SOUTHPORT SACRAMENTO RIVER EARLY IMPLEMENTATION PROJECT
FINAL ENVIRONMENTAL IMPACT REPORT

VOLUME II: RESPONSE TO COMMENTS

PREPARED FOR:

West Sacramento Area Flood Control Agency
1110 West Capitol Avenue
West Sacramento, CA 95691
Contact: John Powderly
916/617-4674

PREPARED BY:

ICF International
630 K Street, Suite 400
Sacramento, CA 95814
Contact: Megan Smith
916/737-3000

August 2014

ICF International. 2014. *Southport Sacramento River Early Implementation Project Final Environmental Impact Report, Response to Comments Volume II*. Final. August. (ICF 00071.11.) Sacramento, CA. Prepared for: West Sacramento Area Flood Control Agency, West Sacramento, CA.

Contents

Appendices

List of Tables

List of Plates

At End of Report

Acronyms and Abbreviations

AIS	aquatic invasive species
APA	Applicant Preferred Alternative
ARB	Air Resources Board
CNDDB	California Natural Diversity Database
CSLC	California State Lands Commission
DWR	California Department of Water Resources
EC	Environmental Commitment
EIP	Early Implementation Project
EIR	Environmental Impact Report
EIS	Environmental Impact Statement
ETL	Engineering Technical Letter 1110-2-571, Guidelines for Landscape Planting and Vegetation Management at Levees, Floodwalls, Embankment Dams, and Appurtenant Structures
Guidelines	Section 404(b)(1) Guidelines
IWM	instream woody material
MBK	MBK Engineers
MMP	Mitigation Monitoring Plan
NFIP	National Flood Insurance Program
NOA	Notice of Availability
NOP	Notice of Preparation
O&M	operations and maintenance
PG&E	The Pacific Gas and Electric Company
RD 900	Reclamation District 900
SMARA	California Surface Mining and Reclamation Act of 1975 (PRC Section 2710 et seq.)
SMUD	Sacramento Municipal Utility District
Southport	Southport Sacramento River Early Implementation
SRCSD	Sacramento Regional County Sanitation District
TMP	Traffic Management Plan
USACE	U.S. Army Corps of Engineers
WSAFCA	West Sacramento Area Flood Control Agency
WSLIP	West Sacramento Levee Improvements Program

Chapter 1
Introduction

The Southport Sacramento River Early Implementation (Southport) Project draft environmental impact statement/environmental impact report (Draft EIS/EIR) was circulated for public review in November 2013 for a public comment period of 60 days, between November 8, 2013 and January 6, 2014. To initiate the public comment period, U.S. Army Corps of Engineers (USACE) and the West Sacramento Area Flood Control Agency (WSAFCA) circulated a Notice of Availability (NOA) to Responsible and Trustee Agencies as defined under the California Environmental Quality Act (CEQA), involved Federal agencies, and parties previously requesting information on the proposed project. The NOA was provided to the California Office of Planning and Research (OPR) and the County Clerks of Sacramento and Yolo Counties on November 8, 2013. It was also published in the *Federal Register* in compliance with the National Environmental Policy Act (NEPA) on November 20, 2013.

To expand public involvement, WSAFCA mailed approximately 2,000 abbreviated, one-page summaries of the NOA to stakeholders, namely affected landowners and residents, between November 15 and 18, 2013 to make them aware of the availability of the document for review in both hard copy and online and to encourage attendance at public meetings to be held on December 11 and 18, 2013. This was sent to residences within 500 feet of construction activities and 100 feet of a haul route, in addition to anyone who had previously expressed interest in the project by attended a scoping meeting, commented on scoping, or otherwise inquired about the project.

In addition, leaflets publicizing the document's availability and public meeting schedule were included in more than 15, 500 utility bills delivered to residences throughout the city of West Sacramento between November 18 and December 8, 2013. Legal notice was also published in the *Sacramento Bee*, describing the document's availability and the schedule and location of the planned meetings.

In response to this outreach effort, 42 comment letters were submitted on the Draft EIS/EIR, including those from the following commenters.

- Three Federal agencies.
- Four state agencies.
- Three regional agencies.
- Three local agencies.
- Twelve non-governmental entities.
- Seventeen individuals (written comments and audible oral comments recorded at one public meeting).

The majority of comments received related to the following topic areas.

- Disclosure and legality of mitigation banking in the offset area.
- Potential effects to wildlife resources, including Swainson's hawk, from construction and compliance with USACE levee vegetation policy.

- Nature and extent of proposed habitat restoration efforts between the existing and setback levee under Alternatives 2, 4, and 5.
- Adequacy of the range of project alternatives analyzed in detail.
- Potential for land use and zoning changes and private property acquisition.
- Potential for traffic effects, specifically relating to hours of construction, dust created by construction, and proximity to haul routes.
- Potential for public levee access, boating and marina access, and other recreation effects.
- Potential for effects on and adequacy of mitigation for agricultural lands.
- Concerns related to realignment of South River Road.
- Adequacy of consideration of public input during development of the Applicant Preferred Alternative (APA).

The comment letters are subdivided by level of government and each agency has been assigned a unique code. Each comment within the letter has also been assigned a unique code, noted on the left margin. For example, the code "2–4" indicates the fourth distinct comment (indicated by the "4") in the letter from the U.S. Fish and Wildlife Service, which was the second letter (indicated by the "2") recorded. The chapter is organized in four sections:

- Chapter 2, Federal and State Agency Comments and Responses
- Chapter 3, Regional and Local Agency Comments and Reponses
- Chapter 4, Non-Governmental Entity Comments and Responses
- Chapter 5, Individual Comments and Responses

The sections are organized by presentation of each comment letter immediately followed by the responses to that letter. Table 1-1 summarizes the commenting party, comment letter signatory, and date of the comment letter.

Table 1-1. List of Comment Letters

Letter #	Commenter	Organization Type
Chapter 2, Federal and State Agency Comments and Responses		
1	Gregor Blackburn, Federal Emergency Management Agency, Region IX	Federal
2	Daniel Welsh, U.S. Fish and Wildlife Service	Federal
41	Connell Dunning, U.S. Environmental Protection Agency	Federal
3	Tracey Frost, California Department of Transportation, District 3	State
4	Scott Wilson, California Department of Fish and Wildlife, Bay Delta Region	State
5	Cy Oggins, California State Lands Commission	State
42	Cindy Messer, Delta Stewardship Council	State
Chapter 3, Regional and Local Agency Comments and Reponses		
6	Matthew Jones, Yolo-Solano Air Quality Management District	Regional
7	Erik Vink, Delta Protection Commission	Regional
8	Rob Ferrera, Sacramento Municipal Utility District	Regional
9	Robb Armstrong, Sacramento Regional County Sanitation District	Local

