the highest number of reported wildlife strikes of all California airports.” We suggest that the sentence be reworded to state the Airport is among the highest of California airports with reported wildlife strikes. The FAA does not require all wildlife strikes to be reported therefore the

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database is an unreliable source for determining wildlife strike rates as it relates to California airports.

L1-5  
Cont'd

- New Drainage Canal. In Section 2.2.2.2 (**Aviation Safety Components**), the description of the first element indicates that the primary purpose of the new drainage canal would be to dewater the Airport West Ditch. Later in the document, the purpose of the canal is more appropriately defined and the document indicates that the new drainage canal is necessary due to the existing canal's proximity to the Sacramento River levee, the need for borrow material, and for drainage of all buffer lands as well as the Airport West Ditch. Please revise Section 2.2.2.2 to more accurately define the purpose of the new drainage canal.
- Swainson's Hawk Habitat. Section 2.2.2.3 (**Managed Grasslands on Land Owned by Sacramento County**) discusses the potential for Swainson's hawk foraging habitat mitigation on lands managed by Sacramento County. These areas, where owned by the County Airport System, are considered as "Potential Swainson's Hawk Habitat" and should be identified as such. It is understood that the Swainson's hawk is not subject to federal protections, but the "Potential Swainson's Hawk Habitat" land is of significance for future Airport projects. Additionally, for the reasons noted above relative to required FAA approvals and the airport's own future potential mitigation needs, there is not as yet complete assurance that these lands will be available to SAFCA for Swainson's hawk mitigation.
- Livestock Grazing on Airport Land. On pages 2-16 and 2-17, the DEIS refers to livestock grazing as a management practice for both the managed grassland and managed marshes on Airport land. The County Airport System absolutely will not support this management technique due to it being considered a hazardous wildlife attractant per FAA Advisory Circular AC 150/5200-33B.
- Woodland Plantings. On page 2-18, the DEIS states the woodland sites would be distant from the Airport runways while page 4-131 specifies most woodland plantings would occur outside of the Critical Zone. The County Airport System would prefer all plantings to occur outside of the Critical Zone.
- Incompatible Crops. On page 3-65, the DEIS indicates that the County Airport System considers rice cultivation to be an incompatible agricultural crop within the Critical Zone. This statement, and any others within the DEIS, should be changed to more accurately indicate that the FAA is the entity which develops and promulgates policies with regards to incompatible land uses and crop types within the Critical Zone,<sup>1</sup> and not any particular airport governing body. As such,

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<sup>1</sup> The Critical Zone is a 10,000-foot radius from the centerline of a runway for commercial airports that serve turbine-powered (jet) aircraft.

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|--|-----------------|
| rice preservation within 5 miles of the Airport will be a potential concern to the FAA.  | L1-10<br>Cont'd |
| <ul style="list-style-type: none"><li>• <u>FAA Advisory Circular 150/5200-33A</u>. In Section 3.3.2.2 (<b>Airport Plans and Regulations</b>), the reference of FAA Advisory Circular 150/5200-33A should be updated to 150/5200-33B. Advisory Circulars are not law or regulation for most airports, but airports who receive FAA grant funding should follow their guidance to ensure they remain in compliance with FAA grant assurances. These hazardous wildlife attractants should be minimized out to 5 miles from the airport's operating area.</li></ul>   | L1-11           |
| <ul style="list-style-type: none"><li>• <u>Mitigation Measure 4.18-b(1) – Former Yuki Pear Orchard</u>. The County Airport System has not determined a timeline for removing contaminated groundwater or soils, if any, at the site of the former Yuki pear orchard. (This 90-acre parcel located between Garden Highway and the Airport west perimeter fence was leased to a tenant farmer for a number of years.) The County Airport System does not contemplate any airport-related development at the site in the foreseeable future that would require hazardous material investigations or removal. SAFCA may wish to undertake studies to characterize any soil or groundwater contamination that may be present. If the presence of contaminants is detected, SAFCA and the County Airport System will cooperatively resolve the situation.</li></ul>                    | L1-12           |
| <ul style="list-style-type: none"><li>• <u>Aircraft Safety Hazard During Construction</u>. Impact 4.18-c (<b>Aircraft Safety Hazards Resulting from Project Construction</b>) and Mitigation Measure 4.18-c (<b>Coordinate Work in the Critical Zone with Airport Operations</b>) should include the submission of FAA Form 7460-1. While the County Airport System and SAFCA have coordinated with the FAA and intent to submit FAA form 7460-1 has been expressed by SAFCA, submission of these forms remains to be completed. This form should be completed for any project conducted on airport property or in the vicinity of an airport where project construction may penetrate into the runway safety area or interfere with aircraft arriving or departing. The FAA may provide additional requirements beyond the mitigation measures described in the DEIS.</li></ul> | L1-13           |
| <ul style="list-style-type: none"><li>• <u>Floodplain Storage</u>. In Impact 4.18-d (<b>Potential to Result in Higher Frequency of Collisions between Aircraft and Wildlife at Sacramento International Airport</b>), the reference to floodplain storage issues in relation to the planned surface parking lot south of Interstate 5 (page 4-130) should be removed. The County Airport System has already obtained floodplain storage for this proposed lot.</li></ul>   | L1-14           |
| <ul style="list-style-type: none"><li>• <u>Wildlife Hazard Management</u>. Under Mitigation Measure 4.18-d (<b>Implement Measures to Avoid Substantial Increases in Hazardous Wildlife within the Critical Zone or Wildlife Collisions with Aircraft</b>), appropriate measures</li></ul>  | L1-15           |

should be addressed in the event project elements are later determined to have increased wildlife attraction and hazards to aircraft at Sacramento International once the project is completed. Measures to be considered include SAFCA hiring a full-time wildlife hazard biologist to minimize hazardous wildlife usage, allow access and wildlife control by Airport staff, and coordination with Airport staff to monitor and minimize wildlife attraction through habitat modification and management. Costs associated with all such measures should be the responsibility of SAFCA.

L1-15  
Cont'd

- Airport Land in Agricultural Production. Page 5-9 the DEIS indicates that development of many of the facilities contemplated in the Airport Master Plan would occur on land historically in agricultural production. This is incorrect; only a small portion of the planned facility improvements will be on land historically in agricultural production. The majority of the contemplated Master Plan components are located within the existing airfield and "landside" portions of the Airport.
- Creation of Wetlands. As per the FAA Advisory Circular AC 150/5200-33B, the FAA strongly opposes wildlife attractants, such as the creation of wetlands, within the Critical Zone and within 5 miles to protect the approach, departure and circling airspace. The creation of managed marsh for SAFCA mitigation on Airport property could be a concern to the FAA. Such uses, i.e. creation of wetlands, on Airport land is subject to FAA review and approval.

L1-16

L1-17

Again, the County Airport System appreciates the opportunity to review and comment on the Draft EIS for the Natomas Levee Improvement Program, Landside Improvements Project. We look forward to working with SAFCA to facilitate the NLIP. Please contact me at 916-874-0482 should you have any questions regarding our comments.

Sincerely,



J. Glen Rickelton  
Manager  
Planning and Environment

C: Terry Schutten, County Executive  
G. Hardy Acree, Director of Airports  
Lisa J. Stanton, Airports Chief Administrative Officer  
Diane E. McElhern, Deputy County Counsel  
Greg Rowe, Senior Environmental Analyst – Airport Planning and Environment



- L1-1 Comment noted.
- L1-2 The suggested project objective of using flood control projects located in the vicinity of the Sacramento International Airport (Airport) to facilitate better management of Airport lands is consistent with SAFCA's approach to the project. The text of this project objective has been modified accordingly.
- L1-3 SAFCA continues to coordinate with Airport staff to provide sufficient information regarding changes in the management and use of lands surrounding the Airport. FAA's approval of land use changes associated with the project is an essential step in the project planning and environmental review process. FAA has indicated that such an approval will be tied to a determination that these land use changes are needed to support aviation purposes as discussed in Responses to Comments F1-1 and F1-3.
- L1-4 Comment noted. SAFCA continues close coordination with Airport staff to ensure Airport lands will be managed consistently with FAA requirements.
- L1-5 This sentence has been modified accordingly.
- L1-6 Section 2.2.2.2 of the EIS has been modified accordingly.
- L1-7 This section has been deleted because the proposal to create managed marsh on Airport land has been eliminated from the project.
- L1-8 This discussion has been modified accordingly.
- L1-9 The following referenced statements in the EIS are correct:
- Priorities for woodland site selection would be to have tall tree species in groves adjacent to hawk foraging fields but distant from the Airport runways (EIS page 2-18).
- No tree plantings are proposed in the vicinity of the north and south runway approaches, and most plantings would occur outside the Critical Zone (EIS page 4-131).
- Plate 20b in the EIS depicts the proposed locations for woodland plantings. Most woodland plantings would occur in Sutter County, north of the Airport's Critical Zone. Some woodland plantings, however, would occur on properties that SAFCA would acquire and that are within the Critical Zone (along the Sacramento River east levee). As discussed in the EIS, these woodland plantings would mitigate the loss of Swainson's hawk nesting habitat.
- L1-10 This sentence has been modified accordingly.

- L1-11 The references to the FAA Advisory Circular have been updated.
- L1-12 Comment noted.
- L1-13 Mitigation Measure 4.19-a (formerly Mitigation Measure 4.18-c in the EIS) has been modified to include submission of FAA form 7460-1.
- L1-14 The sentence referencing the floodplain storage issues in relation to the planned surface parking lot has been deleted.
- L1-15 Given the design and function of the project elements that would be located on Airport land, as described in Response to Comment F1-3, it is highly unlikely that the project will increase wildlife attraction and hazards to aircraft at the Airport compared to existing conditions. Therefore, consideration of additional measures to further reduce wildlife hazards appears unwarranted.
- L1-16 The text has been corrected to indicate that lands within the existing airfield and other portions of the Airport have not been in agricultural production in the recent past.
- L1-17 The proposal to create managed marsh on Airport land has been eliminated from the project.

## **LETTER L2**

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Reclamation District 2035

Hanspeter Walter, Counsel for Reclamation District 2035

July 28, 2008





HANSPETER WALTER  
hwalter@kmtg.com

July 28, 2008

**VIA E-MAIL AND U.S. MAIL**

Ms. Elizabeth Holland  
Planning Division  
U.S. Army Corps of Engineers, Sacramento District  
1325 J Street  
Sacramento, CA 95814  
Email – Elizabeth.G.Holland@usace.army.mil

Re: *Comments on EIS for Natomas Levee Improvement Project*

Dear Ms. Holland:

This letter provides comments from Reclamation District 2035 (“RD 2035”) regarding the Army Corps of Engineers’ (“Corps”) compliance with the National Environmental Policy Act (“NEPA”) for the Natomas Levee Improvement Project, which is proposed by the Sacramento Area Flood Control Agency (“SAFCA”). NEPA’s central requirement is that federal agencies must, except in certain qualifying situations, complete a detailed environmental impact statement (“EIS”) for any major federal action significantly affecting the quality of the human environment. 42 U.S.C. § 4332(2). The current EIS is legally deficient for numerous reasons explained below. Consequently, the Corps should not approve this action until it prepares and recirculates a legally sufficient EIS addressing the identified inadequacies.

RD 2035 previously submitted NEPA scoping comments to the Corps regarding this action (attached as Exhibit 1). Also, RD 2035 provided a detailed comment letter to SAFCA during the California Environmental Quality Act (“CEQA”) review process for both its landside and bankside improvements (attached as Exhibit 2). Because many of the previous CEQA issues are applicable to the Corps’ NEPA review, RD 2035 incorporates its previous CEQA comments to the extent they apply to the Corps’ NEPA requirements for this action.

**I. Reclamation District 2035**

RD 2035 was formed in 1919 to provide levee maintenance and drainage services to approximately 20,500 acres of land in Yolo County near the City of Woodland. RD 2035 is a local public entity that has legal authority and jurisdiction under Water Code section 50000 *et seq.* to implement flood control programs and projects that reconstruct, replace, improve, or add to facilities as defined in Public Resources Code section 5096.805(j). RD 2035’s service area

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includes the Conaway Ranch property. The Conaway Ranch covers over 17,000 acres on the west side of the Sacramento River between the cities of Davis and Woodland. Approximately 40 percent of the Ranch is located within the Yolo Bypass and the remainder lies west of the bypass. Both RD 2035 and the Conaway Preservation Group, LLC, which manages the Conaway Ranch, are actively involved in encouraging and seeking solutions to the region's flood problems while conserving open space, agriculture, and rural and environmental values.

## II. The EIS Improperly Piecemeals Environmental Review

RD 2035's scoping comments indicated that SAFCA had divided its CEQA environmental review process into numerous phases and analyzed them in various, separate documents. This was a confusing approach that also failed to disclose and analyze the true environmental effects of the overall program. To avoid similar obfuscation, RD 2035 requested that the Corps provide a NEPA analysis of the whole action. Despite our scoping comments, the Corps has failed to perform this comprehensive analysis and disclosure, and instead has followed SAFCA's lead in presenting an abbreviated and cursory analysis of only a small part of the overall federal action, specifically the granting of permits for only a portion of the overall action. This type of analysis is prohibited by NEPA, and renders the EIS deficient.

