

US EPA ARCHIVE DOCUMENT



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

September 4, 2012

James Robb  
U.S. Army Corps of Engineers, Sacramento District  
1325 J Street, Room 1480  
Sacramento, California 95814-2922

Subject: Sierra Vista Specific Plan Draft Environmental Impact Statement (EIS), Placer County, California [CEQ #20120230]

Dear Mr. Robb:

The U.S. Environmental Protection Agency (EPA) has reviewed the above referenced document. Our review and comments are provided pursuant to the National Environmental Policy Act (NEPA), the Council on Environmental Quality's (CEQ) NEPA Implementation Regulations at 40 CFR 1500 - 1508, and our review authority under Section 309 of the Clean Air Act.

EPA supports and appreciates the efforts of the U.S. Army Corps of Engineers (Corps) and partners involved in this project area to produce a unified approach in a single EIS. We have rated this Draft EIS as EO-2 – Environmental Objections-Insufficient Information (see Enclosure 1: “Summary of Rating Definitions and Follow-Up Action”), however, because the Proposed Action in the Draft EIS does not appear to be the least environmentally damaging practicable alternative (LEDPA), and does not propose appropriate compensatory mitigation for aquatic resource impacts.

The Proposed Action would adversely affect 24.81 acres of waters of the U.S., including 7.9 acres of vernal pools. In 2008, EPA identified the vernal pools on the project site as an Aquatic Resource of National Importance (ARNI), and determined that the project, as proposed at that time, would have significant and unacceptable impacts to ARNI. The Draft EIS does not demonstrate compliance with the Clean Water Act Section 404(b)(1) Guidelines, which require the Corps to permit only the LEDPA, based on an alternative’s avoidance and minimization of impacts to waters. Tens of thousands of acres of land supporting vernal pools and related ecosystems are threatened by numerous proposed developments in western Placer County and adjacent Sacramento County. The Sierra Vista Specific Plan and other proposed development projects could potentially adversely affect 50 percent of the remaining vernal pool complexes in western Placer County. EPA would like to work with the Corps during the development and identification of the LEDPA and compensatory mitigation plan for this project. The Final EIS should identify the Environmentally Preferable Alternative and the LEDPA and explain the basis for these designations. Please see enclosures 2 and 3 for our detailed comments.

The proposed project is located in an area that is federally designated as non-attainment for ozone and PM<sub>2.5</sub> (particulate matter smaller than 2.5 microns), and EPA has serious concerns regarding the significant cumulative impacts to air quality within the Sierra Vista cumulative effects study area. Research has shown that these air pollutants can trigger a variety of health problems and may exacerbate conditions such as asthma. The Final EIS should include additional information regarding cumulative impacts to air quality; provide air emissions dispersion modeling results; and demonstrate that the project's emissions would conform to the State Implementation Plan and not cause or contribute to violations of the National Ambient Air Quality Standards. Please see enclosure 2 for our detailed comments regarding air quality.

We appreciate the opportunity to review this Draft EIS. Please note that starting October 1, 2012, EPA Headquarters will not accept paper copies or CDs of EISs for official filing purposes. Submissions on or after October 1, 2012 must be made through EPA's new electronic EIS submittal tool: *e-NEPA*. To begin using *e-NEPA*, you must first register with EPA's electronic reporting site - [https://cdx.epa.gov/epa\\_home.asp](https://cdx.epa.gov/epa_home.asp). Electronic submission does not change requirements for distribution of EISs for public review and comment, and lead agencies should still provide one hard copy of each Draft and Final EIS released for public circulation to the EPA Region 9 office in San Francisco (mailcode CED-2).

If you have any questions, please call me at (415) 972-3843 or contact Jeanne Geselbracht, our lead NEPA reviewer for this project, at [geselbracht.jeanne@epa.gov](mailto:geselbracht.jeanne@epa.gov) or (415) 972-3853.