Letter #	Commenter	Organization Type
10	Karen Huss, Sacramento Metropolitan Air Quality Management District	Local
11	David Morrison, County of Yolo	Local
Chapter 4, Non-Governmental Entity Comments and Responses		
12	Jim Pachl and Judith Lamare, Friends of the Swainson's Hawk	Non-Profit
13	Chad Roberts, Yolo Audubon Society	Non-Profit
14	Marty Swingle, Capital West Realty, Inc.	Business
15	Meredith Williams, Pacific Gas & Electric	Business
16	Dan Ramos, Ramco Enterprises	Business
17	Denice Seals, West Sacramento Chamber of Commerce	Business
18	Gary Albertson, Project Management Applications, Inc.	Business
19	Kent Baker, Baker-Williams Engineering	Business
20	Michael Smith, Sun M Capital, LLC	Business
21	Jeff Savage, Sacramento River Cats	Business
22	Victoria Yokoyama, Yokoyama Farm	Business
23	Jeanne Pavao, Miller Starr & Regalia, on behalf of Seecon Financial & Construction	Business
Chapter 5, Individual Comments and Responses		
24	Carmen Wright	Individual
25	Carolyn Rech	Individual
26	Sonny Chahal	Individual
27	Kim McDonald	Individual
28	Paul Chavez	Individual
29	Cindy Tuttle	Individual
30	Carolyn Rech	Individual
31	Nicole Avila	Individual
32	Cruz and Darlene Charles	Individual
33	Cruz and Darlene Charles	Individual
34	Karen Kubo, c/o Richard and Anne Kubo	Individual
35	Karen Diepenbrock, Diepenbrock Elkin, LLP on behalf of Albert & Judy Rodgers, Madeline M. Rodgers Trust Estate (c/o Albert Rodgers), Terry Annesley and Brett Culbreth, and Chris and Thami Lacomb.	Individual
36	Albert Rodgers	Individual
37	Charles Tobia	Individual
38	Karl Machschefes	Individual
39	Kim McDonald	Individual
40	Carolyn Rech	Individual

Each comment in the following chapters has been considered and responded to individually. If a comment resulted in a change to the text of Volume I of the Final EIR, it is noted within the comment's response. WSAFCA coordinated with USACE to prepare responses to comments associated with the NEPA process and other specific issues related to USACE's authorities.

This Final EIR was initiated as a joint document with USACE involvement pursuant to its authority under 33 U.S.C. Section 408 and as the lead agency under NEPA. The Draft EIS/EIR was written with joint NEPA and CEQA language to characterize the cooperation of the two agencies on the Southport project. While the NEPA process will be finalized under separate cover, comment responses contained in the Final EIR address issues of relevance to both lead agencies.

Chapter 2
Federal and State Agency Comments and Responses

This chapter contains the comments received on the Draft EIS/EIR from Federal and state agencies. Each comment letter has been assigned a unique code, and each comment within the letter has also been assigned a unique code, noted on the left margin. For example, the code "2–4" indicates the fourth distinct comment (indicated by the "4") in the letter from the U.S. Fish and Wildlife Service, which was the second letter (indicated by the "2") recorded. The chapter presents each comment letter immediately followed by the responses to that letter. Table 2-1 summarizes the commenting party and comment letter signatory.

Table 2-1. List of Comment Letters from Federal and State Agencies

Letter #	Commenter
1	Gregor Blackburn, Federal Emergency Management Agency, Region IX
2	Daniel Welsh, U.S. Fish and Wildlife Service
41	Connell Dunning, U.S. Environmental Protection Agency
3	Tracey Frost, California Department of Transportation, District 3
4	Scott Wilson, California Department of Fish and Wildlife, Bay Delta Region
5	Cy Oggins, California State Lands Commission
42	Cindy Messer, Delta Stewardship Council

2.1 Letter 1—Gregor Blackburn, Federal Emergency Management Agency, Region IX

Letter 1

U.S. Department of Homeland Security
FEMA Region IX
1111 Broadway, Suite 1200
Oakland, CA. 94607-4052

FEMA

November 12, 2013

Greg F

Tania Toland
Environmental Resources Branch
U. S. Army Corps of Engineers, Sacramento District
1325 J. Street
Sacramento, California 95814-2922

Dear Ms. Toland:

This is in response to your request for comments regarding Notice of Availability Draft Environmental Impact Statement/Environmental Impact Report for the Southport Sacramento River Early Implementation Project.

Please review the current effective Flood Insurance Rate Maps (FIRMs) for the County of Yolo (Community Number 060423), Maps revised May 16, 2012 and City of West Sacramento (Community Number 060728), Maps revised dated January 19, 1995. Please note that the City of West Sacramento, Yolo County, California is a participant in the National Flood Insurance Program (NFIP). The minimum, basic NFIP floodplain management building requirements are described in Vol. 44 Code of Federal Regulations (44 CFR), Sections 59 through 65.

A summary of these NFIP floodplain management building requirements are as follows:

1-1
- All buildings constructed within a riverine floodplain, (i.e., Flood Zones A, AO, AH, AE, and A1 through A30 as delineated on the FIRM), must be elevated so that the lowest floor is at or above the Base Flood Elevation level in accordance with the effective Flood Insurance Rate Map.

1-2
- If the area of construction is located within a Regulatory Floodway as delineated on the FIRM, any ***development*** must not increase base flood elevation levels. **The term *development* means any man-made change to improved or unimproved real estate, including but not limited to buildings, other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, and storage of equipment or materials.** A hydrologic and hydraulic analysis must be performed *prior* to the start of development, and must demonstrate that the development would not cause any rise in base flood levels. No rise is permitted within regulatory floodways.

www.fema.gov

1-3

- Upon completion of any development that changes existing Special Flood Hazard Areas, the NFIP directs all participating communities to submit the appropriate hydrologic and hydraulic data to FEMA for a FIRM revision. In accordance with 44 CFR, Section 65.3, as soon as practicable, but not later than six months after such data becomes available, a community shall notify FEMA of the changes by submitting technical data for a flood map revision. To obtain copies of FEMA's Flood Map Revision Application Packages, please refer to the FEMA website at http://www.fema.gov/business/nfip/forms.shtm.

Please Note:

Many NFIP participating communities have adopted floodplain management building requirements which are more restrictive than the minimum federal standards described in 44 CFR. Please contact the local community's floodplain manager for more information on local floodplain management building requirements. The West Sacramento floodplain manager can be reached by calling Martian Tuttle, City Manager, at (916) 617-4500. The Yolo County floodplain manager can be reached by calling David Morrison, Assistant Director of Planning, at (530) 666-8041.

If you have any questions or concerns, please do not hesitate to call me at (510) 627-7186.

Sincerely,

Gregor Blackburn, CFM, Branch Chief
Floodplain Management and Insurance Branch

cc:
Martin Tuttle, City Manager, City of West Sacramento
David Morrison, Assistant Director of Planning, Yolo County
Ray Lee, WREA, State of California, Department of Water Resources, Central District
Alessandro Amaglio, Environmental Officer, DHS/FEMA Region IX

1
2

2.1.1 Responses to Letter 1

1-1

The City of West Sacramento has lead responsibility for floodplain management in the project area. The City's Floodplain Management Ordinance, Title 18 of the City's Municipal Code, meets or exceeds FEMA's current floodplain management requirements. The project would not construct buildings in a riverine floodplain (i.e., Flood Zones A, A0, AH, AE, and A1 through A30).

1-2

The area of construction is not located in a regulatory floodway.

1-3

Upon completion of construction, WSAFCA will submit appropriate hydrologic and hydraulic data to the City of West Sacramento to support its floodplain management program and assist the City as needed in providing the requested notice.

