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

September 17, 2010

Lisa Gibson
US Army Corps of Engineers
Sacramento District
Regulatory Branch
1325 J Street, Room 1480
Sacramento, CA 95814-2922

Subject: Draft Environmental Impact Statement for Folsom South of U.S. 50 Specific Plan Project, Sacramento County, California [CEQ # 20100254]

Dear Ms. Gibson:

The U.S. Environmental Protection Agency (EPA) has reviewed the Draft Environmental Impact Statement (DEIS) for Folsom South of U.S. 50 Specific Plan Project (Project), Sacramento County, California. Our comments are provided 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. These comments were also prepared under the authority of, and in accordance with, the provisions of the Federal Guidelines (Guidelines) promulgated at 40 CFR 230 under Section 404(b)(1) of the Clean Water Act (CWA). We appreciate the EPA-specific, informal extension of the comment deadline date from September 10, 2010 to September 17, 2010, granted by you on September 2, 2010.

EPA appreciates the efforts of the U.S. Army Corps of Engineers (Corps), City of Folsom (Folsom) and the project applicant, South Folsom Property Owners Group, in coordinating with EPA prior to the review of the Project DEIS. The DEIS for the Project provides a robust analysis of the potential impacts of the Project alternatives. Notable features include: a Proposed Project design that incorporates smart growth and low impact development principles, mitigation measures that include a site-specific screening analysis and/or Health Risk Assessment to determine the cumulative adverse air toxics effects on sensitive receptors, and a detailed "Summary of Impacts and Mitigation Measures" that clearly identifies the mitigation measures, who is responsible for implementation, timing of implementation, and enforcement responsibilities.

While we applaud the above design features and mitigation commitments, we believe the Proposed Project has the potential to contribute to significant cumulative environmental degradation that could be prevented with additional design modifications or the selection of other less damaging practicable alternatives. For example, the No U.S. Army Corps of Engineers Permit (No USACE Permit) and Resource Impact Minimization Alternatives, described in the DEIS, offer significantly reduced adverse environmental impacts, and could be redesigned to meet Sacramento Area Council of Governments (SACOG) density and smart growth goals.

Commendable design features and quality of the DEIS notwithstanding, we have rated the Proposed Project and DEIS as Environmental Objections – Insufficient Information (EO-2) (see enclosed EPA Rating Definitions), based on significant impacts to aquatic and ecologically important resources, the potential inability to achieve "no net loss of wetland functions and values," a flawed Section 404(b)(1) On-Site Alternatives Analysis, significant air quality impacts, and lack of a demonstrated need for the proposed level of development. Because of the above, EPA is not able to determine whether the Proposed Project is the least environmentally damaging practicable alternative, consistent with the Guidelines. Furthermore, the Proposed Project would contribute to the exceedance of National Ambient Air Quality Standards. Proceeding with the Project, as proposed, would set a precedent for future actions that, collectively, could result in significant environmental impacts.

To address our objections, we recommend the Final EIS: 1) validate the need for the proposed level of development with appropriate data; 2) develop and analyze alternatives that maximize the avoidance and minimization of adverse impacts to sensitive resources while also meeting Sacramento Area Council of Government Blueprint density and smart growth goals; 3) demonstrate the feasibility of achieving "no net loss of functions and values" of wetlands, waters of the U.S., and other sensitive resources; 4) include a revised Section 404(b)(1) On-Site Alternatives Analysis that identifies the least environmentally damaging practicable alternative; and 5) provide a General Conformity Analysis, and if applicable, a draft General Conformity determination. Our detailed comments are enclosed.

EPA appreciates the opportunity to provide input on this Specific Plan Project. We are available to discuss all recommendations provided. When the Final EIS is released for public review, please send one hard copy and two CD to the address above (Mail Code: CED-2). If you have any questions, please contact me at 415-972-3843, or contact Laura Fujii, the lead reviewer for this project. Laura can be reached at 415-972-3852 or fujii.laura@epa.gov.