Sincerely,

/S/

Enrique Manzanilla, Director  
Communities and Ecosystems Division

Enclosures:

- (1) Summary of Rating Definitions and Follow-Up Action
- (2) EPA's detailed comments on the Sierra Vista Specific Plan Draft EIS
- (3) EPA letter to Corps regarding Sierra Vista Specific Plan (PN 200601050), April 28, 2008

Cc: Placer County Air Pollution Control District  
Kelly Berrie, U.S. Fish and Wildlife Service

**Sierra Vista Specific Plan Draft EIS  
EPA Detailed Comments - September 2012**

**Project Alternatives**

EPA continues to object to Clean Water Act Section 404 authorization for the Sierra Vista Specific Plan project as proposed because the Proposed Action does not appear to be the least environmentally damaging practicable alternative (LEDPA). Based on information in the Draft EIS, it appears that, among the action alternatives assessed, Alternative 1– Reduced Footprint/Increased Density would result in the lowest level of environmental impacts for the majority of the resource categories assessed, and has not been demonstrated impracticable under the Clean Water Act Section 404(b)(1) Guidelines (Guidelines). As described in the Draft EIS, Alternative 1 would slightly increase the number of residential units, but would also increase designated open space in areas with the greatest concentrations of sensitive habitat (vernal pools and/or drainages). Under this alternative, total acres developed would be 1,027 acres (vs. 1,370 acres under the Proposed Action); open space would be 599 acres (vs. 257 acres); and the residential footprint would be 593 acres (vs. 820 acres), maintaining the number of units through higher densities. Alternative 1 represents a 65% reduction of impacts to aquatic resources overall (from 24.81 acres to 8.66 acres), including a two-thirds reduction of impacts to vernal pools (from 7.9 acres to 2.6 acres).

**Aquatic Resources of National Importance and Compliance with the Guidelines**

By letter dated April 28, 2008, EPA identified the vernal pools on the project site as an Aquatic Resource of National Importance (ARNI), and determined that the project, as proposed, would have significant and unacceptable impacts to ARNI. Consistent with the 1992 Memorandum of Agreement between EPA and the Corps regarding Section 404(q) of the CWA, this permit action remains a candidate for review by EPA and Corps Headquarters. Our 2008 letter provides detailed comments regarding our concerns with the project's impacts to ARNI and is incorporated into these comments by reference (Enclosure 3).

Based on information currently available, the Sierra Vista Applicants Group (applicants) have not demonstrated compliance with the Guidelines, which require the Corps to permit only the LEDPA, based on an alternative's avoidance and minimization of impacts to waters. In addition, the Guidelines require compensatory mitigation of unavoidable impacts to waters. EPA believes that the Proposed Action is not the LEDPA and that further avoidance of waters is practicable and necessary. While the proposed project generally avoids impacts to the two main drainages on the site (Curry and Federico Creeks), it would eliminate 68 percent of the site's waters, overall. The majority of these impacts (21.12 acres) will occur to depressional wetlands, including vernal pools, seasonal wetlands and seasonal swales. These wetlands are habitat to several special-status plant and wildlife species that are protected under the federal Endangered Species Act (ESA) and the California Endangered Species Act (CESA), including Dwarf downingia (*Downingia pusilla*) and Conservancy fairy shrimp (*Branchinecta conservatio*). Furthermore, the project is located within the Western Placer County core recovery area of the Southeast Sacramento Valley vernal pool region. Core recovery areas are identified by the Fish and Wildlife Service to focus recovery actions for 20 species of animals and plants that are listed as either Endangered or

Threatened.<sup>a</sup> Statewide losses of vernal pools currently exceed 85 percent of historic distribution, and tens of thousands of acres of land supporting vernal pools and related ecosystems are threatened by numerous proposed developments in western Placer County and adjacent Sacramento County.