2.2 Letter 2—Daniel Welsh, U.S. Fish and Wildlife Service

Letter 2

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825-1846

In Reply Refer To:
08ESMF00-2013-CPA-0007-2

JAN 2 2014

Ms. Tanis Toland
U.S. Army Corps of Engineers, Sacramento District
Delta Programs Integration & Ecosystem Restoration
1325 J Street
Sacramento, California 95814-2922

Dear Ms. Toland:

The U.S. Fish and Wildlife Service (Service) has reviewed the draft Environmental Impact Statement/ Environmental Impact Report (EIS/EIR), released November 8, 2013, on the Southport Sacramento River Early Implementation Project (Southport Project), proposed by the West Sacramento Area Flood Control Agency to implement flood risk-reduction in the City of West Sacramento, Yolo County, California. The following comments are provided for your use and information to assist your efforts in complying with the National Environmental Policy Act.

References within the EIS/EIR document, as well as from subsequent discussions between the Service and other interested parties, indicate that the EIS/EIR is based on 65% engineering designs. Comments provided herein touch upon facets of the engineering designs that require further detail. To ensure that the most effective feedback can be provided, the Service should continue to be included in discussions as plans progress toward finalization.

Chapter 2 of the EIS/EIR indicates that the Southport Project will affect 5.6 miles of levee along the right bank of the Sacramento River, with a target of providing 200-year level flood protection to the City of West Sacramento. Chapter 2 also identifies Alternative 5 as the applicant's preferred alternative project plan. Alternative 5 involves a setback levee design, with a 3.6-mile long offset floodplain area constructed roughly in the center of the Southport Project construction footprint.

2-1 The draft EIS/EIR states (on page ES-6) that "any new levees proposed under the project are being designed to be compliant with U.S. Army Corps of Engineers (Corps) vegetation policy, but existing levees are not proposed to be brought into compliance beyond the construction disturbance footprint." Section 1.4.1.5 of the EIS/EIR also indicates that a variance to the current Corps vegetation policy is not being sought at this time. As per Engineering Technical Letter 1110-2-571, generally current Corps policy is to remove and prohibit woody vegetation within the prism and within 15 feet of toes of all federal levee alignments.

The ecological functionality of vegetated levees as riparian habitat corridors is not entirely replicated through mitigation plantings. The removal of non-compliant vegetation along levee

2-1 cont'd slopes would severely limit the usefulness of levees as terrestrial wildlife habitat corridors, regardless of the action alternative. The Alternative 5 plan, for example, would remove non-compliant vegetation along nearly 2 miles of the existing waterside slope and replace it with rock slope protection, in sections adjacent to the 3.6 miles of setback levee alignment and associated offset floodplain area. As the Southport Project designs transition from 65% completion toward 90% completion, efforts should continue to attain a variance from the Corp's vegetation removal policy. One example of an effort to maintain woody vegetation would be to adopt the Central Valley Flood Protection Program's vegetation management strategy that allows "legacy" trees to remain in place. Allowing riparian habitat corridors to exist that would connect the planned mitigation areas within the offset floodplain area to existing naturally wooded areas would increase the overall wildlife habitat value of the setback levee alternatives.

2-2 Of the 5 action alternatives described in Chapter 2 of the EIS/EIR, Alternative 2, Alternative 4, and Alternative 5 describe designs with setback levee alignments. The setback levee alignments involve a new Federal levee alignment landward from the Sacramento River, whereas a floodplain area is created between the old levee alignment and the new Federal alignment. However, although it would not be part of the Federal levee alignment, most of the existing levee alignment will remain to protect the floodplain area from a migrating river course. Engineered breaches in the portions of the existing levee that is abandoned by the new Federal alignment would allow high-water flows to infiltrate the floodplain area. These old levee sections that would no longer be part of the federal alignment should not be subject to the Corp's vegetation policy. Every effort should be made to allow vegetation to grow and senesce naturally along the abandoned levee portions that will now serve as protective barriers to the floodplain area.

2-3 In Chapter 3, Section 3.8, the designs with setback levee alignments have described the use of the offset floodplain area as a mitigation area against losses due to the implementation of the Southport Project. If a designed floodplain area is to be used for mitigation purposes for the Southport Project, a detailed management plan should be created that describes the acreage, planting schemes, and management plans over time so that the floodplain area purposes are well understood and maintained. As recommended in the Service's draft "Fish and Wildlife Coordination Act Report" of August 5, 2013 (Service #08ESMF00-2013-CPA-0007-1), an operations and maintenance plan needs to be developed for all compensation areas in coordination with the Service and all other resource agencies.

2-4 Sources of borrow material are described on page 2-12 and are also noted throughout the EIS/EIR. Preferred sources and methods of transport should be identified from the multiple sources listed. If borrow material is to be used in grading the proposed mitigation site within the proposed offset floodplain area of Alternatives 2, 4, and 5, soils similar in texture, composition, and permeability to the native Sycamore Silt Loam (Plate 3.3-1) should be used. A Landscape Architect should be consulted to ensure that borrow materials are suitable within mitigation areas.

2-5 Table 3.8-3 (page 3.8-21) summarizes the permanent effects of the Southport Project on Waters of the United States. Although "Emergent Wetland" is listed on the table, as well as subsequent tables within Chapter 3 describing temporary effects of each project alternative, a value of 0 is listed for the affected acreage of emergent wetland in every case. The Service considers the ecological functionality of emergent wetlands, as defined in Section 3.8.1.2, similar to the

1

2-5 cont'd

wetland type defined as "ditch". Because no acreage of "emergent wetland" is affected, the differentiation among these similar wetland types need not be made. In the Service's draft Fish and Wildlife Coordination Act Report (08ESMF00-2013-CPA-0007-1), dated August 5, 2013, we have considered the compensation ratios for these wetland cover-types to be the same. Based on the definitions provided in Section 3.8.1.2, the Service recommends revising these wetland types into a single wetland cover-type.

2-6

Lastly, Chapter 8 of the draft EIS/EIR lists elected officials and representatives, Federal, state, local agencies, private organizations, businesses, and residents of the city of West Sacramento that have received either notification of document availability or a copy of the draft EIS/EIR. Neither the Service nor the National Marine Fisheries Service (NMFS) are listed as recipients, although both Federal agencies have received copies of the draft EIS/EIR. Within Chapter 8 of future drafts it should be noted that the Service and NMFS have been notified of the availability and have received copies of the EIS/EIR documents.

The Service appreciates the opportunity to comment on the Southport Project EIS/EIR. The Service looks forward to working with the Corps and the West Sacramento Area Flood Control Agency to more fully develop this project. Should you have any questions regarding these comments, please contact Harry Kahler of my staff at (916) 414-6600.

Sincerely,

Daniel Welsh
Assistant Field Supervisor

cc:
ICF International, Sacramento, CA (Attn: Megan Smith)
USFWS, Bay-Delta FWO, Sacramento, CA (Attn: Kim Turner)
CDFW, Region 3, Yountville, CA (Attn: Crystal Spurr)
NMFS, Sacramento, CA (Attn: Michael Hendrick)
WSAFCA, West Sacramento, CA (Attn: John Powderly)

1

2.2.1 Responses to Letter 2

2-1

As the project description states, the project's action alternatives do not include removal of any vegetation from existing levees solely for the purpose of compliance with Engineering Technical Letter (ETL) 1110-2-571. Any vegetation removal described as part of the action alternatives was included in the project description because such removal was determined to be necessary to facilitate project construction, such as the placement of rock slope protection.