The Council on Environmental Quality's (CEQ) regulations implementing NEPA require that an agency consider the effects of "connected actions" within a single EA or EIS. 40 C.F.R. § 1508.25. Effects, for the purposes of the NEPA regulations, "include: (a) [d]irect effects, which are caused by the action and occur at the same time and place," and "(b) [i]ndirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable." 40 C.F.R. § 1508.8. Actions are connected if they: (i) Automatically trigger other actions which may require environmental impact statements, (ii) Cannot or will not proceed unless other actions are taken previously or simultaneously, or (iii) Are interdependent parts of a large action and depend on the larger action for their justification. 40 C.F.R. § 1508.25(a)(1). (See, e.g., *Blue Mountains Biodiversity Project v. Blackwood*, 161 F.3d 1208, 1211 (9th Cir.1998), *cert. denied*, 527 U.S. 1003 (1999).)

That the federal permitting for SAFCA's proposed levee work in Natomas is part of one, connected federal action is beyond dispute. The EIS admits that "[t]he NLIP Landside Improvements Project and the NLIP as a whole are part of a larger program of improvements to the flood control system protecting the Sacramento Area that was initiated as part of the American River Watershed Investigation (ARWI) following the record flood of 1986." (EIS at 1-10) Importantly, the EIS states, "[t]reatment of bank erosion is not an element of the Landside Improvements Project but is a part of SAFCA's overall NLIP." (EIS at 1-7) These are overt admissions that the action analyzed in the EIS is only a segment of the whole action. While the

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flood protection improvements at Folsom Dam may not need explicit analysis in this EIS, the EIS must analyze at a project-specific level the integrally related construction activities on both sides of the same Natomas levees and also include actions that will be taken over the next three years as part of one federal action.

There is other evidence that the EIS analysis is improperly segmented. For instance, the modeling for the EIS included all bankside and landside improvements that SAFCA proposes. Appendix A explains that “[t]he With Project condition adds the improvements proposed as part of the NLIP to the Without Project condition.” (EIS Appx. A at 5) Furthermore, just as the public review period for this EIS closes, the Corps and SAFCA are preparing yet another review document on similar actions to be carried out next year (see Exhibit 3). All of these activities should have been analyzed in one document as one action. Also, the EIS indicates that the Corps is consulting with both the Fish and Wildlife Service and National Marine Fisheries Service, which indicates that both bankside and landside effects are being considered. Did the Corps prepare numerous Biological Assessments for its ESA compliance for this activity or only one? If only one BA was prepared, then the Corps’ preparation of numerous NEPA documents would seem inappropriate given the fact that both NEPA and the ESA define the scope of the agency action under review similarly.

Even though the Corps anticipates having to issue numerous permits over the next few years, the Corps must analyze the effects of all the future actions it will take regarding SAFCA’s Natomas Levee Improvements and provide analysis of the direct and indirect effects of such actions. It is improper to analyze only the granting of a permit for one phase of the landside improvements. Neither the landside nor bankside activities proposed by SAFCA are independent because SAFCA cannot achieve its goal of flood protection for Natomas without fully implementing all of these actions. The same goes for SAFCA’s alleged phases of implementation.

The fact is that SAFCA is embarking on one large project that has many components that will take several years to complete because of the sheer magnitude of SAFCA’s endeavor. But in reality the action is nothing but a complicated construction project consisting of a connected series of levee fixes. There is no fundamental difference or distinction between any of the proposed actions justifying tiering or segmenting the NEPA analyses. Mere urgency is not a sufficient justification for the Corps to segment NEPA analysis.

The improper segmentation of the action precludes meaningful site-specific analysis of the whole action in this EIS. This flaw infects virtually all of the impact analysis sections

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Cont'd

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because each section does not analyze the impacts of the whole action.<sup>1</sup> The Corps must perform a full, site-specific analysis disclosing specific details of all parts of the action for the next three years, and addressing their environmental effects.

L2-1  
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### **III. The Corps Must Evaluate the Threat of Increased Erosion to the Sacramento River's West Levees**

In its previous CEQA documents, SAFCA did not classify slight adverse changes in river hydraulics or to flows in the Yolo Bypass as significant impacts. RD 2035 commented that this was improper considering that the west side Sacramento River and Yolo Bypass levees are already under great stress in flood events, making any change to the hydraulics or river elevation significant. Indeed, the catastrophic consequences of a levee failure on any stretch of the Sacramento River leave no room for further increases in river elevation.

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Regarding project impacts to river velocity and flow, SAFCA stated that "[s]ome slight increase in scour would result from the increased velocities that could result in surface erosion of exposed soils on the berm areas where vegetation was removed." (Bank Protection Project DEIR at 7-7). The EIS, however, does not evaluate the impacts of the scour from increased flows and determine whether this will increase maintenance costs on the Sacramento River west levees. Similarly, the EIS does not evaluate the total cubic volume of fill that SAFCA intends to add to the Sacramento River for all the Natomas levee improvements. The EIS must evaluate these issues and discuss possible mitigation for these effects.

### **IV. The Corps Must Evaluate the Threat of Underseepage and Overall Levee Stability**

In its NEPA scoping letter, RD 2035 commented that none of SAFCA's modeling for its CEQA documents analyzed the threat of underseepage or levee instability, and that the Corps should provide such information in its EIS. Unfortunately, it appears that the Corps has not performed this evaluation, but instead relied on SAFCA's incomplete modeling. For the same reasons previously discussed in our NEPA scoping and CEQA comment letters, the Corps must provide details of the stability and underseepage risk of the Natomas levees versus those across the Sacramento River. Without such information, it is unproven that SAFCA's projects will not affect the flood risk to the opposite levees, and the EIS's conclusions regarding the effect on flood risk to Yolo County are unfounded.

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<sup>1</sup> When applicable, RD 2035's remaining comments are directed at the effects of the entire levee improvement project and not the artificial description provided in the EIS.

**V. The Corps Should Utilize Its Probabilistic Modeling Method, or Fully Discuss the Limitations of SAFCA's Model**

In its scoping comments, RD 2035 urged the Corps to conduct its own, independent modeling and develop its own assumptions and modeling inputs. The EIS appears to underscore this comment in its candid disclosure that:

SAFCA's approach to defining level of protection (system performance) differs from that of the USACE. References in this document to levels of protection are based on SAFCA's deterministic approach (the current FEMA method) and should not be taken as USACE concurrence that such levels will be achieved when the USACE probabilistic approach is utilized to define system performance. (EIS at 1-4)

This text discloses a difference between SAFCA and the Corps' flood risk modeling, but it does not provide full disclosure as to what this potential difference means to the NEPA analysis. Given this difference, it is unclear why the EIS adopts SAFCA's project objective of 100-year protection based on the SAFCA model, not the Corps model. The Corps should determine its own objective for the action, or alternatively convert the SAFCA objective into its modeling method. To accurately inform the public, the EIS needs to include these details.

Even if adopting SAFCA's modeling method were appropriate, the EIS must also explain how accurate and precise the UNET model used in this analysis is in detecting slight river and bypass elevation changes, or other metrics like river velocity and erosion or scouring potential. For instance, the EIS should explain the confidence interval surrounding the model's results and what statistical methods were employed to assess the model's results. Without such information, the EIS does not provide the public with a reasoned explanation of how it can rely on SAFCA's model to assess flood risks on either side of the Sacramento River before issuing permits for such actions.

**VI. The Yolo Bypass Improvement Alternative Was Arbitrarily Rejected From Detailed Consideration**

The EIS should not have eliminated the Yolo Bypass Improvement Alternative from consideration without detailed analysis. The EIS explains that this measure was eliminated because it would cost \$700 million and because it would not correct freeboard deficiencies and underseepage and through-seepage conditions in Natomas levees. (EIS at ES-6) However, the EIS also reveals that improving the Yolo Bypass:

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[C]ould reduce water surface elevations in the Sacramento River channel during very large floods (100-year or greater) by as much as 3 feet at the mouth of the Natomas Cross Canal (NCC) declining to about 0.5 feet downstream of Interstate 5 (I-5). This would reduce the extent of the levee raising and seepage remediation work that is needed along the NCC south levee, the Sacramento River east levee, and the Pleasant Grove Creek Canal (PGCC) west levee. (EIS at 2-1)

Therefore, improvements to the Yolo Bypass would reduce flood risk to a large portion of the region and would also reduce the amount of work necessary on the Natomas levees, especially freeboard deficiencies. This increase in regional flood protection would provide a much better economic return, in terms of reducing flood damage risk. It would also save money by reducing construction and operation and maintenance costs, and also avoid unnecessary environmental impacts, and the use of additional resources such as borrow material. For these reasons, a Yolo Bypass Improvement and the reduced construction required on the Natomas levees should be evaluated in full. Further justifying this request is the EIS's admission that:

On a long-term basis, however, regionally oriented improvements to the Yolo and Sacramento Bypass systems would help to address potential changes in hydrology due to climate change and would reduce the risk of uncontrolled flooding on a system-wide basis. . . . [R]educing [flooding] frequency by increasing the conveyance capacity of the SRFCP would avoid the cost of repairing and reconstructing damaged levees and other public infrastructure. . . ." (EIS Appx. A at 16)

To support its rejection of the alternative, the EIS states that "this measure would require an unprecedented degree of State, Federal, and local cooperation and funding, and therefore would not meet the project objective of providing 100-year flood protection to the Natomas Basin as quickly as possible." (EIS at 2-2) But this statement ignores the fact that there is already an unprecedented amount of State and Federal cooperation and that a system-wide solution such as the Yolo Bypass Improvement is already at the door through the State's FloodSAFE effort. Has the Corps adopted SAFCA's objective to rush to complete this project as quickly as possible? RD 2035 urges the Corps not to rush because regional, longer-lasting, and better solutions are imminently forthcoming.

Also, if the Corps has adopted SAFCA's "urgency" argument, then the EIS must fully explain the risk of flooding in Natomas next year or the year thereafter, and the EIS must quantify the difference in risk, if any, between this rushed project and the forthcoming comprehensive, system-wide flood fix. The fact is that State and Federal reservoirs are at extremely low levels and the risk of flooding in the next several years is low. Therefore, it is

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particularly inappropriate and illogical for the EIS to use the fear of imminent flooding to foreclose rational decision-making.<sup>2</sup> As the world's premiere environmental planning and policy enactment, NEPA is precisely the tool whereby the public and decision-makers should be apprised of the full array of options. The Corps' own regulations and internal policies also call for a more thorough and comprehensive approach than SAFCA appears to be pursuing.

The EIS also cites the cost of the Yolo Bypass Improvement as a factor making it infeasible, but the EIS does not provide any explanation or details. If cost is a limiting factor, then the EIS must explain how much money the Yolo Bypass Improvement could save by obviating the need for certain improvements to levees surrounding Natomas, in addition to including other economic variables. It must also disclose the full source of funding anticipated for the Natomas project to establish that those funds could not be redirected toward the Yolo Bypass Improvement. Please provide such details in the Final EIS. Without such disclosure, the EIS's naked conclusions are unsupported by evidence and therefore arbitrary.

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#### **VII. The Corps and SAFCA Should Integrate Their Activities With the FloodSAFE Strategic Plan**

RD 2035 believes that current State bond funding and anticipated Federal appropriations for flood control, in addition to SAFCA's own bond funds, are more than sufficient to implement the Yolo Bypass Improvement and the reduced Natomas levee improvements that would still be required under that alternative. However, SAFCA's project threatens to divert State and Federal money from being used to implement a comprehensive solution to the flood threat facing the Sacramento Valley. The Corps and SAFCA should be integrating their activities with the State's current plan to develop a system-wide solution (i.e., FloodSAFE). This is especially so in light of the fact that the proposed action already seems predicated on cooperation from the State and Federal governments. For instance, the EIS explains that:

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SAFCA's early implementation project is running ahead of the GRR submittal date with the expectation that the perimeter levee improvements that are constructed in advance of any Congressional action on the GRR will be found to be consistent with the recommendations contained in the GRR. On that basis, SAFCA anticipates that the non-Federal costs incurred in the early implementation project could be credited against the remaining non-Federal share of the cost of the enlarged Common Features Projects. (EIS at 1-13)

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<sup>2</sup> The desire for quick implementation is also no justification for segmenting the NEPA review.

Thus, SAFCA is proceeding with the assumption of being reimbursed by the Federal government. However, "Federal participation in the project will require additional action by Congress based on the results of the GRR as discussed above." (EIS at 1-3) Therefore, the EIS should also assume that a comprehensive flood solution for the region is forthcoming.

The EIS claims that SAFCA's project and this action are entirely consistent with the State Plan of Flood Protection (EIS at 5-30-31), but this is not accurate. Historically, the Natomas Basin was a deep floodplain that stored flood flows, reducing river flows by some amount. Conservation of some of that historic flood storage may be essential to the State's overall flood plan. However, by investing in protecting the entire Natomas Basin and rejecting further analysis of the Natomas Cross Levee alternative, for example, the proposed action likely forecloses consideration of maintaining a portion of the Natomas Basin as a floodplain to help alleviate stress on the levee system during periods of peak flood flows.