Mitigation Measure BIO-1a describes the conceptual mitigation plan to compensate for the loss of 24.81 acres of wetlands and other waters of the U.S. associated with the proposed project. The plan states that the applicants will purchase 7.88 acres of vernal pool credits from an off-site mitigation bank, and that 28.86 acres of riverine/seasonal wetlands will be constructed on the project site within the 257 acres of open space along the two drainage corridors. Consistent with the 2008 Federal Mitigation Rule (40 CFR Part 230, Subpart J), EPA supports the portion of the proposal that utilizes existing mitigation bank credits. However, the conceptual plan does not provide enough information to justify the out-of-kind, permittee-responsible portion of the mitigation proposed. As it appears multiple banks have service areas that include this project site, with available vernal pool and seasonal wetland credits, EPA believes this should be the Corps' preferred approach to approved mitigation for this project. We would also welcome the opportunity to provide input to the Corps' analysis of before/after mitigation implementation (BAMI) procedures under the mitigation ratio Standard Operating Procedures (SOP).

We note that an off-site permittee-responsible project could be appropriate, if it would support a watershed approach to aquatic resource management (such as contributing to existing regional conservation plans), and "will restore an outstanding resource based on a rigorous scientific and technical analysis" (40 CFR 230.93(b)(2)). The conceptual plan lacks any such analysis, but clearly does not propose to restore an outstanding resource. According to the plan, 28.86 acres of constructed wetlands will be located on terraces adjacent to existing stream channels. These wetlands "are designed to be inundated during frequent storm events" and will accommodate post-development flows from the surrounding developments. We do not support replacing naturally occurring wetlands with constructed stormwater treatment wetlands. While we agree that these riverine wetlands can improve water quality and may support wildlife, we do not believe they are appropriate compensation for the loss of depressional wetlands such as vernal pools, seasonal wetlands and seasonal swales.

**Recommendations:**

- The Corps should not permit the project as proposed and should work with the EPA during development and identification of the LEDPA and mitigation planning.
- The Final EIS should identify the Environmentally Preferable Alternative as well as the LEDPA, and explain the basis for these designations.
- The Final EIS should include a revised mitigation plan that requires purchase of seasonal wetland and vernal pool credits from approved mitigation banks rather than giving compensatory mitigation credit for the on-site, out-of-kind constructed stormwater treatment wetlands proposed for this project.
  - If sufficient bank credits are not available, EPA recommends that the Corps only approve off-site permittee-responsible mitigation at sites selected using a watershed approach to restoration of ecosystem functions and services, and where activities are likely to be successful and naturally self-sustaining.

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<sup>a</sup> Recovery Plan for Vernal Pool Ecosystems of California and Southern Oregon" (US Fish and Wildlife Service 2005).

- To the extent practicable, the form of all off-site mitigation should be in-kind rehabilitation and re-establishment rather than creation or preservation.
- EPA is available to provide technical assistance in scaling appropriate mitigation needs pursuant to the Corps SOPs. Please contact Eric Raffini, EPA Wetlands Office, at (415) 972-3544 or raffini.eric@epa.gov, to continue discussion of the LEDPA and mitigation plan.

### **Cumulative Impacts**

EPA has serious concerns regarding the significant cumulative impacts to water quality and habitat (see Enclosure 3) and air quality (see Air Quality comments below) within the Sierra Vista cumulative effects study area. Tens of thousands of acres of land supporting vernal pools and related ecosystems are threatened by numerous proposed developments in western Placer County and adjacent Sacramento County. The Sierra Vista Specific Plan and other proposed development projects could potentially adversely affect 50 percent of the remaining vernal pool complexes in western Placer County. The project site is also located in an area that is federally designated non-attainment for ozone and PM2.5 (particulate matter smaller than 2.5 microns). These air pollutants can lead to a number of health problems. Children, in particular, have greater sensitivities to various environmental contaminants, including air pollutants. Construction and operation emissions could exacerbate existing conditions, such as asthma, for children, the elderly, and those with existing respiratory or cardiac disease.