While seeking a variance from the ETL would not reduce the amount of vegetation removal analyzed in Volume I, WSAFCA will continue to refine the project design in order to reduce construction-related vegetation removal.

2-2

Upon construction of the setback levee, the remnants of the existing levee located in the offset areas in Alternatives 2, 4, and 5 would no longer be Federal flood control levees and would not be subject to the vegetation criteria used for Federal flood control levees. Vegetation on the remnant levee would be planned to support habitat creation and erosion reduction in the offset floodplain area to the extent feasible without impairing the channel capacity or otherwise impairing the usefulness of the Federal project.

See Section 2.2.5.1, Offset Floodplain Area, for a description of the target habitat types that would be cultivated in the offset areas of the setback alternatives.

2-3

Under all alternatives, an operations and maintenance plan for the project would be developed in cooperation with USFWS, NMFS, and other resource agencies. Under Alternatives 2, 4, and 5, the plan would include operation and maintenance of the offset area.

2-4

Borrow sources considered for use in constructing flood risk-reduction measures are shown in Plate 1-5. Methods of transport, as well as likely haul routes, are described in Section 3.4, Transportation and Navigation, as well as in Section 3.5, Air Quality.

While other professionals may be qualified to conduct the required work, in this case WSAFCA has retained a landscape architect to guide development of plans for vegetation of the offset areas, including evaluation of the existing soils and any new soils or soil amendments needed for establishment of plantings.

2-5

Ditch and emergent wetland were mapped separately on the delineation map verified by USACE because the ditch type does not support vegetation and the emergent wetland type does. Hydrology also differs between these two types. The primary reason for retaining the distinction between ditch and emergent wetland is to allow the setting descriptions in Volume I to be traced to the supporting

technical reports, i.e., the delineation of waters of the United States. Retaining this distinction does not affect the mitigation, because there are no effects on emergent wetland, as the comment notes. Retaining the distinction also maintains a clear connection with the data used to support the preparation of the Final EIR.

2-6

USFWS and NMFS have been added to Chapter 8 “List of Recipients,”, as requested.

2.3 Letter 41—Connell Dunning, U.S. Environmental Protection Agency

Letter 41

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

JAN 17 2014

Mr. John Suazo
U.S. Army Corps of Engineers
Sacramento District
Attn: Planning Division (CESPK-PD-R)
1325 J Street
Sacramento, CA 95814-2922

Subject: Southport Sacramento River Early Implementation Project Draft Environmental Impact Statement / Environmental Impact Report, Yolo County, California, [CEQ# 20130337]

Dear Mr. Suazo:

The Environmental Protection Agency has reviewed the Draft Environmental Impact Statement for the above project. Our review and comments are pursuant to the National Environmental Policy Act, Council on Environmental Quality 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 deadline extension provided to Jean Prijatel by Tanis Toland on December 16, 2013. Thank you for the extension.

EPA acknowledges the need for reliable flood protection in the West Sacramento area and the need to address levee deficiencies as part of the West Sacramento Area Flood Control Agency's overall flood risk management strategy and the state-mandated target of 200-year protection for urbanized areas.

EPA provided comments on the Notice of Intent for this project on September 26, 2011. We are pleased to see that the DEIS addresses several of our recommendations. In particular, we appreciate the U.S. Army Corps of Engineers' inclusion of setback levees in the alternatives; the use of dredged material from the Sacramento River Deep Water Ship Channel Project as a source of borrow material, if available; the efforts to align the vegetation removal policy with the Central Valley Flood Management Protection Plan 2012 for this project; and limited vegetation removal on the existing levees in the action alternatives.

41-1 EPA recommends that the Final EIS provide sufficient information to identify the Least Environmentally Damaging Practicable Alternative for a Clean Water Act 404 permit; provide additional information about the cumulative impacts from induced growth; include a General Conformity Determination for the selected alternative; review alternative rock slope protection measures; commit to residual risk communication to property owners; and provide additional discussion of climate change resiliency.

41-1 cont'd In light of the above stated concerns, and as further described in the attached detailed comments, we have rated the DEIS action alternatives as *Environmental Concerns – Insufficient Information* (EC-2). Please see the enclosed "Summary of EPA Rating Definitions."

We appreciate the opportunity to review this DEIS. Should you have any questions regarding our comments, please contact me at (415) 972-3521, or contact Jean Prijatel, the lead reviewer for the project. Jean can be reached at (415) 947-4167 or prijatel.jean@epa.gov.

Sincerely,

Connell Dunning

Kathleen Martyn Goforth, Manager
Environmental Review Office
Communities and Ecosystems Division

Enclosures: Summary of EPA Rating Definitions
EPA Detailed Comments

cc: Jennifer Norris, U.S. Fish and Wildlife Service, Sacramento Field Office
William Steele, National Oceanic and Atmospheric Administration, West Coast Region
Marshall McKay, Yoche Dehe Wintun Nation, Chairman
David Keyser, United Auburn Indian Community, Chairman
Andrew Franklin, Wilton Rancheria, Chairman

2

1

SUMMARY OF EPA RATING DEFINITIONS*

This rating system was developed as a means to summarize the U.S. Environmental Protection Agency's (EPA) 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 Environmental Impact Statement (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 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)

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 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 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.

1

U.S. EPA DETAILED COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR SOUTHPORT SACRAMENTO RIVER EARLY IMPLEMENTATION PROJECT, WEST SACRAMENTO, CA, JANUARY 17, 2014

Water Quality

As stated in the DEIS, Section 404 of the Clean Water Act requires that a permit be obtained from the Corps for discharge of dredged material or fill into waters of the United States. Table 3.8-3 summarizes acreage impacts to waters of the United States by Alternative, and demonstrates that Alternative 5 has the fewest total acres with permanent effects. The DEIS does not make a determination of which Alternative would be the Least Environmentally Damaging Practicable Alternative, but makes assurances that the established 404 permit process will be followed when the West Sacramento Area Flood Control Agency submits an application to the Corps.

41-2

Recommendation: The FEIS should include a 404(b)(1) alternatives analysis or sufficient information to assess the selection of the Least Environmentally Damaging Practical Alternative, as stated in Corps Standard Operating Procedures.

The setback levee and restoration activities proposed in Alternatives 2, 4, and 5 will create an area of restored floodplain along the Sacramento River. The breach locations planned in the existing levee and the new floodplain between the existing levee and the setback levee will be graded to provide drainage and possible perennial aquatic habitat. The DEIS states that these alternatives would create open water and emergent wetland habitat that would compensate for the loss of waters of the United States elsewhere in the project area at a ratio of at least 2:1. It also states that new riparian habitat, including overstory and understory species to mimic the natural structure of riparian forests along the Sacramento River, would be created within the expanded floodplain, compensating for the loss of other riparian habitat at a ratio of 2:1.

41-3

The DEIS states that the study area contains critical habitat for Central Valley spring-run Chinook salmon, Central Valley winter-run Chinook salmon, Central Valley steelhead, Southern Distinct Population Segment green sturgeon, and Delta smelt. It further states that floodplains can expand quantity and quality of habitat available to fish during seasonal inundation periods, and that, in some years, floodplain use in the project reach may increase adult abundance and juvenile production for some species.