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For these reasons, RD 2035 believes that a comprehensive solution to the Sacramento Valley's flood problems is the best approach. Such a solution would provide the most benefit to the most people, make best use of public funds, and allow environmental and economic considerations to be fully and properly considered. However, through this EIS, the Corps is following SAFCA's lead in abandoning that comprehensive vision, and not abiding by NEPA's mandate to provide the public and decision-makers with full disclosure of the options available to protect Natomas from flooding and the environmental consequences of each.

#### **VIII. If The Corps And SAFCA Increase The Flood Risk To Yolo County, Then They Must Mitigate The Increased Risk**

The SRFCP is a comprehensive flood control system designed by the Federal and State governments. All the levees in the system are owned by the Federal or State government. If the Corps and SAFCA, with the cooperation of the State and Federal governments, choose to expend huge amounts of money on only a small portion of the system, then any risk transferred to other portions is the responsibility of the State and Federal governments. The Corps and SAFCA appear to be making a de facto policy choice to neglect and essentially flood the Yolo County side of the Sacramento River instead of improving both sides of the river in a coordinated fashion. If this is the new policy, then the EIS should expressly acknowledge it.

L2-7

The EIS attempts to explain that "the SRFCP is not intended to provide a uniform level of flood protection . . . to various sub-basins within the protected area." (EIS Appx. A at 3) It also states that "each sub-basin's flood protection is dependent on the fitness of its own levees and not on the condition (or failure) of any other sub-basin's levees. Accordingly, each sub-basin has the right to keep its levees in the fittest possible condition." (EIS Appx. A at 3) These

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statements, even if true, are inappropriate NEPA thresholds of significance. Please describe where these general principles of the SRFCP are formulated or located. Also, please explain what level of flood protection the portion of Yolo County west of Natomas is entitled to under the SRFCP principles of operation.

RD 2035 believes that the SRFCP was designed to provide system-wide flood protection and to protect both sides of the Sacramento River near Natomas equally. Furthermore, flood risk is an environmental effect that the EIS must discuss, instead of discounting. While government can make a policy choice to increase the risk of flooding, or the depth of flooding, in a particular area, such decisions cannot be done without an evaluation of the environmental effects (here flood risk) and discussion of compensation or other mitigation. The EIS acknowledges this in its discussion of the Reduced Natomas Urban Levee Perimeter, where the alternative is rejected, in part, because it “would cause floodwaters north of the cross levee to be considerably deeper than they would be without the cross levee, and that either flowage easements would need to be acquired on all lands in the basin north of the cross levee or a weir and pumping facilities would need to be constructed to facilitate evacuation of floodwaters.” (EIS at 2-2) This same principle applies here, thus the EIS must discuss ways to compensate or mitigate the impact of local, State, and Federal agencies deliberately choosing to fund a project that increases the flood risk on the Yolo County side of the Sacramento River instead of using the available funding and political resources to design a comprehensive, system-wide flood solution for both sides of the Sacramento River.

L2-7  
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#### **IX. Increasing Risk To Yolo County May Violate Environmental Justice Mandates**

The EIS must comply with Executive Order 12898 and identify the disproportionate placement of adverse environmental and social consequences from Federal actions or policies on minority and low-income populations. The policy here of approving permits to improve the Natomas levees while increasing the flood risk to the opposite side will disproportionately affect agricultural regions and portions of Woodland, Yolo County, or Sutter County, which may implicate environmental justice issues. The EIS completely ignores this possibility and provides no analysis of any potential disparity between protecting Natomas and subjecting portions of Yolo County and Sutter County to increased flood risk. The Final EIS should include this consideration.

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#### **X. The EIS Must Provide More Detail Regarding the Operation And Maintenance of the Natomas Levees**

The levees will require continual maintenance to provide all the benefits claimed in the EIS, but the EIS provides insufficient detail to understand how continued maintenance of the

L2-9

levees will be achieved in the future. A proper explanation of long-term maintenance is crucial to describing and analyzing the proposed action because without proper maintenance of the levees, additional environmental impacts may occur and the supposed flood risk reductions may not be realized. Thus, the responsibility for maintenance is a vital aspect of the description of the action and has direct bearing on the NEPA analysis, and any Federal cost-benefit analyses. The EIS states:

SAFCA would be responsible for the design and construction of all levee improvements . . . [h]owever, once these project features are completed, most of the land or land management responsibility would be conferred by SAFCA to the other management entities described below. Memoranda of agreement, land ownership transfers, or management endowments and contracts would be used by SAFCA to transfer land management responsibility to the appropriate public agency or nonprofit land management organization. At the end of the project construction period, all project lands would be in public ownership and/or would be under the permanent control of a natural resource conservation entity. (EIS at 2-41)

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Will SAFCA own the levees after completing the proposed action? Does the term “project lands” include the levees? By use of the term “confer,” does this EIS passage indicate that SAFCA will transfer ownership of the Natomas levees to local entities? Will such transfers affect the State and Federal plans for a comprehensive flood control system? How will SAFCA or the Corps ensure that these local entities continue to maintain the Natomas levees? To justify its conclusions regarding flood protection and environmental effects, the EIS must provide these details.

## XI. Other Issues

The EIS analysis is also lacking in several other respects described below:

Climate change – The EIS does not appear to adequately consider climate change effects on river hydrology. The EIS also fails to consider the contribution of greenhouse gases from the urban growth in Natomas that will be an indirect effect of the action, and which will not occur without approval of this action.

L2-10

Growth Inducing Effects – The EIS states that essentially no growth will occur without the Corps granting a permit because the Natomas basin will be mapped as a FEMA floodplain, rendering new building economically unviable. However, the EIS does not include a sufficient analysis of all the direct and indirect effects of growth directly attributable to the Corps’

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proposed permitting action. Instead, the EIS tries to point to other state or local land use plans and laws, but these are not substitutes for NEPA analysis. The impacts of, and potential mitigation for, the reasonably foreseeable growth in Natomas that this action will essentially cause must be evaluated in more detail by the EIS. This urbanization will likely cause many changes that will have significant effects to a wide variety of resource categories. The impacts of these effects (i.e., development in the floodplain) on the giant garter snake must be considered in the EIS and in the Corp's ESA section 7 consultation on the action because the Natomas Basin HCP did not include a large area of the basin that will be open to development if the entire basin is protected, and because the HCP does not satisfy the Corp's Section 7 obligations.

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Stormwater Runoff – The EIS should evaluate the cumulative anticipated increase in stormwater runoff caused by the urbanization of farmland in Natomas from the growth allowed by this Federal action.

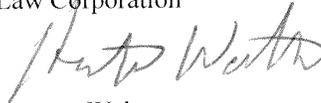
L2-12

## XII. Conclusion

For the numerous reasons discussed above, the EIS must be significantly revised and should thereafter be recirculated for public review. RD 2035 remains interested in working with SAFCA and the Corps to resolve regional flood control issues and to develop comprehensive flood protection for the region. RD 2035 also supports flood protection for urbanized areas such as Natomas, but not without assurances that such actions will not affect the current and future flood risks to RD 2035. RD 2035 appreciates the opportunity to provide the Corps with comments, and will gladly work with SAFCA and the Corps to resolve the issues raised in these comments. If more clarification or other information is needed regarding these comments, please contact me at (916) 321-4500.

Sincerely,

KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD  
A Law Corporation



Hanspeter Walter

HW/dg  
Enclosures

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# **EXHIBIT 1**



HANSPETER WALTER  
hwalter@kmtg.com

January 18, 2008

VIA E-MAIL (Email: Elizabeth.G.Holland@usace.army.mil)  
and U.S. MAIL

Ms. Elizabeth Holland  
Planning Division  
U.S. Army Corps of Engineers, Sacramento District  
1325 J Street  
Sacramento, CA 95814

Re: Comments on SAFCA's Landside Improvements Project and Bank  
Protection Project Draft Environmental Impact Reports

Dear Ms. Holland:

**A. Introduction**

This letter provides scoping comments from Reclamation District 2035 ("RD 2035") regarding the Army Corps of Engineer's ("Corps") compliance with the National Environmental Policy Act ("NEPA") for the Natomas Levee Improvement Program, which is proposed by the Sacramento Area Flood Control Agency ("SAFCA"). SAFCA's Program consists of numerous proposed projects over the next several years to improve flood control and protection in the Sacramento County area of Natomas. To comply with the California Environmental Quality Act ("CEQA"), SAFCA prepared environmental documentation for its Bank Protection Project, SCH# 2007062017, ("Bank Project") and the related Landside Improvements Project, SCH# 2007062016, ("Landside Project"). RD 2035 provided a detailed comment letter on those projects during their CEQA review process. This letter raises many of the same issues to alert the Corps to some of the key environmental analyses and issues that should be included in its Environmental Impact Statement ("EIS") that will analyze the Corps federal action of granting permits allowing SAFCA to implement its Program.

**B. Reclamation District 2035**

Reclamation District 2035 ("RD 2035") was formed in 1919 to provide levee maintenance and drainage services to approximately 20,500 acres of land in Yolo County near the City of Woodland.

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RD 2035 is a local public entity that has legal authority and jurisdiction under Water Code Section 50000 et. seq to implement flood control programs and projects that reconstruct, replace, improve, or add to facilities as defined in Public Resources Code Section 5096.805(j). RD 2035's service area includes the Conaway Ranch property. The Conaway Ranch property covers over 17,000 acres on the west side of the Sacramento River between the cities of Davis and Woodland. Approximately 40 percent of the Ranch is located within the Yolo Bypass and the remainder lies west of the bypass. Both RD 2035 and the Conaway Preservation Group, LLC, which manages the Conaway Ranch, are actively involved in encouraging and seeking solutions to the region's flood problems while conserving open space, agriculture, and rural and environmental values.

### **C. SAFCA is Protecting Natomas at the Risk of Flooding Other Areas**

The Corps should recognize that SAFCA is attempting to proceed with levee improvements to only one side of the Sacramento River. While such an approach may be politically acceptable for SAFCA because it only has responsibility for one side of the river, the Corps has regionwide responsibilities. Therefore, the Corps should acknowledge this short-sighted policy and analyze whether it creates an increased risk of flooding to lands on the opposite side of the Sacramento River and Natomas Cross Canal. In particular, the EIS should discuss mitigation measures that will safeguard the Yolo County side of the Sacramento River from catastrophic flooding. Given NEPA's focus on the human environment, the Corps should consider ways to prevent human encroachment of flood plains on lands on the opposite side of the river from Natomas. Such efforts will provide a long-term mechanism to keep people out of harm's way.

### **D. The Corps Must Analyze the Flood Threat to the Opposite Side of the River**

In its CEQA documents, SAFCA did not classify slight adverse changes in river hydraulics or to flows in the Yolo Bypass as significant impacts. RD 2035 commented that this was improper considering that the west side Sacramento River and Yolo Bypass levees are already under great stress in flood events, making any change to the hydraulics or river elevation significant. Indeed, the catastrophic consequences of a levee failure on any stretch of the Sacramento River leave no room for further increases in river elevation. Thus, the Corps should consider any increase in river elevation during floods as a significant change to the human environment, and the EIS should discuss mitigation measures that could reduce these changes.

Regarding project impacts to river velocity and flow, SAFCA stated that "[s]ome slight increase in scour would result from the increased velocities that could result in surface erosion of exposed soils on the berm areas where vegetation was removed." (Bank Protection Project DEIR pg. 7-7). The Corps should closely evaluate the impacts of the scour from increased flows and determine whether this will increase maintenance costs on the Sacramento River west levees. Similarly, the Corps should evaluate the total cubic volume of fill that SAFCA intends to add to the Sacramento River next year and for all the remaining Natomas levee improvements in subsequent years.

#### **E. The Corps Should Perform Detailed, Independent Modeling**

Although, SAFCA conducted modeling, many details were not revealed or discussed during the CEQA process. RD 2035 urges the Corps to conduct its own, independent modeling and develop its own assumptions and modeling inputs. In its NEPA documents, the Corps should make sure it provides specific information regarding its modeling methods. If model runs show weak areas in any levees on either side of the Sacramento River, please provide specific evidence of the exact location of those levee failures and/or overtopping for all model runs or scenarios. Please also explain the reason why the model indicates these levees failed.

If the Corps adopts SAFCA's modeling method, it should explain how accurate and precise the UNET model used in this analysis is in detecting slight river and bypass elevation changes, or other metrics like river velocity and erosion or scouring potential. For instance, the Corps should explain the confidence interval surrounding the model's results and what statistical methods were employed to assess the model's results? Without such information, the Corps will not provide the public with a reasoned explanation of how it can rely on an abstract model to assess flood risks on either side of the Sacramento River before issuing permits for such actions.

#### **F. The Corps Must Evaluate the Threat of Underseepage and Overall Levee Stability**

None of SAFCA's modeling for its CEQA documents analyzed the threat of underseepage or levee instability. The Corps should provide details of the stability and underseepage risk of the Natomas levees versus those across the Sacramento River. Without such information, it is unproven that SAFCA's projects will not affect the flood risk to the opposite levees. Additionally, SAFCA's current modeling appeared to indicate that the Natomas levees are already high enough to withstand the 100-year and 200-year flood threat because there is no overtopping. The urgency with which SAFCA is proceeding, however, suggests that the true concern may be levee underseepage and stability.