While Chapter 4 of the Draft EIS identifies numerous planned development, transportation, and infrastructure improvement projects in the Sierra Vista cumulative effects study area, EPA is aware of many additional federal projects in which the Corps is involved and which are planned in the study area for the same general time period as the proposed Sierra Vista project. These projects, however, have not been identified in the Draft EIS (section 4.2.4). They include the Sun Creek Specific Plan, Sunridge Specific Plan, Mather Specific Plan, Folsom South of US Highway 50 Specific Plan, Rio Del Oro Project, Arboretum Project, Southport Sacramento River Early Implementation Project, Cordova Hills Project, Jackson Township Project, Folsom Dam Modification Project Approach Channel, and the Natomas Levee Improvement projects. It is unclear whether these projects have been considered in the Sierra Vista Specific Plan cumulative impacts analyses.

**Recommendation:** Additional efforts should be made by the Corps to coordinate with appropriate agencies and applicants on the multiple projects in the area so that the cumulative effects of past, current, and foreseeable future projects can be more accurately identified, and minimized and/or effectively mitigated for each resource.

### **Air Quality**

Table 3.3-12 (Draft EIS, p. 3.3-37) refers to the State Implementation Plan (SIP) emissions budget for volatile organic compounds (VOC), which are ozone precursors. EPA, however, has only partially approved the 2008 Sacramento Regional 8-Hour Ozone Attainment and Reasonable Further Progress Plan (2008 Ozone Plan), specifically the motor vehicle emissions budget for use in traffic conformity determinations. Therefore, it is not the applicable SIP for



general conformity, and a general conformity determination for the Sierra Vista project cannot be made based on this plan at this time. Based on the proposed project's potential construction emissions estimates in the Draft EIS, it appears that a conformity determination will be needed.

**Recommendation:** The Final EIS should demonstrate that the direct and indirect emissions of the project conform to the SIP and do not cause or contribute to violations of the National Ambient Air Quality Standards (NAAQS). We recommend that the Corps work closely with the Placer County Air Pollution Control District on its conformity determination. We also recommend that the Draft General Conformity Determination be included in the Final EIS, either as a detailed summary or as an appendix.

The Draft EIS provides construction and operational emissions estimates in pounds per day for purposes of comparing them with emissions budgets and general conformity de minimis thresholds. It appears that, with the exception of carbon monoxide, the proposed project's direct and indirect contaminant emissions have not been modeled to show their estimated *concentrations* in the project area. Additional dispersion modeling should be conducted to determine air pollutant concentrations of criteria pollutants from direct, indirect, and cumulative emissions for an accurate comparison with the NAAQS, using comparable units (e.g. micrograms per cubic meter, parts per billion, or parts per million).

**Recommendation:** The Final EIS should include this additional information.

EPA is concerned that the proposed action would result in a significant cumulative impact due to operational emissions (Draft EIS, p. 4.0-27). According to the Draft EIS (p. 4.0-4), the study area for cumulative air quality impacts is the Sacramento Valley Air Basin. As stated above, EPA is aware of multiple federal projects, in which the Corps is involved, and which are planned in the Sacramento Valley Air Basin for the same general time period as the proposed Sierra Vista project. Because many of these projects are not identified in the discussion in section 4.2.4 of the Draft EIS, however, it is unclear whether they have been considered in the cumulative air quality impacts analysis.

**Recommendation:** Cumulative emissions should be evaluated for potential contributions to violations of the NAAQS. The air quality cumulative impacts analysis should account for all reasonably foreseeable future actions in the Sacramento Valley Air Basin. The Final EIS should provide a table that includes the criteria pollutant emissions estimates and totals from all of these sources for both the construction and operational phases of the projects.

The Draft EIS (p. 3.3-35) cites the general conformity rule incorrectly. The general conformity rule was revised April 5, 2010 (75 FR 17257). The EPA deleted the provision in 40 CFR 93.153 that required Federal agencies to conduct a conformity determination for regionally significant actions where the direct and indirect emissions of any pollutant represent 10 percent or more of a nonattainment or maintenance area's emissions inventory for that pollutant.

**Recommendation:** This language should be deleted from the EIS.