The DEIS states that the restored floodplain area of this project may contribute to the restoration goals of the Biological Opinions issued by the US Fish and Wildlife Service and the National Marine Fisheries Service for the Central Valley Project and State Water Project. These BOs are in place until the new water conveyance infrastructure identified in the Bay Delta Conservation Plan becomes operational.

Recommendation: The FEIS should describe how the project's floodplain restoration is compatible with the restoration goals of the Biological Opinions for the Central Valley Project, State Water Project, and the Bay Delta Conservation Plan. Opportunities to optimize restoration benefits should be explored and committed to in the final alternative selection.

Cumulative Impacts of Induced Growth

41-4

EPA appreciates that the Corps is acknowledging the project as growth inducing, but we are concerned that the impacts are not adequately described due to the review of the project in isolation. We also found the discussion of growth inducement somewhat inconsistent and confusing. The DEIS states that the

1

41-4 cont'd

Southport project is a key link in West Sacramento's overall flood management system, as one of nine levee reaches around the city, all of which are currently being considered for additional flood-risk reduction measures. For this reason, the DEIS considers the Southport project to be "incrementally growth inducing" (page 4-4). The document further states, however, that there are no current flood management barriers to growth in West Sacramento as it is not a "special flood hazard area" in current FEMA maps and that this designation will not be changed by the Southport project improvements alone.

Incongruously, the DEIS states that the General Plan Update for the City of West Sacramento, expected early 2014, will describe development anticipated by 2030 including "the fact that growth and development in the city are expected to be strongly tied to flood risk-reduction actions because of restrictions by FEMA resulting from existing levee conditions." (page 4-2) This statement about the General Plan Update suggests that existing levee conditions are restrictive to future growth, seemingly contradicting the previous statement that there are no current flood management barriers to growth.

The DEIS also lists the relevant land use plans for the area protected by the project (including the City of West Sacramento General Plan and the Southport Framework Plan), and various upcoming public and private development projects in West Sacramento. The discussion lacks accompanying maps that could better illustrate the reasonably foreseeable land use changes and development in the area. It does state that the Plans and a City of West Sacramento statement of overriding consideration explain that urban development is of greater benefit to the City than the preservation of agricultural land within certain portions of Southport.[1] The DEIS further states that the City of West Sacramento and specific growth development project proponents are responsible for imposing and enforcing measures to avoid, minimize, and mitigate effects of development, and that those effects are considered in the Environmental Impact Reports for those Plans, not in this DEIS. While we agree that the burden to mitigate future development is likely to fall to the project proponents of these local projects, NEPA requires the disclosure of growth inducing impacts [40 CFR 1508.8(b)]; these were not sufficiently described in this DEIS.

Recommendations: The FEIS should more clearly and thoroughly describe the growth inducing impacts of the project (e.g. include maps of planned developments the numbers of houses, residents, commercial or industrial developments; employment projections; pollutant emissions; and traffic impacts).

Air Quality

The DEIS focuses the air quality analysis on the construction impacts of the project, which will occur over two years. Pollutants of concern are identified as ozone, carbon monoxide, and particulate matter, while the discussion also includes toxic air contaminants. Unmitigated impacts to air quality for all of the action alternatives include violation of NOx (National) and PM10 (California) air quality standards, exposure to fugitive dust, and exposure to diesel exhaust. The DEIS' mitigation measures for these impacts are extensive and contain EPA's commonly recommended best practices for limited idling, equipment maintenance and modernization, emission control devices, location of stationary diesel-powered equipment, use of existing power sources, fugitive dust control plans, and resident notification of construction schedule.

41-5

We also note that the Corps provided a General Conformity Determination for Alternative 5 in Appendix E. The analysis showed that annual construction emissions would exceed General Conformity thresholds for NOx in the Sacramento Valley Air Basin (Yolo-Solano Air Quality Management District

[1] Willdan Associates, 1994 Southport Framework Plan Master Development Plan Draft EIR

2

1

and Sacramento Metropolitan Air Quality Management District). The proposed mitigation for this air quality impact is to reduce exhaust emissions (Air-MM-1) and fully offset emissions to zero through a mitigation contract with YSAQMD and SMAQMD that would contribute to SMAQMD's Heavy-Duty Low-Emission Vehicle Incentive Programs (Air-MM-4). The details of the incentive program and proposed contract are provided in the DEIS.

41-5 cont'd

Recommendations: If Alternative 5 is not identified as the preferred alternative, the FEIS should include a General Conformity Determination for the selected alternative. If Alternative 5 is selected, EPA encourages the proposed mitigation contract with the Air Quality Management Districts and recommends that the FEIS include a copy of the contract.

Alternatives for Erosion Control

The DEIS includes rock slope protection (also known as riprap) for all of the alternatives. In 2004, the U.S. Fish and Wildlife Service published an updated report, *Impacts of Riprapping to Aquatic Organisms and River Functioning, Lower Sacramento River, California*, that documents the negative effects of rock slope protection.

Possible alternatives to ripprapping are suggested in the FEMA brochure *Engineering with Nature: Alternative Techniques to Riprap Bank Stabilization*. Riprap alternatives include bio-engineering, hydro-seeding, controlled planting, and construction of engineered logjams; however, some of the methods explored in the brochure may not be compatible with the Southport project needs or the Corps vegetation policy.

41-6

Recommendation: Because the FWS has documented problems associated with riprap on the Lower Sacramento River, the FEIS should explore additional alternative methods of erosion control.

Residual Flood Risk

Even with the proposed improvements to the Southport levee, residual flood risk remains for the properties protected by the levee system. The DEIS mentions the City of West Sacramento's Emergency Operations Plan – including a Flood Plan and an Evacuation Plan – that is reviewed and updated on a regular schedule.

41-7

Recommendations: The Corps should commit in the FEIS to communicating residual risk behind levees on a regular basis, as recommended by the National Levee Safety Committee[2] and the American Society of Civil Engineers.[3] The updates should include a communication strategy to clearly relate: level of protection provided by the levees during and after construction; indication that levees may fail or be overtopped; and that the area is a floodplain, with indications of the depth of flooding when the levee fails or is overtopped. The Corps should commit in the FEIS to commenting on the adequacy of the current City of West Sacramento Emergency Operations Plan, with insights about the project enhancements and residual risk. Further, the Corps should seek a voluntary commitment from the City to requiring flood insurance for structures protected by levees, as recommended by NLSC.[4] We encourage inclusion of such commitments in the FEIS and Record of Decision.

[2] http://www.leveesafety.org/docs/NCLS-Recommendation-Report_012009_DRAFT.pdf
[3] http://content.asce.org/ASCELeveeGuide.html
[4] Recommendation #20, Levee Policy Challenges White Paper, 4/2007
http://www.floods.org/PDF/ASFPM_Levee_Policy_Challenges_White_Paper.pdf

3

1

Climate Change

The DEIS states that the project alternatives would improve the resiliency of the levee system with respect to the effects of climate change, which could include changes to temperature and rainfall, increasing the risk of flooding due to insufficient reservoir capacity upstream of the project reach.