As the Corps recently determined, the Natomas levees do not provide the required flood protection that SAFCA has claimed, and FEMA will soon map the area as a deep floodplain (see Sacramento Business Journal Article 1/15/2008 - "*Building Moratorium Likely Following Flood Report*"). This recent information calls into question any reliance on SAFCA's modeling or its CEQA conclusions that improvements to the east Sacramento River levees will not increase the flood risk to the west side of the Sacramento River because the east side levees are already much stronger and would not overtop or fail under current conditions. RD 2035 requests the Corps to provide a detailed analysis and discussion of this issue.

#### **G. The Corps Should Not Rush To Provide 100-year Flood Protection "As Quickly As Possible" Because It Unnecessarily Forecloses the Development of Better Alternatives**

SAFCA has persistently stated that time is of the essence, but the Corps should not insert a time factor into its objectives for its federal action(s) because SAFCA's own modeling in all three CEQA

documents prepared for the Program did not indicate that the Natomas Basin levees would be overtopped or fail – even at the 200-year flood level. If this is true, the area already has 100-year flood protection by SAFCA’s estimation. Without this urgent need, the Corps has more time to develop and discuss alternatives that will provide a comprehensive solution, as discussed in Section H.

#### **H. The Corps Must Analyze Project Alternatives, Including A More Integrated and Comprehensive Regional Flood Solution**

Even with the proposed levee improvements, the threat of flooding in the Natomas Basin will remain, and the residents of the Sacramento region and the State of California will have to continue to periodically invest huge sums of money to support the levees and maintain SAFCA’s project. The fact is that the Sacramento River levees are too narrow in many places, which creates excessive erosion that requires constant monitoring and maintenance. Over time, this constant activity will further degrade the environmental, aesthetic, and recreational values of the Sacramento River. NEPA requires the Corps to consider longer lasting solutions to the local and regional flood situation and the long-term impacts of its actions. RD 2035 urges the Corps to provide a detailed discussion and analysis of long-term alternatives to raising only the Natomas levees.

Such alternatives could include setting back existing levees, redesigning the Yolo Bypass, purchasing or creating additional flood storage in reservoirs, developing additional designated flood plains or temporary, emergency flood storage locations, or other solutions. Citing institutional hurdles is not a sufficient excuse that justifies avoiding these issues because there is currently a great deal of political momentum behind a comprehensive solution to flood issues. The recent passage, among other things, of SB 5, SB 17, AB 70, AB 162, and AB 156 are new events substantially changing the circumstances under which SAFCA is proposing its projects. These changed circumstances provide added incentive to pursue a broader solution. For instance, the Legislature has directed the Department of Water Resources to provide system-wide evaluations and recommended flood control measures in a few years. SAFCA should cooperate with DWR in this effort instead of going forward with its project. The Corp’s EIS should discuss these issues and the potential for the SAFCA’s current approach to foreclose better, long-term solutions that would allow the Sacramento River to remain a valuable environmental, aesthetic, and recreational resource and will require less frequent infusions of costly construction activities.

#### **I. The Corps Should Avoid Piecemeal Environmental Review**

SAFCA divided its environmental review process into numerous CEQA documents and processes. This approach confused the public and failed to disclose the true environmental effects of the overall program. While the Corps may anticipate having to issue numerous permits over the next few years, the Corps should not follow the same path to comply with NEPA. Instead, the Corps should analyze the effects of all the future actions it will take regarding the SAFCA Program and provide analysis of the direct and indirect effects of such actions. In order to adequately perform such analyses, the Corps requires detailed program and project-level descriptions from SAFCA of

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what it intends to do once it receives the Corp's permit(s) so that the Corps can evaluate the effects of granting federal permits to SAFCA for such actions.

**J. The Corps Should Accurately Describe the No Action Alternative**

SAFCA's environmental documents provided inconsistent no-project alternatives. The Corps should carefully consider this issue, and then provide a good faith discussion of the potential flood risk to all areas and economic impacts on the region if the federal action is not approved. An accurate and detailed no-action alternative is crucial to the NEPA process.

**Conclusion**

RD 2035 remains interested in working with SAFCA and the Corps to resolve regional flood control issues and to develop comprehensive flood protection for the region. RD 2035 also supports flood protection for urbanized areas such as Natomas, but not without assurances that such actions will not affect the current and future flood risks to RD 2035. RD 2035 appreciates the opportunity to provide the Corps with scoping comments, and will gladly work with SAFCA and the Corps to resolve the issues raised in these comments. We look forward to reviewing the Corp's EIS when it becomes available. If more clarification or other information is needed regarding these comments, please contact me at (916) 321-4500.

Very truly yours,

KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD



Hanspeter Walter  
Counsel for Reclamation District 2035

882182.1 9701.1

## **EXHIBIT 2**



SCOTT A. MORRIS

October 29, 2007

VIA E-MAIL (Email: BassettJ@SacCOunty.net)  
and U.S. MAIL

Mr. John Bassett  
Sacramento Area Flood Control Agency  
1007 7<sup>th</sup> Street, 7<sup>th</sup> Floor  
Sacramento, CA 95814

Re: Comments on SAFCA's Landside Improvements Project and Bank  
Protection Project Draft Environmental Impact Reports

Dear Mr. Bassett:

**A. Introduction**

This letter provides Reclamation District 2035's ("RD 2035") joint comments on both Draft Environmental Impact Reports for the Natomas Levee Improvement Program Bank Protection Project, SCH# 2007062017, ("Bank Project") and the related Natomas Levee Improvement Program Landside Improvements Project, SCH# 2007062016, ("Landside Project"). RD 2035 is providing a single response letter in light of the Sacramento Area Flood Control Agency's ("SAFCA's") decision to simultaneously release both DEIRs (i.e., the "Landside DEIR" and the "Bank DEIR") for public review. Both DEIRs involve different parts of the same project, which is part of one overarching program that was evaluated in SAFCA's Local Funding Mechanisms Program DEIR ("Programmatic DEIR"). RD 2035 intends that all the comments in this joint comment letter be submitted separately to each DEIR and responded to separately by SAFCA in both the Landside and Bank FEIRs.

**B. Reclamation District 2035**

Reclamation District 2035 ("RD 2035") was formed in 1919 to provide levee maintenance and drainage services to approximately 20,500 acres of land in Yolo County near the City of Woodland. RD 2035 is a local public entity that has legal authority and jurisdiction under Water Code Section 50000 et. seq to implement flood control programs and projects that reconstruct, replace, improve, or add to facilities as defined in Public Resources Code Section 5096.805(j). RD 2035's service

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area includes the Conaway Ranch property. The Conaway Ranch property covers over 17,000 acres on the west side of the Sacramento River between the cities of Davis and Woodland. Approximately 40 percent of the Ranch is located within the Yolo Bypass and the remainder lies west of the bypass. Both RD 2035 and the Conaway Preservation Group, LLC, which manages the Conaway Ranch, are actively involved in encouraging and seeking solutions to the region's flood problems while conserving open space, agriculture, and rural and environmental values.

**C. SAFCA is Protecting Natomas at the Risk of Flooding Other Areas**

SAFCA is attempting to proceed with levee improvements to only one side of the Sacramento River. While this approach may be more convenient for SAFCA, it represents a myopic focus on local benefits that is contrary to sound public policy and flood project planning for the entire region. SAFCA should acknowledge this short-sighted policy and admit that it creates an increased risk of flooding to lands on the opposite side of the Sacramento River and Natomas Cross Canal. Is it SAFCA's policy to increase flood risks to less urbanized or extra-jurisdictional areas in order to protect lands within its jurisdiction, like Natomas? What is SAFCA's view of its responsibility for the effects of its flood control activities on flood risk in other areas?

**D. SAFCA is Using Improper Significance Thresholds to Analyze the Flood Threat to the Opposite Side of the River**

The DEIRs significance criteria and conclusions based on them are improper. Given that the west side Sacramento River levees are already under great stress in flood events, any change to the hydraulics or river elevation should be considered significant. The catastrophic consequences of a levee failure on any stretch of the Sacramento River leave no room for further increases in river elevation. Thus, any increase in river elevation during floods is significant and should be the proper threshold used in the analysis, not 0.1 foot. What is the basis supporting the 0.1 foot threshold?

Regarding impacts to water surface elevations and freeboard, SAFCA's approach to using a different threshold of significance for levees within the SRFCP and those outside the SRFCP's protection is irrational. The threshold for impacts to flood risk should be the same for all levees. The choice of the "1957" design profile as the threshold for significant encroachment is not justifiable. The known flood threats using information after the 1986 and 1997 storm events, render the 1957 design profile outdated for use as a significance threshold.

If the 1957 design standard is an accurate threshold for significance, then SAFCA should be trying to achieve that standard along the Natomas levees – instead, SAFCA is pursuing a higher, more realistic standard for itself and judging its impacts on others using the outmoded standard. As SAFCA has stated,<sup>1</sup> the levees on the west side are already apparently below the freeboard

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<sup>1</sup> At the public hearing before the SAFCA Board, Executive Director Stein Buer repeatedly maintained that the status quo (i.e., baseline) was that levees on the opposite side were already significantly shorter and weaker.

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standards that SAFCA is seeking for the east side levees. Thus, the west side levees already have a significant problem with freeboard encroachment using modern standards, not the outmoded 1957 design standard. Any further rise in water elevation makes this existing problem that much harder to solve and is a de facto significant impact, which SAFCA must recognize and mitigate. As SAFCA itself stated:

These improvements could reduce the risk of overtopping and failure of these levees, thereby causing more water to be retained in the channels under rare flood conditions. This, in turn, could increase the potential for overtopping and failure elsewhere in the SRFCP system, either within the Sacramento metropolitan area or upstream or downstream of this area. (Landside DEIR at 3.4-6).

Regarding project impacts to river velocity and flow, the Bank DEIR states that “[s]ome slight increase in scour would result from the increased velocities that could result in surface erosion of exposed soils on the berm areas where vegetation was removed.” (Bank DEIR pg. 7-7). But the Bank DEIR does not discuss the increase in elevation or water velocity caused by adding fill to the waterside banks of the levees as depicted in its Figures 5-1 and 5-2. Table 4-1 indicates that proposed bank protections from only next year’s construction will involve almost 9,000 linear feet with an average width of 65 feet. (Bank DEIR pg. 4-3). What is the total cubic volume of fill that SAFCA intends to add to the Sacramento River next year and for all the remaining Natomas levee improvements? How did SAFCA quantitatively calculate the effects of all this additional fill within the levees?

Without quantitative analyses of the effects on the river (e.g., velocity, height, etc. ...) of the fill, there is no justification for concluding the effects are less than significant. In light of the previously discussed stress that west side levees are already under during flood events, and the deficiencies of those levees assumed under SAFCA’s baseline, any increase in scouring, erosion, or water elevation to the west side levees must be considered significant and must be mitigated.

#### **E. SAFCA’s Flood Modeling Should Include More Details**

Several issues with regard to modeling require comment. First, it appears the baseline model run indicated that the Natomas levees would not overtop or fail at their current heights. In fact, this result is what SAFCA uses to justify its conclusion that there will be no impacts to the opposite side of the river, namely that the Natomas levees are stronger and higher already. But, as explained above, this baseline result weakens any need to implement the projects quickly. The model indicates that current infrastructure in Natomas is safe from the 100-year flood. Therefore, there is

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no reason to rush to invest hundreds of millions of dollars in the current flood control system when it is admittedly outdated and designed to solve problems that no longer occur (i.e., siltation).<sup>2</sup>

SAFCA should clarify that the main impetus for quick implementation of these projects is to avoid the FEMA remapping process that would occur. If alternatively, there is a real, physical 100-year flood threat to Natomas that must be repaired, then SAFCA's chosen modeling assumptions or methods are improper and inaccurate because the model does not accurately reflect that situation.

Please provide more specific information regarding the modeling methods. Please provide specific evidence of the exact location of Sacramento River levee failures (both west and east side) and/or overtopping for all model runs or scenarios for all three DEIRs. Please also explain the reason why the model indicates these levees failed. Please explain if the model indicates any east side Sacramento River levees would fail under any modeled scenarios and why they failed. If none failed, why not?

In regards to Section D's discussion of significance criteria, please explain how accurate and precise the UNET model used in this analysis is in detecting slight river elevation changes, or other metrics like river velocity and erosion or scouring potential. What is the confidence interval surrounding the model's results? What statistical methods were employed to assess the model's results? Were multiple model runs performed and the average taken? If so, what are the standard deviations around the averages? If no such information is available, then how can SAFCA rely on an abstract model to claim that the flood risk on the other side of the river will not be increased?

#### **F. SAFCA Must Evaluate the Threat of Underseepage and Overall Levee Stability**

The modeling in the DEIRs does not appear to analyze the threat of underseepage or levee instability. Did SAFCA analyze these threats in the UNET modeling or through other quantitative analyses of the flood risk its improvements would have to levees on the opposite side? If not, then SAFCA cannot assert that its projects will not affect the flood risk to the opposite levees.

The current modeling appears to indicate that the Natomas levees are already high enough to withstand the 100-year and 200-year flood threat because there is no overtopping. The urgency with which SAFCA is proceeding, however, suggests that the true concern may be levee underseepage and stability. If the UNET model did not model these factors, then it cannot be used to conclude that the baseline conditions of the Natomas levees are superior to the levees on the opposite side. What other information do the DEIRs contain to inform the public and decision makers of the superiority of the Natomas levees with regards to underseepage and stability. Without such information, SAFCA cannot support its baseline premise that the Natomas levees are

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<sup>2</sup> At the public hearing on these EIRs, Executive Director Stein Buer explained that erosion of the Sacramento River bed, and not siltation, is the current condition.