Sincerely,

/s/

Enrique Manzanilla, Director
Communities and Ecosystems Division
Mail Code CED-1

Enclosures: Summary of EPA Rating Definitions
Detailed Comments

Cc: Gail Furness de Pardo, City of Folsom Community
Michael R. Finnegan, Bureau of Reclamation
Mr. Kenneth Sanchez, U.S. Fish and Wildlife Service
Mr. Dan Gifford, California Department of Fish and Game

U.S. EPA DETAILED COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR FOLSOM SOUTH OF US 50 SPECIFIC PLAN PROJECT, SACRAMENTO COUNTY, CA, SEPTEMBER 17, 2010

Section 404(b)(1) of the Clean Water Act

Develop and analyze alternatives that maximize the avoidance and minimization of adverse impacts while meeting SACOG density and Smart Growth principles. The Proposed Project would result in direct impacts to 39.499 acres of waters of the U.S. (WUS), including 24.42 acres of vernal pools, seasonal wetlands, and seasonal wetland swales. The DEIS states that the total cumulative loss of WUS in Sacramento County and El Dorado County, including past and expected losses, is 381.039 acres out of 909.96 acres.[1] EPA has long expressed its concern over the significant direct, indirect, and cumulative loss of aquatic resources in the Sacramento County region. Cumulative impacts to vernal pool grasslands and seasonal wetland habitats (the distinction between which are often blurred on both technical and regulatory grounds) have been exceedingly large. The loss of these habitats has led to habitat fragmentation and the loss of connectivity. The Proposed Project would also result in the loss of 444 acres of blue oak woodland, another rapidly declining ecologically important habitat.

California has suffered between 80-90% loss of vernal pools, with a loss of over 137,000 acres of vernal pool habitat by 2005, as compared to habitat that existed in the baseline period of 1976-1995. Sacramento County is proposing the cumulative development and loss of nearly 2000 acres of WUS, including as much as 1200 acres of vernal pools and swales.[2] As noted in the DEIS, the U.S. Army Corps of Engineers (Corps) cannot issue a Section 404 Permit to the Proposed Project if a practicable alternative is identified that would have less adverse impacts on the aquatic ecosystem and no other significant adverse environmental consequences (p. 2-5).

The No U.S. Army Corps of Engineers Permit (No USACE Permit) and Resource Impact Minimization Alternatives avoid many impacts to waters of the U.S., blue oak woodlands, air quality, and cultural resources. However, the DEIS states these alternatives are inconsistent with SACOG's Blueprint Scenario because they do not propose the density of development envisioned by the Blueprint (p. 4-66). The DEIS does not provide an explanation describing why these less damaging alternatives could not be designed to be more consistent with the SACOG Blueprint Scenario density goals.

> ***Recommendations:***
> We recommend the final environmental impact statement (FEIS) include the analysis of alternatives that both avoid and minimize adverse impacts to sensitive resources while also meeting Sacramento Area Council of Government (SACOG) Blueprint Scenario density and smart growth goals. For instance, we recommend further refinement of the No U.S. Army Corps of Engineers Permit (No USACE Permit) and Resource Impact Minimization Alternatives to meet SACOG density and smart growth goals.

[1] Table 4-5: Wetlands and Other Waters at Specific Projects in the Vicinity of the Folsom South of Highway 50 Specific Plan, p. 4-30.
[2] Summary Report "Loss of Central Valley Vernal Pools; Land Conversion, Mitigation Requirements, and Preserve Effectiveness" by Placer Land Trust, 2009 www.placerlandtrust.org

Revise the Section 404(b)(1) On-Site Alternatives Analysis and identify the LEDPA. EPA does not concur with the conclusions of Appendix L: 404(b)(1) On-Site Alternatives Analysis, largely on the basis that the cost analysis is flawed. This Alternatives Analysis compares costs of identified alternatives to the cost of implementing the Proposed Project. Costs and other criteria should be used to determine the practicability of the alternatives and their ability to achieve the basic project purpose. The project purpose, as considered by the Corps, is to construct a large scale, mixed-use development, with associated infrastructure, within eastern Sacramento County (p. 1-7). We note that the Corps has not identified the least environmentally damaging practicable alternative (LEDPA).