41-8

In light of the President's November 1, 2013 Executive Order "Preparing the United States for the Impacts of Climate Change," there is an opportunity with the Southport project to illustrate and maximize the climate-resilient benefits of levee design and floodplain restoration. The DEIS seems to indicate that the 200-year flood enhancements are the primary factors for improved resiliency without exploring how the differences in the alternatives' floodplain and wetlands restoration would also impact resiliency.

Recommendation: We recommend that the FEIS include a discussion about the impacts to climate change resiliency for each of the alternatives and consider those impacts in the final alternative selection.

Consultation and Coordination with Tribal Governments

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments (November 6, 2000), directs federal agencies to establish tribal consultation and collaboration processes for the development of federal policies that have tribal implications, and is intended to strengthen the United States government-to-government relationships with Indian tribes. The DEIS mentions coordination efforts with Native American contacts for Yolo and Sacramento Counties and states that three tribal groups in the region requested consultation: Yocha Dehe Wintun Nation, United Auburn Indian Community, and the Wilton Rancheria.

41-9

The DEIS states that there have been on-site meetings with the three consulting groups and that consultation is ongoing, but it fails to document any input received during those meetings or other consultative efforts.

Recommendation: The Final EIS should discuss the status of consultation with tribes affected by the project and the impacts and mitigation measures identified through that consultation. The tribes should be included in the distribution list of the Final EIS and Record of Decision.

4

1

2.3.1 Responses to Letter 41

41-1

Acknowledged. The Final EIR includes, to the extent feasible, the additional information requested by EPA, as will the Final EIS. Please see responses to comments 41-2, 41-3, 41-4, 41-5, 41-6, 41-7, 41-8, and 41-9.

41-2

USACE makes all reasonable efforts to ensure the NEPA alternatives analysis is thorough and robust enough to provide the information needed for the evaluation of alternatives under the Section 404(b)(1) Guidelines ("Guidelines") and the public interest review. The goal of integrating the NEPA alternatives analysis and the Section 404(b)(1) alternatives analysis is to gain efficiencies, facilitate agency decision-making and avoid unnecessary duplication. If USACE determines that the integration did not occur, then USACE may supplement the NEPA document with additional information to separately demonstrate compliance with the Guidelines.

41-3

The June 4, 2009 NMFS *Biological Opinion on Salmonids, Green Sturgeon, and Killer Whales for the Long-term Operations of the CVP and SWP* calls for restoration of 17,000 acres of habitat for winter-run and spring-run Chinook salmon in the lower Sacramento River basin. Migrating salmon are dependent on floodplain habitat for food and refugia, and the proposed riparian and floodplain habitats at the Southport project site will provide these functions and values during the winter and spring on a segment of the Sacramento River that is highly channelized and largely devoid of habitats that benefit aquatic species.

The proposed BDCP has significant natural community and species restoration goals for the first several years of plan implementation, including goals for winter- and spring-run Chinook salmon as well as riparian, floodplain, and channel margin habitats. The Southport project site is located within the BDCP Plan Area and will likely have a surplus of restored habitat that could be credited towards several of the Plan's restoration targets.

41-4

The language in the in Section 4.1.2.2, Environmental Setting, has been clarified to explain that, while there are no flood management barriers to growth in West Sacramento, as it is not in a "a special flood hazard area" in current FEMA maps, the General Plan update is expected to consider whether long-term development within the city could be hampered if flood risk within the city is not reduced. The nature or timing of such possible future restrictions, if any, are unknown; the statement serves only to acknowledge the City's goal of reducing West Sacramento's flood risk over the next 20 years. While the project would be an incremental part of a larger program with a goal of achieving a level of performance sufficient to withstand a 200-year flood event for West Sacramento and, therefore, would facilitate future growth, that facilitation is not linked to or associated with particular planned developments. Project-level analysis of those developments' effects is therefore not included in the Southport Final EIR. Project-level effects of planned development with the Southport project are disclosed both in the General Plan EIR, various specific plan documents, and

individual development EIRs, as cited in Section 3.11, Land Use and Agriculture, and Chapter 4, Growth –Inducing and Cumulative Effects.

41-5

Alternative 5 has been selected by WSAFCA as its APA. The Final EIR includes a General Conformity Determination based on implementation of the APA, which will be updated for inclusion in the Final EIS. Currently, no contracts have been executed with relevant Air Quality Management Districts for this project.

41-6

The amount of riprap needed will be minimized as development of the project design progresses. It is WSAFCA's goal to maximize the use of alternative bank stabilization methods while still meeting USACE requirements. Design refinement is ongoing, and riprap will be avoided wherever practicable.

41-7

The Department of Water Resources (DWR) provides an annual notice of flood risk to every property owner in a Levee Flood Protection Zone. This annual notice includes an explanation of residual risk. As the entire city of West Sacramento is in a Levee Flood Protection Zone, all owners of property in the city of West Sacramento receive an annual notice of flood risk from DWR.

The City of West Sacramento is a participant in the National Flood Insurance Program (NFIP). The City's Floodplain Management Ordinance, Title 18 of the City's Municipal Code, meets or exceeds FEMA's current floodplain management requirements. The City also provides information to the public regarding residual flood risk. As part of that information, the City strongly recommends that all property owners have flood insurance regardless of the condition of the levees.

Information regarding what to do in the event of a flood emergency, including the City's evacuation map, is available at http://www.cityofwestsacramento.org/city/flood/emergency_preparedness.asp.

Information regarding possible water depths in the event of a levee break during a high-water event is available on Page 5-3 of the *Final Engineer's Report*, West Sacramento Area Flood Control Agency Assessment District (http://www.cityofwestsacramento.org/civica/filebank/blobdload.asp?BlobID=3166).

The City's Emergency Operations Plan, which includes the City's slow-rise flood response plan, is located at http://www.cityofwestsacramento.org/civica/filebank/blobdload.asp?BlobID=5339.

41-8

Expected effects on the Sacramento region from climate change, described in Section 3.6.1.2, Environmental Setting, include increased average temperatures and declining annual precipitation, while decreased snowpack may lead to an increased risk of flooding. The Final EIR expands the effects discussion to address the climate change resiliency that can be expected from each alternative, including the No Action Alternative. This analysis can be found in Section 3.6.3.7, Climate Change Effects on the Project Alternatives, and has been considered in selection of the APA. In summary, because of the increased volume of woody vegetation expected under Alternatives 2

and 5 due to the inclusion of an increased offset habitat restoration area, these alternatives represent the greatest level of climate change resiliency.

41-9

USACE has incorporated comments from the Tribal Governments (Tribes) into the Draft Programmatic Agreement (PA), as appropriate, and the Tribes have reviewed and approved the resulting changes. The Draft PA, with incorporated comments, has been reviewed and accepted by WSAFCA and is pending final State Historic Preservation Officer (SHPO) approval and signature.

2.4 Letter 3—Tracey Frost, California Department of Transportation, District 3

Letter 3

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY EDMUND G. BROWN Jr., Governor

DEPARTMENT OF TRANSPORTATION
DISTRICT 3-SACRAMENTO AREA OFFICE
2379 GATEWAY OAKS DRIVE, SUITE 150
SACRAMENTO, CA 95833
PHONE (916) 274-0635
FAX (916) 274-0602
TTY 711
www.dot.ca.gov

Flex your power!
Be energy efficient!