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already stronger than the opposite side's and that the opposite side levees will fail first with or without the proposed project(s).

The Natomas Levee Evaluation Report (prepared in 2006 for SAFCA by MBK Engineers and others) contains information about the composition and stability of the east side levees based on borings, but no comparable west-side levee data is provided. Please provide details of the stability and underseepage risk of the Natomas levees versus those across the Sacramento River to support the baseline premise that the current state of the Natomas levees has already shifted all of the flood risk to the other side. Were any borings or modeling of the sort done for the east side levees performed for the west-side levees? If so, please provide the information to prove that the stability and underseepage risk on the west-side levees is already materially greater than the east-side levees. We believe that this data is available from the Reclamation Board or the Army Corps of Engineers.

This issue is critically needed to assess the true increased flood risk that SAFCA's project creates for the opposite side. For instance, assume that levees on both sides of the river have an equal chance of failure and that one levee break must occur somewhere in that stretch of river during a 100-year flood to release pressure. Under this baseline each side effectively has a 50% chance of being flooded. If, however, one side then removes the chance of levee failure on its side, the other side is guaranteed to flood. The 50% risk of flooding on that side has been increased to 100% by the other side's actions. This oversimplified example shows the effects on flood risk that SAFCA's projects may have. SAFCA has presented no substantial evidence to support its premise that the east-side levees will not fail before the west-side levees as a result of underseepage and levee instability. Please provide such information or discuss the added flood risk to the opposite side of the river.

In sum, RD 2035 believes that SAFCA's baseline premise that Natomas area levees are already stronger than levees on the opposite side is unsupported in the DEIRs. Therefore, SAFCA's improvements may demonstrably increase the potential for a catastrophic levee break on the opposite side of the river, which may affect RD 2035 lands. This would be a significant impact under CEQA, for which SAFCA must provide mitigation.

#### **G. SAFCA's Objective to Provide 100-year Flood Protection "As Quickly As Possible" Unnecessarily Forecloses the Development of Better Alternatives**

The insertion of a time factor into the program and project objectives is not needed because SAFCA's own modeling in all three DEIRs did not indicate that the Natomas Basin levees would be overtopped or fail – even at the 200-year flood level. If this is true, the area already has 100-year flood protection by SAFCA's estimation and there should be no rush to spend large sums of money on a physical solution without an apparent physical problem. What does SAFCA mean by the 100-year flood protection it seeks to achieve as soon as possible?

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If SAFCA's real objective is to achieve FEMA 100-year certification as quickly as possible, then SAFCA must explain why FEMA 100-year certification is so critical given that its own modeling shows that the levees are currently strong enough to physically protect the Natomas Basin from a 100-year flood. Furthermore, the objective should be changed to more accurately state this. In this context FEMA 100-year protection appears to be merely an administrative determination that is separate from the physical threat evaluated and disclosed by the modeling. Which is the proper standard? Is it the FEMA determination or SAFCA's modeling?

The above issues present a logical disconnect in the DEIRs' explanation of why the project(s) is/are needed and what hydraulic effects they will have. As discussed in Section F, it appears SAFCA maintains that under baseline conditions its levees are already stronger than levees across the Sacramento River so that those levees would fail before the Natomas levees, thus reducing pressure on the Natomas levees even without the projects. But if this is the case, then the urgent need for these projects is obviated. SAFCA's own modeling, therefore, fails to disclose the urgent need for increased flood protection. Without this urgent need, SAFCA has more time to develop and discuss alternatives that will provide a comprehensive solution, as discussed in Section H. If this is not so, then SAFCA must explain the disconnect. RD 2035 suspects this is because, as discussed in Section F, levee stability and underseepage were not included in the modeling or any other quantitative analyses – a true failure of the DEIRs.

#### **H. SAFCA Should Pursue A More Integrated and Comprehensive Flood Solution**

Even with the proposed levee improvements, the threat of flooding in the Natomas Basin will remain, and the residents of the Sacramento region and the State of California will have to continue to periodically invest huge sums of money to support the levees and maintain SAFCA's project. The Programmatic DEIR explained that the current flood control system "although well suited to address the technical and financial challenges of a previous era, has left a succeeding generation of flood managers with two systemic problems and levee risk factors: chronic erosion and seepage." (Programmatic DEIR at 4.4-6). It also indicates that because "many segments of the mainstream levee system were constructed using relatively porous hydraulic mining sediments borrowed from the river channel, the levees have a propensity to seep when subjected to prolonged high water surface elevations." (*Id.*). The Bank DEIR concludes that:

Over the long term, it is likely that additional bank protection will be needed in the region because the design of the SRFCP is expected to continue to induce erosion of unprotected banks and result in the loss of riparian vegetation. (Bank DEIR at 2-7).

The fact is that the Sacramento River levees are too narrow in many places. As explained in the quote above, the current configuration creates excessive erosion that requires constant monitoring and maintenance. Over time, this constant activity will further degrade the environmental, aesthetic, and recreational values of the Sacramento River. The DEIRs do not adequately discuss,

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analyze, or seek to avoid this problem. Quite the opposite, the Programmatic DEIR simply states that "by the mid-1950's it was agreed that bank protection would be a permanent capital cost of operating the SRFCP." (*Id.*). However, in the 1950's agencies did not have to comply with CEQA or consider alternatives. In 2007, CEQA requires that SAFCA consider longer lasting solutions to the flood situation and long-term impacts of its actions. The scanty selection of alternatives provided are not sufficiently innovative and are discounted too quickly without a real analysis of their comparative merits when compared to the long term environmental effects the chosen course of action commits to.

Instead of rushing to grab the low hanging fruit of continued fortification of the existing levee system to avoid being mapped a floodplain by FEMA for a few years, SAFCA should foster discussions and consideration of more comprehensive, overarching solutions to regional flood problems. RD 2035 stands ready to assist in this effort. While a comprehensive solution might take a few more years to develop, it would provide permanent and more effective flood control for the Natomas Basin and the region that would not need continued input of expensive construction and maintenance, which would also continually cause environmental impacts that CEQA requires a discussion of. Such a solution would provide a more dynamic, living river system that would provide lasting and greater environmental, recreational, and aesthetic benefits. CEQA requires that the public and decision-makers be presented with sufficient information about long-term environmental effects and potential alternatives before committing themselves to a long-term path that may foreclose other more viable paths.

Whether a comprehensive solution would include setting back existing levees, redesigning the Yolo Bypass, purchasing or creating additional flood storage in reservoirs, developing additional designated flood plains or temporary flood storage locations, or other solutions is up to SAFCA. Citing institutional hurdles is not a sufficient excuse that justifies avoiding these issues because there is currently a great deal of political momentum behind a comprehensive solution to flood issues. The recent passage, among other things, of SB 5, SB 17, AB 70, AB 162, and AB 156 are new events substantially changing the circumstances under which SAFCA is proposing its projects. These changed circumstances provide added incentive to pursue a broader solution and render any reliance on the Programmatic DEIR's alternatives discussion obsolete and inadequate under CEQA Guidelines section 15162. For instance, the Legislature has directed the Department of Water Resources to provide system-wide evaluations and recommended flood control measures in a few years. SAFCA should cooperate with DWR in this effort instead of going forward with its project. The DEIRs should be revised to discuss these issues and the potential for the current approach to foreclose better, long-term solutions that would allow the Sacramento River to remain a valuable environmental, aesthetic, and recreational resource and will require less frequent infusions of costly construction activities.

### **I. SAFCA's Piecemeal Approach to the DEIRs Is Improper, Inconsistent, and Confusing**

The division of the environmental review process into numerous DEIRs, both now and apparently in the future, is confusing and fails to disclose the true environmental effects of the overall program. The Landside and Bank projects, and all future SAFCA actions on the Natomas levees, are all parts of the same project because they are all collectively required to satisfy the project objectives and prevent FEMA from mapping the Natomas basin as a major flood zone. Improving only half the length of the east Sacramento River levees will not achieve the project objectives and would not be an action with independent utility unrelated to the other contemplated actions. CEQA requires an impact analysis of the "whole of the project," not chopping the project into smaller segments, each with a minor effect on the environment, but this is what SAFCA is doing.

By separating the Landside and Bank projects from one another and preparing two separate DEIRs, SAFCA has created a confusing muddle of documentation that is hard to follow and sometimes inconsistent. More importantly, by dividing the program into so many parts, each DEIR is able to address a smaller impact than the true impacts of the project. For instance, the impact to biological resources of the Landside project is distinct from that in the Bank project, but they should be considered together. The same is true of impacts to agricultural land that will be used to obtain the fill and raw materials for the levee fixes. Similarly, the impacts of future phases of both projects are not adequately discussed here. Why were the Bank DEIR and Landside DEIR not part of the same DEIR?<sup>3</sup>

SAFCA should develop a detailed description of all the levee improvements it intends to make, and which are required to achieve the project objectives of attaining (or maintaining) 100-year FEMA certification. Then, one EIR should evaluate the specific impacts to various resources that will occur as a result of the whole of those actions, which represents the single project's true environmental impact. Responding to this comment by pointing to the cumulative effects analysis in both DEIRs is not adequate because that analysis is intended to more generally analyze the effects of other reasonably foreseeable projects, not other parts of the same project. Citing the Programmatic DEIR is also inadequate because it did not provide sufficient detail of the various project components to adequately assess project-level impacts. That modeling also included revised Folsom Dam operations that are not yet possible because, to our knowledge, the revised spillway has not been completed.

While evaluations in the Programmatic DEIR may be appropriate for analyzing various parts of a program, there is a limit to how finely a lead agency may segment a program. Here, SAFCA has gone too far because it is not separately analyzing two different projects under the same program,

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<sup>3</sup> The simultaneous release and circulation of both DEIRs indicates that both could have been combined into a single document, which would be easier for the public and the decision makers to review and would provide a better picture of the true impacts of the levee improvements SAFCA proposes.

but rather two parts of the same project, and SAFCA has plans to do more of the same.<sup>4</sup> As stated, this shrouds the true impacts of the project, presents a confusing assembly of CEQA documents, and prevents a real evaluation of the merits of the proposed project versus alternatives.

#### **J. SAFCA's No-Project Alternatives are Inconsistent**

Both the Landside and Bank DEIR correctly state that an EIR "must evaluate a 'no-project' alternative, which represents 'what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services.'" (Landside DEIR at 11-1, Bank DEIR 6-1). Oddly, however, the EIRs present different pictures of what would reasonably occur in the no-project alternative. Because both projects are related parts of the overall program, and SAFCA maintains each is required to provide adequate flood protection to Natomas, the no-project alternative in each should be the same. In contrast, the current no-project alternatives appear to present artificial assumptions instead of explaining the reasonably foreseeable actions that would occur in the absence of the contemplated projects.

Alternative 1 of the Bank DEIR indicates that "[w]hile future federal/state action is the most likely scenario if SAFCA did not implement bank protection, the No-Project Alternative is defined as no bank protection being implemented at the nine sites." (Bank DEIR at 11-5). Thus, it appears that instead of presenting the reasonably foreseeable consequences of not implementing the project (i.e., Federal/State action) SAFCA created an improper and artificial no-project alternative precluding these likely actions and mimicking the project baseline.

Confusingly, in Alternative 4 of the Landside DEIR, SAFCA presents a different no-project alternative than it presented in the Bank DEIR. The Landside DEIR no-project alternative does not even mention the possibility of other Federal/State actions. The Landside DEIR also presents different future actions and consequences than the Bank DEIR's no-project alternative. The Landside DEIR states:

Federal Floodplain regulations would prevent the Natomas Basin from absorbing new development as currently anticipated in the regional blueprint for future (2030) growth adopted by the Sacramento Area Council of Governments [cite]. As a result, up to 60,000 dwelling units and associated commercial and industrial developments may be redirected to other areas in the region over the next 2 decades. (Landside DEIR at 6-14).

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<sup>4</sup> At the October 19, 2007 public hearing on this issue, SAFCA's general counsel indicated that supplemental or subsequent EIRs would be prepared for levee improvements for the next 6 miles of levee improvements slated for 2009, and then a similar process would again be followed for improvements intended in 2010. Such year-to-year CEQA review of the same project is improper.

October 29, 2007  
Page 10

The Programmatic DEIR presented a similar no-project discussion. (Programmatic DEIR at 7-4). The three no-project alternatives should all be the same. They should provide the public and decision-makers with SAFCA's best analyses of what will occur in the absence of the projects and the overall program because they are all one inter-related part of the whole.

#### **K. SAFCA Requires Reclamation Board Approval**

Lastly, SAFCA's projects will require approval by the Reclamation Board. It appears that under Water Code section 8710, SAFCA will require approval from the Reclamation Board before construction is commenced. Furthermore, under Water Code section 8722, the Reclamation Board may change the plans or specifications for work undertaken at any time upon its own initiative. How will this process fit with SAFCA's intended schedule of rapid implementation?