> ***Recommendations:***
> Include in the FEIS a revised Section 404(b)(1) On-Site Alternatives Analysis that properly applies criteria to determine the practicability of the alternatives and their ability to achieve the basic project purpose. The Section 404(b)(1) On-Site Alternatives Analysis should identify the LEDPA.

Verify the ability to fully mitigate the loss of habitat functions and values of the LEDPA. The 2008 Compensatory Mitigation Rule requires 404 Permit applicants to identify where and how they will mitigate for adverse impacts prior to issuance of the 404 Permit, with a hierarchy of preference starting with mitigation banks or in-lieu fee programs, progressing to permittee-responsible mitigation. The DEIS does not identify proposed mitigation sites nor provide a draft mitigation and monitoring plan. Thus, EPA is unable to determine compliance with the 2008 Compensatory Mitigation Rule. Considering the rapid rate of development in Sacramento County and the limited amount of undeveloped, uncommitted land that supports existing wetlands that could be preserved or that is suitable for compensatory aquatic habitat creation, it may not be possible to fully mitigate the loss of habitat functions and values of the Folsom South US 50 Specific Plan Area (SPA) (p. 4-32).

> ***Recommendations:***
> We recommend the FEIS identify proposed mitigation sites and, if feasible, provide a draft mitigation and monitoring plan. This information would assist the Corps and EPA in determining compliance with the 2008 Compensatory Mitigation Rule. The FEIS should verify the ability to fully mitigate the loss of habitat functions and values.

Consider the Off-Site Water Alternative 2B as the preferred water infrastructure alignment. The construction of a large scale, mixed-use development in the Folsom South of US 50 Specific Plan Area (SPA) will require the construction and operation of new water and wastewater conveyance and treatment facilities. The DEIS evaluates eleven alternatives, consisting of various combinations of raw water or treated water conveyance, road route alignments, and water treatment plant (WTP) sites. The Off-Site Water Alternative 2B would reduce air quality, noise, wetland, and land use impacts by integrating with existing water treatment facilities, minimizing the conveyance alignment distance, and maximizing use of horizontal directional drilling construction methods where the pipeline route intersects WUS (p. 2-107).

Recommendation:
We recommend the Corps and project proponents consider selection of the Off-Site Water Alternative 2B, the identified environmentally superior alternative for the "water " portion of the project (p. 2-107), as the preferred water infrastructure alignment,.

Air Quality

Aggressively implement emission reduction measures and include a General Conformity analysis and, if applicable, a draft General Conformity determination. Sacramento County is in nonattainment for ozone and particulate matter (PM), both fine PM and respirable PM (PM2.5 and PM10), with the Sacramento Valley Air Basin ranking among the worst in the nation for ozone. Emissions are dominated by area-wide sources, primarily because of development. Even with proposed mitigation, the construction, operation, and mobile-source emissions from the development of the SPA would exceed Sacramento Metropolitan Air Quality Management District-recommended thresholds and contribute to the exceedance of the National Ambient Air Quality Standards (NAAQS)(p. 3A.2-44). The Proposed Project would significantly increase peak-hour use, daily traffic volumes, and the demand for single-occupant automobile travel on roadways and intersections, resulting in a significant reduction in level of service and the need for major improvements.

The DEIS correctly points out that EPA's General Conformity program addresses emissions from federal projects and actions, in order to protect areas that EPA has designated as not meeting federal air standards. A federal agency first looks at whether its preferred alternative would result in direct and indirect emissions that are over the de minimis threshold for the program. If project emissions are above de minimis, the federal agency prepares a determination that describes in detail the manner in which the project conforms to the applicable state implementation plan (SIP) for the area. The DEIS states that General Conformity will be addressed in the Record of Decision (ROD) (p. 3A.2-11). While this is allowed under regulation and law, project emissions could be above the de minimis threshold, requiring a General Conformity determination. Addressing General Conformity requirements now may lead to project design modifications, emission offsets, and additional mitigation measures that significantly reduce emissions.