January 2, 2014

032013-YOL-0134
03-YOL-84/PM 15.8
SCH# 2011082069

Mr. John Powderly
West Sacramento Flood Control Agency
1110 West Capitol Avenue, 2nd Floor
Sacramento, CA 95691

Southport Sacramento River Early Implementation Project – Draft Environmental Impact Report (DEIR)

Dear Mr. Powderly,

Thank you for the opportunity to review and comment on the DEIR for the Southport Sacramento River Early Implementation Project. The proposed project will implement flood risk-reduction measures at the proposed project site which spans the west bank of the Sacramento River beginning south of Barge Canal near the intersection of State Route (SR) 84 and South River Road to downstream approximately 6.4 miles to the South Cross Levee near the intersection of SR 84 and South Levee Access Road. The South Cross levee is to protect the Southport community from the threat of flooding. The United States Army Corps is the Federal lead agency under the National Environmental Policy Act. The West Sacramento Area Flood Control Agency is the lead agency under the California Environmental Quality Act. Caltrans has the same concerns from the September 2011 and April 2013 Notice of Preparation phases. Our comments are as follows:

Encroachment Permit

3-1

Please be advised that any work or traffic control that would encroach onto the State Right of Way (ROW) requires an encroachment permit that is issued by Caltrans. To apply, a completed encroachment permit application, environmental documentation, and five sets of plans clearly indicating State ROW must be submitted to the address below.

Tim Greutert
District 3 - Office of Permits
California Department of Transportation
703 B Street, Marysville, CA 95901

"Caltrans improves mobility across California"

3-1 cont'd

Mr. Greutert can be reached at (530) 741-4403. Traffic-related mitigation measures should be incorporated into the construction plans prior to the encroachment permit process. See the website at the following URL for more information: http://www.dot.ca.gov/hq/traffops/developserv/permits/.

Transportation Management Plan

3-2

Caltrans requests project proponents prepare a Traffic Management Plan (TMP) for the movement of materials to and from the project site during construction of the project. The TMP should include a schedule of material deliveries and proposed routes. Caltrans recommends that trucks avoid the use of State facilities during peak commute hours. TMPs must be prepared in accordance with Caltrans' *Manual on Uniform Traffic Control Devices*. The TMP should be circulated to Caltrans and shared with all potentially impacted jurisdictions. Further information is available for download at the following URL: http://www.dot.ca.gov/hq/traffops/signtech/mutcdsupp/pdf/camutcd2012/Part6.pdf .

Please provide our office with copies of any further actions regarding this project. We would appreciate the opportunity to review and comment on any changes related to this development.

If you have any questions regarding these comments or require additional information, please contact Arthur Murray, Intergovernmental Review Coordinator at 916-274-0616 or by email at: Arthur.Murray@dot.ca.gov .

Sincerely,

Tracey Frost

TRACEY FROST, Interim Chief
Office of Transportation Planning – South

c: Scott Morgan, State Clearinghouse

"Caltrans improves mobility across California"

1

2.4.1 Responses to Letter 3

3-1

No work or traffic control is anticipated in state right-of-way. However, if work within state right-of-way became necessary, a Caltrans Encroachment Permit would be acquired for the affected work.

3-2

Movement of material to and from the project site is expected to have an impact on operations of facilities of the state or other jurisdictions. A Traffic Management Plan (TMP) will be prepared in accordance with the Caltrans Manual of Uniform Control Device and circulated to Caltrans and all potentially affected jurisdictions as requested. Environmental Commitment (EC) 2.4.6, Traffic Control and Road Maintenance Plan, has been edited to clarify that WSAFCA's traffic control plan will meet the requested standards. Please see Section 2.4.6, Traffic Control and Road Maintenance Plan, for revisions.

2.5 Letter 4—Scott Wilson, California Department of Fish and Wildlife, Bay Delta Region

State of California – The Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
7329 Silverado Trail
Napa, CA 94558
(707) 944-5500
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director

Letter 4

January 2, 2014

Mr. John Powderly
West Sacramento Area Flood Control Agency
1110 West Capitol Avenue
West Sacramento, CA 95691

Dear Mr. Powderly:

Subject: Southport Sacramento River Early Implementation Project, Draft Environmental Impact Statement/Environmental Impact Report, SCH #2011082069, City of West Sacramento, Yolo County

The California Department of Fish and Wildlife (CDFW) has reviewed the draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) provided for the Southport Sacramento River Early Implementation Project (Project). CDFW is providing comments on the draft EIS/EIR as a Trustee Agency and Responsible Agency. As Trustee for the State's fish and wildlife resources, CDFW has jurisdiction over the conservation, protection, and management of the fish, wildlife, native plants, and the habitat necessary for biologically sustainable populations of such species for the benefit and use by the people of California. CDFW is also considered a Responsible Agency if a project would require a discretionary approval, such as a California Endangered Species Act Permit or a Lake and Streambed Alteration Agreement.

The City of West Sacramento proposes to implement flood risk-reduction measures through the Southport Sacramento River Early Implementation Project. The Project would bring the levee up to standard with federal and state levee design criteria, as well as provide opportunities for ecosystem restoration and public recreation. The area of flood risk-reduction measure implementation extends along the right (west) bank of the Sacramento River south of the Barge Canal downstream 5.6 miles to the South Cross levee, adjacent to the Southport community of the City of West Sacramento. Potential soil borrow sites are located to the east and west of southern Jefferson Boulevard, adjacent to the construction area, immediately west of the Deep Water Ship Channel, and south of the South Cross Levee. Project construction is expected to take approximately two years.

Specific Comments

4-1 On page 3.10-24, the draft EIS/EIR includes a table showing that the proposed Project (Alternative 5) and Alternatives 1 through 4 would have significant temporary(ranging from 25 to 87 acres) and permanent (ranging from 160 to 329 acres) impacts to Swainson's hawk foraging habitat and permanent impacts to Swainson's hawk nesting habitat (ranging from 38 to 58 acres). The nesting habitat and/or foraging habitat are also used by Burrowing owl and other state special-status species, as well as other bird species protected under the Migratory Bird Treaty Act. Loss or alteration of foraging habitat or nest site disturbance could result in nest abandonment; loss of young, reduced health and vigor of eggs and/or nestlings, and may ultimately result in the loss of nestling or fledgling Swainson's hawks or other bird species. Page 3.10-31 of the draft EIS/EIR, regarding loss of Swainson's hawk foraging habitat, states "Temporarily affected habitat would return to baseline conditions once construction was complete; therefore no compensation is required." Construction of the Project is expected to take at least two years, and the recovery of the temporarily disturbed foraging areas would take

Conserving California's Wildlife Since 1870

4-1 cont'd additional time. A solution to address the temporary loss of foraging habitat during the construction period, as well as the time it takes to recover suitable foraging habitat on the Project site, needs to be included in the draft EIS/EIR. The Project should be designed to allow sufficient foraging to maintain all nest sites. The affected Swainson's hawk and other state special-status birds nesting on the Project site and in the Project vicinity would require nearby foraging habitat during the construction period.