#### **Conclusion**

In sum, RD 2035 remains interested in working with SAFCA to resolve regional flood control issues and to develop comprehensive flood protection for the region. RD 2035 also supports flood protection for urbanized areas such as Natomas, but not without assurances that such actions will not affect the current and future flood risks to RD 2035, or some other measures or mitigation to offset this increased risk. The DEIRs do not presently provide sufficient information for RD 2035 to determine the effects of SAFCA's proposed project(s) on the flood risks to the opposite side of the Sacramento River or Natomas Cross Canal. SAFCA's analyses and approach in the DEIRs also create other inconsistencies that make the analyses incomplete or difficult to understand.

RD 2035 appreciates the opportunity to comment on the DEIRs, and will gladly work with SAFCA to resolve the issues raised in these comments. If more clarification or other information is needed regarding these comments, please contact me at (916) 321-4500.

As a public agency, RD 2035 looks forward to receiving your official responses at least 10 days prior to certification of the EIRs.

Very truly yours,

KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD



SCOTT A. MORRIS  
Counsel for Reclamation District 2035

875747.2.9701.1

## **EXHIBIT 3**



## NOTICE OF PREPARATION

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**To:** Agencies and Interested Parties  
**From:** Sacramento Area Flood Control Agency  
**Date:** July 18, 2008  
**Subject: Announcement of:**  
1) **Notice of Preparation of a Draft Environmental Impact Statement/Environmental Impact Report on the Natomas Levee Improvement Program, Phase 3 Landside Improvements Project;**  
2) **Public Scoping Meeting to be held on August 6, 2008; and**  
3) **Scoping comments due by August 18, 2008**

The U.S. Army Corps of Engineers (USACE), Sacramento District, and the Sacramento Area Flood Control Agency (SAFCA) will be the federal and state lead agencies, respectively, and will prepare an environmental impact statement/environmental impact report (EIS/EIR) pursuant to the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA) for the subject project in the Natomas Basin in Sacramento and Sutter Counties, California. USACE and SAFCA are soliciting input from interested agencies and the public as to the scope and content of the EIS/EIR.

### INTRODUCTION

The California Environmental Quality Act (CEQA) specifies that a public agency must prepare an EIR on any project that it proposes to carry out or approve that may have a significant direct or indirect effect (also referred to as "significant impact") on the environment (Public Resources Code Section 21080[d]). SAFCA is proposing the Natomas Levee Improvement Program (NLIP), Phase 3 Landside Improvements Project (Phase 3 Project), as described below, and has determined that the proposed project may have significant impacts on the environment. Therefore, acting as the lead agency for CEQA compliance, SAFCA will prepare an EIR that evaluates these significant environmental impacts.

To implement the proposed project, SAFCA requires a permit from USACE pursuant to Section 404 of the Clean Water Act for the discharge of fill into jurisdictional waters of the United States, and permission pursuant to Section 408 of the Rivers and Harbors Act for alteration of a federal project levee. A joint EIS/EIR will be prepared to evaluate the significant environmental impacts of the proposed project, including those impacts associated with USACE's decision making processes for Sections 404 and 408.

### PURPOSE OF THE NOTICE OF PREPARATION

The purposes of this notice are to:

1. briefly describe the proposed project and the anticipated content of the draft EIS/EIR to be prepared for the proposed project;

2. announce the public scoping meeting to facilitate public input and to be held: Wednesday, August 6, 2008, from 4:00 to 7:00 p.m. at 1321 Garden Highway (Sierra Health Foundation) in Sacramento, California; and
3. solicit input by August 18, 2008, from interested federal and state agencies, and from interested organizations and individuals about the content and scope of the draft EIS/EIR, including the alternatives to be addressed and the potentially significant environmental impacts.

## **PROJECT BACKGROUND**

The Landside Improvements Project is part of SAFCA's efforts to reduce flood risk for the Sacramento area, and is part of the NLIP evaluated in SAFCA's programmatic *EIR on Local Funding Mechanisms for Comprehensive Flood Control Improvements for the Sacramento Area* (State Clearinghouse # 2006072098). Volume II of that EIR contained a project-level evaluation of the Natomas Cross Canal South Levee Phase 1 Improvements (Phase 1 Project). In 2007, SAFCA prepared the *EIR on the NLIP Landside Improvements Project* (State Clearinghouse # 2007062016), which covers the three additional phases of "landside" improvements to the levees protecting the Natomas Basin in Sacramento and Sutter Counties, including the Phase 2 Project and Phase 3 Project. The Phase 2 Project was analyzed at a project level and the remainder of the Landside Improvement Project was analyzed at a program level. On November 29, 2007, the SAFCA Board of Directors certified the EIR and approved implementation of the Phase 2 Project components proposed for construction in 2008. Following completion of the *EIR on the NLIP Landside Improvements Project*, USACE prepared an EIS to meet USACE's NEPA requirements to support USACE's decisions on 408 permission and 404 permitting. A Record of Decision (ROD) is expected to be signed by USACE in October 2008.

The EIS/EIR to be prepared for the Phase 3 Project will evaluate the environmental effects of the Phase 3 Project at a project level, and will evaluate subsequent phases of the Landside Improvements Project at a general, program level. These subsequent phases will be subject to additional project-specific NEPA and CEQA analysis in the future prior to approval and implementation.

## **PROJECT DESCRIPTION**

The following objectives were adopted by SAFCA in connection with approval of the NLIP: (1) provide at least a 100-year level of flood protection to the Natomas Basin as quickly as possible, (2) provide "200-year" protection to the basin over time, and (3) avoid any substantial increase in expected annual damages as new development occurs in the basin.

The specific purpose of the Landside Improvements Project is to provide at least 100-year flood protection as quickly as possible while laying the groundwork to achieve at least "200-year" flood protection over time.

Additional project objectives adopted by SAFCA in connection with approval of the Phase 2 Project that are also applicable to the Phase 3 Project are to:

- (1) use flood control projects in the vicinity of the [Sacramento International] Airport to facilitate changes in the management of Airport lands that reduce hazards to aviation safety, and
- (2) use flood control projects to increase the extent and connectivity of the lands in Natomas being managed to provide habitat for giant garter snake, Swainson's hawk, and other special-status species.

The Phase 3 Project includes the following major activities, which will be analyzed at a project level in the EIS/EIR:

- ▶ Along the Sacramento River east levee, construct a raised adjacent setback levee from just north of Elkhorn Reservoir to just south of Interstate 5 (I-5) (Reaches 5A–9B) with cutoff walls and seepage berms where required to reduce seepage potential, and install woodland plantings.
- ▶ Widen the Pleasant Grove Creek Canal (PGCC) west levee between Howsley Road and Sankey Road and construct cutoff walls or seepage berms where required to reduce seepage potential.
- ▶ Widen the Natomas East Main Drainage Canal (NEMDC) west levee from Elkhorn Boulevard to the NEMDC Stormwater Pumping Station.
- ▶ Construct a cutoff wall in the NEMDC west levee from the NEMDC Stormwater Pumping Station to Northgate Boulevard where required to reduce seepage potential.
- ▶ Construct a new canal designed to provide drainage and associated giant garter snake habitat (referred to as the “GGs/Drainage Canal”) between Elkhorn Reservoir and the West Drainage Canal at I-5, relocate the Elkhorn Canal downstream of Elkhorn Reservoir, and reconstruct the Reclamation District 1000 Pumping Plant No. 2.
- ▶ Recontour the land and create marsh and upland habitat at borrow locations.
- ▶ Realign and relocate irrigation and drainage canals and other infrastructure, such as utility poles, as needed to accommodate the flood control improvements.
- ▶ Remove encroachments as required to meet USACE, Central Valley Flood Protection Board, and Federal Emergency Management Agency (FEMA) criteria.

Phase 4 of the Landside Improvements Project will include the following activities that will be analyzed at a program level in the EIS/EIR:

- ▶ Along the Sacramento River east levee, construct an adjacent setback levee (raised where needed to provide adequate freeboard) from just south of I-5 to Gateway Oaks Drive (Reaches 10–20B) with cutoff walls and seepage berms where required to reduce seepage potential
- ▶ Construct a cutoff wall in the American River north levee between Gateway Oaks Drive and Northgate Boulevard where required to reduce seepage potential.
- ▶ Widen the NEMDC west levee from Sankey Road to Elkhorn Boulevard.
- ▶ Relocate the Riverside Canal, improve the West Drainage Canal south of I-5 to provide enhanced GGS habitat, and construct modifications to several pumping plants.
- ▶ Recontour the land and create marsh and upland habitat at borrow locations.
- ▶ Remove encroachments as required to meet USACE, Central Valley Flood Protection Board, and FEMA criteria.

## PROBABLE ENVIRONMENTAL EFFECTS

The EIS/EIR will describe the direct and indirect significant environmental effects of the Phase 3 Project. The EIS/EIR will also evaluate cumulative effects of the project when considered in conjunction with the other phases of the Landside Improvements Project and other related past, present, and reasonably foreseeable future projects, including other SAFCA projects.

On the basis of preliminary evaluation, USACE and SAFCA have determined that the probable environmental effects of the proposed project are as follows:

- ▶ **Agricultural Resources:** Conversion of farmland to non-agricultural use; temporary effects on agricultural productivity.
- ▶ **Land Use and Socioeconomics:** Temporary disturbance of an existing community.
- ▶ **Topography, Geology, and Soils:** Potential for soil erosion or loss of topsoil during construction.
- ▶ **Hydrology and Hydraulics:** Minimized flood risk; potential temporary and/or permanent alteration of local drainage patterns; potential effects on groundwater recharge.
- ▶ **Water Quality:** Temporary effects on water quality during construction.
- ▶ **Fish and Aquatic Habitat:** Loss of fish or aquatic habitat through increased sedimentation and turbidity or release of contaminants during construction; loss of shaded riverine aquatic habitat (SRA).
- ▶ **Sensitive Aquatic Habitats:** Temporary disturbance or permanent loss of jurisdictional waters of the United States.
- ▶ **Vegetation and Wildlife:** Temporary disturbance or permanent loss of woodland habitats and wildlife corridors.
- ▶ **Special-Status Terrestrial Species:** Temporary disturbance or permanent loss of special-status species habitats; construction disturbance or take of special-status terrestrial species, especially to Swainson's hawk and giant garter snake.
- ▶ **Cultural Resources:** Disturbance of historic or archaeological resources.
- ▶ **Paleontological Resources:** Potential disturbance of previously undiscovered fossils during earthmoving activities.
- ▶ **Transportation and Circulation:** Temporary increase in traffic and traffic hazards on local roadways during construction; temporary closure of roadways during construction of flood control improvements across the roadways.
- ▶ **Air Quality:** Temporary increases in pollutant emissions associated with construction activities.
- ▶ **Noise:** Temporary increases in noise and vibration levels near sensitive receptors during construction.
- ▶ **Recreation:** Temporary disturbance of recreational uses at Teal Bend Golf Club; temporary closure of the Ueda Parkway bike trail on the NEMDC west levee.

- ▶ **Visual Resources:** Temporary and long-term changes in scenic views or visual character of the project area.
- ▶ **Utilities and Service Systems:** Temporary disruption of irrigation supply; potential disruption of utility service.
- ▶ **Hazards and Hazardous Materials:** Potential spills of hazardous materials; potential exposure to hazardous materials at project sites; potential for higher frequency of collisions between aircraft and wildlife at the Sacramento International Airport.

### **PUBLIC SCOPING MEETING**

A public scoping meeting will be held to inform interested parties about the proposed project, and to obtain the views of agency representatives and the public on the scope and content of the EIS/EIR. The meeting will be held on Wednesday, August 6, 2008, from 4:00 to 7:00 p.m., at 1321 Garden Highway (Sierra Health Foundation) in Sacramento, California.