Recommendations:
We urge project proponents to aggressively implement emission reduction measures such as reliance on accessible transit and higher density development on more centralized, smaller parcels close to existing employment centers and infrastructure. We recommend working with transportation planners to fund and implement transit, roadway, and intersection improvement projects that will reduce adverse impacts to air quality. The FEIS should include a General Conformity Analysis, and, if applicable, a General Conformity Determination. If a determination is required, the results of that determination, in the form of emission reductions, should be integrated into the project design.

Aggressively implement all feasible GHG reduction measures. The Proposed Project would generate temporary, short-term construction-related and long-term operational greenhouse gas emissions. These emissions would contribute to a substantial and unavoidable cumulative impact despite proposed mitigation measures.

> ***Recommendation:***
> We urge retention and aggressive implementation of all proposed mitigation measures, including those currently required under Assembly Bill 32, the California Global Warming solutions Act of 2006 (AB 32), regardless of the outcome regarding final implementation of AB 32.

Correct Sacramento Metro's PM2.5 designation in Table 3A.2-1. Table 3A.2-1, "Summary of Ambient Air Quality Standards and Attainment Designations," contains an error regarding the Sacramento Metro area's status with respect to fine particulate matter (PM2.5) NAAQS. The table indicates that the Sacramento Metro area is unclassifiable/attainment ("U/A" in the table). This designation is not correct.

> ***Recommendation:***
> Correct Table 3A.2-1 to state that the Sacramento Metro area was designated nonattainment for the 2006 PM2.5 NAAQS in December 2009. This designation is codified at 40 Code of Federal Register Part 81.305.

Need for Proposed Level of Development

Validate the need for the proposed level of development. The region surrounding the SPA is under rapid development, as demonstrated by the many nearby developments and Master Planned Communities described in the DEIS (4.1 Cumulative Impacts). There appears to be ongoing public debate regarding growth projections, level of development, and housing unit needs for Sacramento County.[3] The DEIS does not demonstrate the need for the proposed level of development, especially in light of already planned growth in the surrounding region.

> ***Recommendations:***
> The FEIS should validate the need for the proposed level of development with appropriate data. For instance, provide current data regarding the demand for housing and commercial/industrial space in this area. The FEIS should include a detailed explanation of why a development of this size, composition, and location is needed. If feasible, provide a more detailed description of the phasing of the Proposed Project, including the criteria that will be used to determine the need for subsequent stages.

Water Supply

Provide a more robust evaluation of the long-term reliability of the proposed water supply source. It is estimated that the Proposed Project annual water demand would be 3,648 acre-feet (af) for residential use and 1,898 af for nonresidential use, for a total of 5,546 af (p. 2-79). The proposed water source would be an agriculture-to-urban water transfer of no more than 8,000 acre-feet-per-year (afy) of Bureau of Reclamation Central Valley Project (CVP) contract entitlement from the Natomas Central Mutual Water Company (NCMWC), located in the

[3] The Sacramento Bee, "Sacramento County may open 20,000 acres to development," Tuesday, July 27, 2010

Natomas Basin north of the City of Sacramento. The City of Folsom is an existing CVP contractor within the American River Unit. Upon annexation, the SPA would be within the CVP water rights place of use for the City (p. 2-80). A 2007 study, cited in the DEIS, indicates that, based on NCMWC cropping patterns, NCMWC has sufficient surface water supplies to transfer up to 8,000 afy without adverse effects to NCMWC, nor the risk of groundwater pumping by NCMWC as a result of the water transfer(p. 2-82). The NCMWC CVP contract supply originates from the Shasta/Trinity River Division of the CVP (p. 2-80). EPA is concerned with the long-term reliability of the proposed NCMWC water supply source, in light of efforts to reduce diversions from the Trinity River, increase Sacramento River flows for anadromous fish and the San Francisco-San Joaquin River Bay Delta (Bay Delta), increasing upstream demands, and climate change.