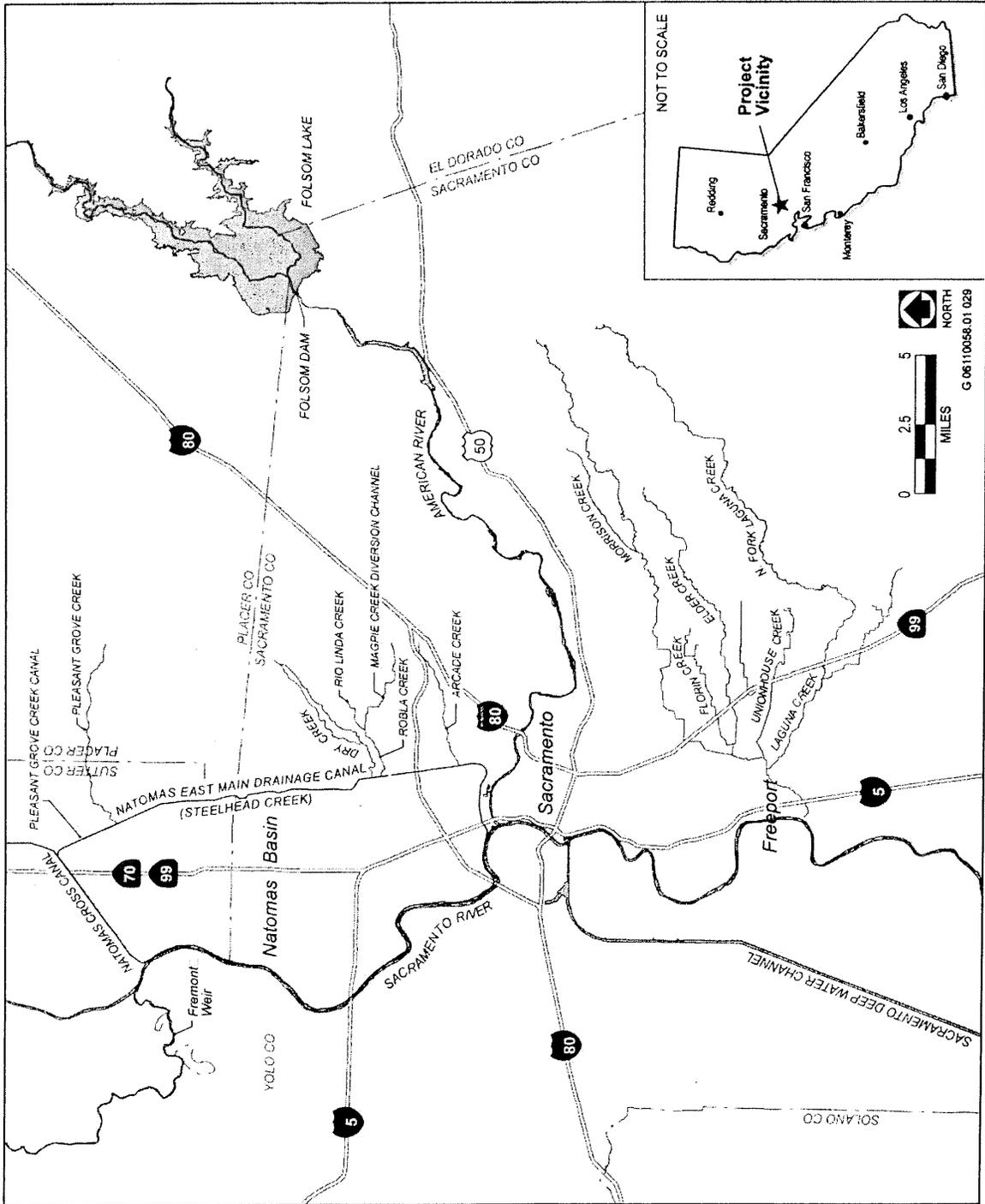
The meeting will have an open-house format with multiple stations set up to highlight different aspects of the proposed project and the NEPA/CEQA process. Attendees will have the opportunity to ask questions and discuss the project and the EIS/EIR process with project team members and to provide oral and written comments. The meeting space is accessible to persons with disabilities. Individuals needing special assistive devices will be accommodated to the best of our ability. For more information, contact Elizabeth Holland with USACE at (916) 557-6763 at least 48 hours before the meeting.

### **PROVIDING COMMENTS ON THE NOP**

Interested parties may provide written or oral comments on the content and scope of the EIS/EIR at the public scoping meeting or may provide written comments directly to USACE or SAFCA. **Written comments must be provided to USACE or SAFCA at the earliest possible date, but must be received no later than 5 p.m. on Monday, August 18, 2008.** Agencies that will need to use the EIS/EIR when considering permits or other approvals for the proposed project should provide the name of a contact person. Comments provided by e-mail should include the name and address of the sender. Please send all written and/or e-mail comments to:

Elizabeth Holland, Planning Division  
 U.S. Army Corps of Engineers, Sacramento District  
 1325 J Street  
 Sacramento, CA 95814  
 Telephone: (916) 557-6763  
 E-mail: [Elizabeth.G.Holland@usace.army.mil](mailto:Elizabeth.G.Holland@usace.army.mil)

Or John Bassett, Director of Engineering  
 Sacramento Area Flood Control Agency  
 1007 Seventh Street, 7th Floor  
 Sacramento, CA 95814  
 Telephone: (916) 874-7606  
 Fax: (916) 874-8289  
 E-mail: [BassettJ@saccounty.net](mailto:BassettJ@saccounty.net)



Source: CaSil, Adapted by EDAW in 2007

### Project Location Exhibit



L2-1

The EIS analyzes the significant impacts of SAFCA's entire NLIP Landside Improvements Project, consisting of early implementation (2008–2010) improvements (proposed project). Consistent with the status of project planning, the "2008" phase of the project, which would start in 2008 and is expected to end in 2009, was analyzed at a project level of detail. After the Record of Decision based on this EIS is signed, USACE will consider whether to grant Section 408 permission and a Section 404 permit for the proposed project, both of which are needed to allow the 2008 phase to begin. The 2009–2010 phase of the proposed project was analyzed in this EIS at a programmatic level. This phase will require further environmental review before issuance of 408 permission and a 404 permit before this phase can begin. The California Environmental Quality Act (CEQA) notice of preparation (Exhibit 3 of the commenter's letter) is for the project-level analysis of the 2009–2010 phase of the proposed project. Sufficiently detailed plans are now available to begin project-level review of the 2009–2010 phase of the proposed project. That document will be a joint EIS/EIR. Each of the project phases described above, and subsequent project phases, described in the Executive Summary of the FEIS, have independent utility and, therefore, can be analyzed separately under NEPA.

The proposed project consists of levee improvements in the Natomas Basin, as shown on Plate 4 of the EIS. The entire proposed project consists of improvements to the perimeter levee system of the Natomas basin. The project is located within the area described in EIS Chapter 3.0, "Affected Environment." The levee systems and channels that border the Natomas Basin are described in Section 1.2.1 of the DEIS. The size of the affected area analyzed in the EIS depends on the impact. For example, the affected environment for the hydrology and hydraulics analysis consists of the Sacramento, Feather, and American River basins (see Subsection 3.3.4.1). The affected environment for purposes of analyzing groundwater quality is the North American Groundwater Subbasin (see Subsection 3.3.5.2). The affected environment for purposes of analyzing impacts on fish and aquatic habitat in the larger Sacramento and San Joaquin River Systems consists of all of the waterways that are tributary to the lower Sacramento River, including the Natomas Cross Canal, Natomas East Main Drainage Canal, Pleasant Grove Creek Canal, other creeks, irrigation and drainage canals, and ditches (see Subsection 3.3.6).

The NLIP is part of the larger American River Watershed Investigation (ARWI), which has been analyzed at a programmatic level. Section 1.5 of the EIS describes the history and elements of the ARWI. Section 1.7 of the EIS lists the related USACE National Environmental Policy Act (NEPA) documents for the ARWI.

The ARWI will be implemented in a number of smaller projects for many years to come, and more detailed, project-level environmental review will be required for these projects as they are proposed, designed, and funded. Because the proposed project implements a portion of the larger program, this EIS accordingly analyzes the proposed project at a more detailed "project" level of analysis. The EIS analyzes all of the direct and reasonably foreseeable indirect effects of the proposed project. In addition, Chapter 5.0 of the EIS analyzes the cumulative effects of the proposed project. The analysis of cumulative hydrology and hydraulics impacts, for example, involved modeling of the

entire Sacramento and San Joaquin River Basins, including Folsom Dam (see EIS, Subsection 5.1.2.1). The sentence quoted by the commenter from page 5 of Appendix A to the EIS (Summary Report on Hydraulic Impact Analyses) makes clear that the hydraulic analysis of the proposed project was performed in the context of the entire Sacramento River Flood Control Project.

While the commenter correctly refers to page 1-7 of the EIS for the statement that “[t]reatment of bank erosion is not an element of the Landside Improvement Project but is part of SAFCA’s overall NLIP,” the commenter does not quote the remainder of the paragraph which further explains:

“The presence of high-risk sites may affect the ability to provide 100-year or ‘200-year’ flood protection to the Natomas Basin. Discussion of erosion sites is relevant to this EIS, therefore, because the selection and design of improvements along the Sacramento River east levee will influence the extent of the threat that bank erosion sites pose to the integrity of the levee—and consequently, the need to repair erosion sites.”

Accordingly, the erosion control projects are considered in the analysis of cumulative impacts (see EIS, Subsection 5.1.3.2). USACE is planning to prepare multiple biological assessments, each corresponding to the relevant phase of the program being considered under NEPA and CEQA.

In summary, nothing has been left out of the analysis, and there has been no improper segmenting.

- L2-2 Project Alternatives 2 and 3 include bank protection improvements along the east bank of the Sacramento River. However, it is unclear how these project alternatives would significantly increase the risk of erosion along the west bank of the Sacramento River because management of erosion in all segments of the Sacramento River Flood Control Project is carried out on a systemwide basis by USACE and the California Department of Water Resources (DWR) under the authority of the Sacramento River Bank Protection Project. The purpose of this ongoing authority is to ensure that erosion risks are reduced as they are identified, so that the flood managers can maintain fit levees without being either hindered or helped by the condition of levees elsewhere in the system.
- L2-3 As discussed in Section 4.4 and Appendix A of the EIS, there is no evidence that implementing levee improvements along the Sacramento River east levee as proposed under the project alternatives considered in the EIS would increase the risk of levee failure on the west side of the river. The westside levees would continue to be exposed to conditions similar to the preproject conditions. These levees would have the same risk of failure with or without the project because the proposed improvements would not reduce channel capacity or raise surface water elevations. Accordingly, there is no basis for concluding that the proposed improvements under any of the alternatives would have any direct or indirect effect on the reliability of the westside levees.
- L2-4 Considerable review of SAFCA’s modeling by USACE and USACE’s Hydrologic Engineering Center in Davis, California has occurred to date. The base model used in SAFCA’s hydrologic modeling was originally developed by USACE and the State of California as part of the Sacramento-San Joaquin River Basin Comprehensive Study. Extensive review of SAFCA’s approach in using this model occurred both in connection

with SAFCA's *EIR on the NLIP Landside Improvement Project* (SAFCA 2007) and this EIS. USACE and the State continue to refine the model for application to other early implementation projects and to develop a State Plan of Flood Control.

L2-5 As discussed in Appendix A to the EIS, much work has been done to promote regionally oriented improvements to the Yolo and Sacramento Bypass systems that could reduce the risk of floods over the long term. However, this alternative was not carried forward for detailed analysis in the EIS because the necessary improvements would be extremely costly and time consuming to implement; they would occur entirely outside SAFCA's jurisdiction, requiring extraordinary cooperation among affected federal, state, and local interests; and they would not resolve the seepage problems affecting the Sacramento River east levee and the Natomas Cross Canal south levee. The alternatives that were carried forward would address the immediate flood control issues facing the Natomas Basin in a way that would not adversely affect other portions of the Sacramento River system or other entities with flood management responsibilities. These alternatives would not prejudice the state's FloodSAFE effort or other future efforts from identifying additional long-term solutions to the flood protection system deficiencies related to the river system, including improvements to the Yolo and Sacramento Bypass systems.

L2-6 The proposed project is consistent with the following direction given by the California State Legislature to DWR with respect to projects that could provide protection to urban areas in the Central Valley before DWR's completion of an updated State Plan of Flood Control for the Central Valley:

...the department may implement flood protection improvements for urban areas protected by facilities of the State Plan of Flood Control before the adoption of Central Valley Flood Protection Plan if the director determines, in writing, that all of the following apply:

- (1) The improvements are necessary and require state funding before the completion of the Central Valley Flood Protection Plan...
- (2) The improvements will reduce or avoid risk to human life in one or more urban areas.
- (3) The improvements will not impair or impede future changes to regional flood protection or the Central Valley Flood Protection Plan.
- (4) The improvements will be maintained by a local agency that has committed sufficient funding to maintain both the existing and improved facilities of the State Plan of Flood Control.
- (5) The affected cities, counties, and other public agencies will have sufficient revenue resources for the operation and maintenance of the facility.
- (6) Upon the allocation of funds for a project, the proposed project is ready for implementation.
- (7) The improvements comply with existing law. (Chapter 364, Statutes of 2007)

This is what is referred to by DWR as a “no regrets” approach to rapidly reducing the risk of flooding (and associated State liability for flood damages) in urban areas while developing an updated State Plan of Flood Control that incorporates these urban area improvements into a coherent flood risk reduction system.