Recommendations:

We recommend the FEIS contain a more robust evaluation of the long-term reliability of the proposed water supply source. For instance, provide additional information on potential implications of full implementation of the Trinity River Restoration Program, more stringent Bay Delta downstream flow requirements, the likelihood of increased upstream demands, and climate change risks.

Area 40 Aerojet Superfund Site

Area 40, which is part of the Island Operating Unit of the Aerojet Superfund site, is located in the SPA, a short distance east of Prairie City Road. This site is undergoing investigation and remediation under the direction of EPA, the Central Valley Regional Water Quality Control Board, and the California Department of Toxic Substances Control. The Proposed Project would designate Area 40 as open space and parkland. Land identified for the proposed off-site detention basin is also located on the Aerojet Superfund site in the Eastern Operating Unit (p. 3A.8-23).

Correct references regarding Area 40 "RI/FS". The discussion of Area 40 references a 2007 document as an "RI/FS" and attaches a copy in Appendix G1. The referenced document is, in fact, a work plan for field sampling to support the preparation of a Remedial Investigation/Feasibility Study (RI/FS) report for the Island Operable Unit (IOU), including Area 40 (p. 3A.8-3).

Recommendation:

The FEIS should clarify that the referenced document is not the RI/FS report for the IOU because this document is in preparation and has not yet been submitted to EPA in final form. While the work plan does summarize soil and groundwater data collected prior to the date of its preparation in 2007, substantial additional sampling data have been generated during the field implementation of the sampling work plan. These data will be presented and analyzed in the forthcoming RI/FS for the IOU and should be consulted prior to planning future uses within Area 40. Cleanup levels for Area 40 will not be set until EPA signs a Record of Decision for the IOU.

Correct text describing the content of EPA's Record of Decision for the Island Operating Unit. The text of the DEIS reads "Before any portion of the Aerojet Superfund Site can be made available for new uses, EPA must issue a record of decision (ROD) or similar certification indicating that remedial actions have been completed, and that no unacceptable risks would be posed to human health or the environment" (3A.8-3). This statement is not correct.

Recommendation:
The FEIS should clarify that EPA's ROD for the IOU will document EPA's selection of an alternative to clean up this portion of the Aerojet Superfund site to be protective of human health and the environment for the anticipated future uses of the site. Following the ROD, the remedial design process develops the technical and construction aspects of the remedy, which is then implemented during the remedial action phase. It is possible that portions of Area 40 may not be available for some uses (especially sensitive uses such as residential development) until the completion of cleanup. The range of cleanup time frames varies and is very site-specific. For instance, cleanup of soils may take only a matter of months to implement, while groundwater restoration remedies (such as pumping and treating extracted groundwater) may take years or decades.

Questions regarding the investigation and remediation of Area 40 may be directed to: Gary J. Riley, P.E., Environmental Engineer, Superfund Project Manager/Superfund Reuse Coordinator, US EPA Region 9, 415-972-3003 or riley.gary@epa.gov.

Sustainable Development

Aggressively implement smart growth principles. EPA acknowledges the advantages of annexation of the SPA in order to provide the City of Folsom the ability to ensure that development on adjacent land within its sphere of influence is consistent with City's General Plan and SACOG Blueprint and Smart Growth Principles. We commend the commitment to smart growth and low impact development principles.

Recommendations:
We continue to strongly encourage the aggressive implementation of Smart Growth, Green Building, and Leadership in Energy and Environmental Design (LEED) principles as a means to minimize project impacts and create a healthier, more sustainable community. Where feasible, we encourage infill of existing urbanized parcels prior to the development of current open space, because infill reduces the need for new infrastructure, helps revitalize existing developed areas, and reduces development pressure of open space.