- L2-7 See Response to Comment L2-3. As discussed in Section 4.4.2 and Appendix A of the EIS, the proposed project would not alter water surface elevations and therefore would not increase flooding potential on the Sacramento River. The studies conducted by SAFCA and USACE as part of the project planning process and previous investigations consistently show that the proposed improvements would not significantly alter river channel geometry and associated water surface elevations. Therefore, the project would not measurably increase flood risk to other areas. The statements cited by the commenter from Appendix A of the EIS are not significance thresholds.
- L2-8 The premise of this comment is unclear because, as discussed in Response to Comment L2-7, the project would not increase the risk of flooding in Yolo County.
- L2-9 SAFCA must comply with the requirements for operation and maintenance applicable to all State/Federal project levees in the Central Valley. These requirements will be referenced in the encroachment permit that SAFCA receives from the Central Valley Flood Protection Board (CVFPB) to implement the project. The permit will obligate SAFCA to convey an easement to the CVFPB, giving the CVFPB effective control over the improved levee footprint to ensure that the referenced operation and maintenance requirements are properly carried out. Pursuant to SAFCA’s Joint Exercise of Powers Agreement, SAFCA will enter into an agreement with Reclamation District (RD) 1000 to carry out these requirements at SAFCA’s expense.
- L2-10 See Response to Comment F2-12.
- L2-11 Section 5.2 of the EIS, pages 5-23 to 5-31, analyzes the potential for growth inducement resulting from implementation of the proposed project and describes prior environmental analyses of growth inducement caused by the ARWI, including the Natomas Basin perimeter levee improvements. The analysis concludes that “there is substantial evidence that the project evaluated in this EIS and the NLIP as a whole would accommodate anticipated growth in the project area in a manner that would be consistent with adopted local and regional growth management plans and with an emerging State Plan of Flood Control.” (EIS, page 5-30; see also EIS, pages 4-51 to 4-55 [effects on giant garter snake].) The project does not open the Natomas Basin up to development; local land use policies control this development. NBHCP issues will be addressed as part of any change in land use policy.
- L2-12 Increases in stormwater runoff resulting from urbanization in the Natomas Basin would be addressed as part of the urban planning and development process in the City of Sacramento and Sacramento and Sutter Counties. All new development would be required to comply with the terms and conditions of applicable National Pollutant Discharge Elimination System permits issued by the Central Valley Regional Water Quality Control Board. In addition, because urban development in the Natomas Basin is typically designed to discharge stormwater into the RD 1000’s internal drainage system, each of the three jurisdictions would be required to comply with the terms and conditions of a stormwater management agreement with RD 1000. These agreements typically proscribe any increase in the peak flows discharged to the internal drainage system by

comparison to the preproject agricultural condition of the lands affected by urban development. This condition is achieved through the construction of a system of detention basins in urbanizing areas that mitigate development related changes in stormwater runoff rates. To the extent that the proposed project would increase the capacity of the internal drainage system, particularly near the Airport, through the construction of the new GGS/Drainage Canal, the cumulative effect of the project when combined with anticipated new urban development in the Natomas Basin would be potentially beneficial.



## **LETTER I1**

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Patricia Nealon and Dr. Del Wright

July 16, 2008





US Army Corps  
of Engineers ®  
Sacramento District

Natomas Levee Improvement Program  
Landside Improvements Project

## Public Meeting Comment Sheet

Comments may be submitted at the Public Meeting on July 16, 2008 or provided to the U.S. Army Corps of Engineers no later than 5:00 p.m. on July 28, 2008. If sending comments, please address to:

Elizabeth Holland, Planning Division  
U.S. Army Corps of Engineers, Sacramento District  
1325 J Street  
Sacramento, CA 95814  
[Elizabeth.G.Holland@usace.army.mil](mailto:Elizabeth.G.Holland@usace.army.mil)

Name: PATRICIA NEALON & DR. DEL WRIGHT  
 Organization: \_\_\_\_\_  
 Mailing Address: 5629 GARDEN Hwy  
SACRAMENTO CA 95837  
 E-mail: pnealon@synapsense.com

Comment: We are gravely concerned  
about the environmental impact  
to the heritage oaks as a  
result of this project. These  
are protected trees. Taking  
down 100 yr old oaks should  
be avoided. It is specifically  
there is a very old grove of 29  
trees which are kept high just  
south of the I5 bridge on the  
land side. There are beavers, hawks,  
owls & many other animals  
using these oaks as their habitat.  
They cannot be replaced.

11-1



**Letter  
I1  
Response**

---

Patricia Nealon and Dr. Del Wright  
July 16, 2008

I1-1 Potential loss of heritage oak trees is described in Impact 4.8-a (note: “woodland habitat” is the term used to refer to the habitat that includes oaks trees). The impact analysis notes that loss of woodland habitat (approximately 54.5 acres under Alternative 1) would be offset by creation of new woodlands and preservation of existing woodland (approximately 125 acres and 10–20 acres, respectively, under Alternative 1).



## **LETTER I2**

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Britt Johnson

July 16, 2008





US Army Corps  
of Engineers  
Sacramento District

Natomas Levee Improvement Program  
Landside Improvements Project

## Public Meeting Comment Sheet

Comments may be submitted at the Public Meeting on July 16, 2008 or provided to the U.S. Army Corps of Engineers no later than 5:00 p.m. on July 28, 2008. If sending comments, please address to:

Elizabeth Holland, Planning Division  
U.S. Army Corps of Engineers, Sacramento District  
1325 J Street  
Sacramento, CA 95814  
[Elizabeth.G.Holland@usace.army.mil](mailto:Elizabeth.G.Holland@usace.army.mil)

Name: BRITT JOHNSON  
Organization: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
E-mail: JOHNSON - BRITT @ SBC GLOBAL .NET

Comment: The Post Katrina one size fits all levee improvement is not appropriate for this area. A more regional approach including lowering the existing levees would better use of funds and would accomplish the same effect by lowering the average water height.

12-2

ENCROACHMENTS: IF AN ADJACENT LEVEE IS CONSTRUCTED <sup>UP</sup> EXISTING WATERSIDE ENCROACHMENTS WILL NOT EFFECT THE INTEGRITY OF THE NEW LEVEE PRISM.

12-2



**Letter  
I2  
Response**

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**Britt Johnson  
July 16, 2008**

I2-1 See Response to Comment L2-5.

I2-2 One of the design goals for the adjacent levee along the east bank of the Sacramento River is to reduce the risk that existing encroachments along the Garden Highway levee could impair the performance of the improved levee.



## **LETTER I3**

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Larry Morris

July 16, 2008





US Army Corps  
of Engineers ®  
Sacramento District

Natomas Levee Improvement Program  
Landside Improvements Project

## Public Meeting Comment Sheet

Comments may be submitted at the Public Meeting on July 16, 2008 or provided to the U.S. Army Corps of Engineers no later than 5:00 p.m. on July 28, 2008. If sending comments, please address to:

Elizabeth Holland, Planning Division  
U.S. Army Corps of Engineers, Sacramento District  
1325 J Street  
Sacramento, CA 95814  
[Elizabeth.G.Holland@usace.army.mil](mailto:Elizabeth.G.Holland@usace.army.mil)

Name: Larry Morris

Organization: \_\_\_\_\_

Mailing Address: 4508 Oxbow Dr Sacramento CA 95864

E-mail: lammorris@att.net

Comment: If power poles are to be relocated in reach 6B then  
I would like to ensure access to underground power to my  
property. There is currently a conduit under the  
Garden Highway.

I3-1

*Please use reverse side of page or use additional sheets as needed*



**Letter  
I3  
Response**

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Larry Morris  
July 16, 2008

I3-1

Comment noted.



## **LETTER I4**

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Siddiqui Family Partnership

Javed T. Siddiqui

July 16, 2008



**Siddiqui Family Partnership**

1808 J Street  
Sacramento, Ca 95814  
(916) 441-6708 Fax (916) 441- 5336

July 16, 2008

John Bassett  
Director of Engineering  
**SAFCA**  
1007 - 7<sup>th</sup> Street, 7<sup>th</sup> Floor  
Sacramento, CA 95814-3407  
Tel: (916) 874-7606  
Fax: (916) 874-8289  
[bassettj@saccounty.net](mailto:bassettj@saccounty.net)

**Re: Draft Environmental Impact Statement (EIS) for the Natomas Levee Improvement Program (NLIP)**

Dear John:

Thank you for giving me the opportunity to review the information in the Draft Environmental Impact Report on the Natomas Levee Improvement Program. I would like to complement SAFCA and other cooperating agencies for their effort to provide bank protection for the easterly side of the Sacramento River bank and providing a 200-year flood protection for the Natomas Basin.

The land adjacent to the east bank of the Sacramento River is prime riverfront property in Sacramento County. We understand and appreciate the importance of flood protection offered by the proposed project. Most of the Sacramento River frontage in Sacramento County is developed. Few development opportunities remain for our future generation to have waterfront property development for a prime waterfront project that would meet the needs of the growing population that would benefit from this resource. We ask that the Flood Protection Design take into account the value of preserving the riverfront land if at all possible. Therefore, we would ask that the levee side slopes be steepened if possible to avoid encroachment into the land by stabilizing the slopes and designing it in such a way that the slopes would be stable at the 1:1 or 2:1 slopes. This would minimize the need for taking down many of the Heritage trees that would otherwise lime the patch of the levee slope on private land.

14-1

It maybe possible to provide protection by constructing a slurry wall along the frontage and thus avoiding the need of getting into private property all together. The improvements at our ranch could be greatly affected with the design as proposed. Therefore, we ask that you please look into the possibility of having a slurry wall starting at the northerly boundary of our property within reach 10 and reach 11A and continue to the southerly boundary of our property. This would save the district money in not having to acquire additional valuable land or pay for mitigating the Heritage trees that would be affected along the river frontage of our property or pay for the real estate improvements on the property along the Sacramento River waterfront.

14-2

We would appreciate the agencies plans where future value of the property will be preserved and when development occurs along that frontage. The County would benefit from the revenues that will be generated from property taxes and associated activities.

14-3

We would also like to discuss the following issues with your staff as to what they have in mind so that we can work together and come up with a plan that suits your needs and at the same time preserve the functionality, the value and the future of our property.

1. Concrete water distribution structure that would lie in the path of the improvements which would need to be protected.
2. The bunk house.
3. Three (3) cottages.
4. Buildings, arena and other improvements in the area of proposed work.
5. The grove of Oak trees, Walnut trees, fruit trees and Sycamore trees.
6. Useable Ingress/Egress to the site and the improvements on waterfront side.
7. The well site and the Oak grove on Chilton Ranch.
8. The grove of Oak trees at Chilton Ranch just south of I-5.

14-4

I have attached a copy of my letters dated 11/28/07 on the *Landside Improvement Project & Bank Protection Project*. I would greatly appreciate the opportunity to take part in the process. Please let me at your earliest convenience who we could meet to incorporate our concerns in the design around our ranch.

Thank you.

  
Sincerely,

Javed T. Siddiqui  
Of the Siddiqui Family Partnership

JTS/fob

**Siddiqui Family Partnership**

1808 J Street  
Sacramento, Ca 95814  
(916) 441-6708 Fax (916) 441- 5336

November 28, 2007

John Bassett  
Director of Engineering  
**SAFCA**  
1007 - 7<sup>th</sup> Street, 7<sup>th</sup> Floor  
Sacramento, CA 95814-3407  
Tel: (916) 874-7606  
Fax: (916) 874-8289  
[bassettj@saccounty.net](mailto:bassettj@saccounty.net)

**Re: Comments on the Draft Environmental Impact Report for the Natomas Levee Improvement Program - Bank Protection Project**

Dear John:

It was good to speak with you over the telephone last week. I would like to thank you for giving me the opportunity to look at the Draft Environmental Impact Report and would like to complement SAFCA and other cooperating agencies for their effort to provide bank protection for the easterly side of the Sacramento River. We appreciate the effort that has gone into the process and are confident that once the project is completed, the bank will be afforded the protection to prevent further erosion of the land into the Sacramento River.

I am writing to ask you to please consider the following:

1. We currently have a pump house, pump and associated improvements on the riverside of the bank that provides most of our irrigation water to our ranch. The pump structure and improvements will be affected by the proposed construction. Detailed information on what is proposed at and near the pump house is not available in the documentation. We are requesting that protection be provided to the existing structure and improvements and be designed in a manner to maintain the easy access and viability/ functionality of the system.
2. Our entire riverfront currently has numerous Heritage trees. We only ask that the trees be protected to the fullest extent possible and work be performed in a way to afford the protection that would not harm the trees that are to be saved in this project. Sacramento County/City implements mitigation measures which could be implemented to protect these trees where possible.
3. There is an existing pad side yard area and a metal barn which is occupied by our tenant with improved semi-circular driveway, fencing and landscape area which is currently needed and used. Detailed information on what will be happening there is not available in the documentation. I am requesting that the construction and the related improvements be designed in a matter to preserve and protect the value and the functionality of those improvements and the areas to the highest extent possible.

4. There is an existing single-family residence with fencing and landscaped area. Detailed information on what will be happening there is not available in the documentation.

John, we would appreciate the opportunity to meet with the staff and learn more about how these improvements would be designed so as to be sensitive to our needs and preservation/protection of the improvements to the extent possible.

Thank you for all the hard work. If I can be of any assistance, please let me know. I look forward to hearing from you.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Javed T. Siddiqui". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

JAVED T. SIDDIQUI  
General Partner

JTS/fob

Cc:

Siddiqui Family Partners

- I4-1 The project alternatives considered in the EIS are intended to meet applicable Federal and State levee design standards. Those standards typically require a minimum 3:1 levee slope.
- I4-2 Implementation of cutoff walls to control underseepage in Sacramento River east levee Reaches 10 and 11A is problematic because the depth of the porous material in the foundation of the levee exceeds the reach of the conventional deep-stick excavators that would typically be used to install the cutoff walls over an extensive length of levee. Other nonconventional installation technologies could be employed or, in appropriate circumstances, conventional installation techniques could be combined with seepage well installation. However, these nonconventional approaches are typically more costly than installation of seepage berms. Moreover, seepage wells are considered somewhat less reliable than seepage berms because of their operation and maintenance requirements. In identifying seepage berms as a preferred seepage control measure for these reaches, SAFCA also considered the susceptibility of the foundation soils to seismically induced instability.
- I4-3 The current zoning for the referenced property is agriculture. No other use is currently being contemplated.
- I4-4 This is beyond the scope of the EIS. USACE and SAFCA are committed to maintaining good communications with affected residents and business owners throughout project planning and construction. Also, see Response to Comment I5-1.