4-2 The draft EIS/EIR provides that the Project and Alternatives propose to remove large trees that are considered to be "heritage trees" under the City's Tree Preservation Ordinance. The draft EIS/EIR also states that some of the heritage trees to remain on the Project site may be harmed during construction activities. The draft EIS/EIR only provided the number of heritage trees to be removed for the No Project Alternative, at 1,260 trees on page 3.8-22. The number of heritage trees for the proposed Project (Alternative 5) and Alternatives 1 through 4 were identified as "numerous" (refer to page 3.8-30). The heritage trees could be potential Swainson's hawk and other state special-status species nesting trees. The number of heritage trees to be removed should be identified in the draft EIR for each Alternative. CDFW recommends the removal and harming of as few heritage trees as possible in order to complete the proposed Project.

4-3 Cumulative Impacts: Page 4-24 of the draft EIS/EIR, Section 4.2.4.9 Wildlife, states that "The project is not expected to contribute to a significant cumulative effect on wildlife." While the cumulative impacts section of the draft EIR/EIS lists projects in the area, it does not provide the types of impacts to wildlife these projects would have. One project not listed in the draft EIR/EIS is the Pioneer Bluff Bridge Project located at Barge Canal near the proposed Project and Alternatives. The Pioneer Bluff Bridge Project is under construction and has resulted in the removal of riparian habitat including 72 trees with a diameter at breast height (dbh) of 4 to 15 inches and 24 heritage trees (dbh of 15+ inches) that are considered to be nesting habitat. CDFW's opinion is that the proposed Project and Alternatives could have a significant cumulative impact on nesting and foraging habitat when considered together with the effects of other projects in the area. The draft EIS/EIR needs to provide a detailed explanation as to why there will not be a significant cumulative impact on wildlife due to the permanent loss of nesting and foraging habitat.

4-4

If you have any questions, please contact Ms. Crystal Spurr, Senior Environmental Scientist (Supervisory), at (209) 234-3442; or Mr. Jim Starr, Environmental Program Manager, at (209) 234-3440.

Sincerely,

Scott Wilson
Regional Manager
Bay Delta Region

cc: State Clearinghouse
Tanis Toland, U.S. Army Corps of Engineers – tanis.j.toland@usace.army.mil
Megan Smith, ICF International – megan.smith@icfi.com

1

2.5.1 Responses to Letter 4

4-1

Nearby foraging habitat will be maintained along the project area during the construction period, as the comment requests. The acreages of disturbance cited in the comment reflect the total area of ground disturbance expected to occur along the entire 5.6-mile project area. Because a detailed project construction schedule would not be prepared until after project approval, WSAFCA is unable to precisely calculate what fraction of the total habitat disturbance area would be expected to be disturbed as construction progresses through the project area. However, WSAFCA is committed to restoring temporarily disturbed areas and returning them to usable habitat conditions as quickly as possible throughout the construction process.

Specifically, the analysis presented in the Volume I has been expanded to clarify that WSAFCA would return disturbed areas to baseline conditions by reseeding them with native grasses immediately upon completion of ground-disturbing activities at the end of each construction season and prior to the start of the wet season, as described in Section 3.10, Wildlife, under Alternative 1, Effect WILD-4. Although construction of the Southport project would temporarily disturb areas of Swainson's hawk foraging habitat throughout the project area, WSAFCA would conduct construction incrementally along the 5.6-mile project, thereby minimizing how much habitat is disturbed at any given time. Once active ground-disturbing construction activities within a particular work area (including borrow sites) are complete, rodents would be expected to return to inhabit these areas, providing foraging opportunities for Swainson's hawk and other raptors relatively quickly after ground disturbance ends.

Table 3.10-4 provides the acreage of potential Swainson's hawk foraging habitat that could be temporarily affected within borrow sites but states that actual effects would be substantially less (Footnote 5). These effects have now been quantified for each alternative under Effect WILD-4 in the Final EIR. Based on preliminary borrow use data (HDR 2014), none of the alternatives would result in more than a 25% reduction in available Swainson's hawk foraging habitat within each construction year. This temporary loss of habitat would not be expected to occur all at once, but rather over the entire construction season. As construction progresses, different borrow sites will be used. Therefore, the project is expected to retain sufficient foraging habitat to maintain existing nest sites in and near the project area. WSAFCA will avoid potential project effects described in the comment, such as nest abandonment, by implementing Environmental Commitment 2.4.1, Nesting or Roosting Raptors Survey, and WILD-MM-8, Avoid Disturbance of Tree-, Shrub-, and Ground-Nesting Special-Status and Non-Special-Status Migratory Birds and Raptors and Conduct Preconstruction Nesting Bird Surveys. Protocol-level surveys will be conducted prior to construction, as directed by WILD-MM-8, to identify where there are active nests to be avoided during construction, and avoidance buffers will be established in cooperation with the California Department of Fish and Wildlife (CDFW).

Continued refinement of the APA and the final project will result in further reductions in total temporary effects on avian foraging habitat.

4-2

In keeping with the early stage of alternative design and development typical in a draft EIS/EIR, expected effects on trees were measured in acres in Section 3.8, Vegetation and Wetlands, allowing the public to compare the relative impacts of the project alternatives. Effects on Swainson's hawk nesting habitat are also identified by alternative in Table 3.10-4 and expressed as acreage of woodland habitat loss. Not all heritage trees within each alternative would be removed, making acreage-based calculations more appropriate based on the information known about likely effects on trees.

WSAFCA is continuing its efforts to reduce impacts on existing trees, including heritage trees, as project development continues. WSAFCA'a applications to the CDFW in support of compliance with the California Fish and Game Code sections described in Section 5.3.7, California Fish and Game Code, will describe affected trees with greater specificity.

4-3

The expected impacts on wildlife from other projects are described in the section cited in the comment. Specifically, Section 4.2.4.9, Wildlife, describes the types of impacts on wildlife other existing and reasonably foreseeable projects in the county may have, stating they have, "the potential to result in the loss of wildlife habitat for special-status and non-special-status species."

4-4

Section 4.2, *Cumulative Effects*, has been expanded to identify the potential cumulative effects of the APA and its alternatives in light of the construction of the City of West Sacramento's Michael McGowan Bridge (formerly named Pioneer Bluff Bridge) project over the Barge Canal. Please see Section 4.2.4.9, Wildlife. Impacts on Swainson's hawk nesting habitat associated with the Michael McGowan Bridge project (permanent loss of 0.96 acre) were mitigated by purchasing 2.9 acres (3:1 ratio] of CDFW-approved riparian habitat credits from the Cosumnes Floodplain Mitigation Bank in June 2013; the City determined that this mitigation reduced the project's effects to a less-than-significant level (California Department of Fish and Wildlife 2013).

While the proposed project's incremental loss of foraging and nesting habitat for Swainson's hawk could be considered cumulatively considerable in combination with past, present, and future projects within the Southport area, implementation of mitigation measures VEG-MM-1 (Compensate for Loss of Woody Riparian Habitat), VEG-MM-6 (Compensate for Loss of Protected Trees), and WILD-MM-9 (Compensate for Permanent Removal of Swainson's Hawk Foraging Habitat) would reduce WSAFCA's contribution to this significant cumulative impact to a less than cumulatively considerable level.

2.6 Letter 5—Cy Oggins, California State Lands Commission

Letter 5

STATE OF CALIFORNIA EDMUND G. BROWN JR., *Governor*

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

JENNIFER LUCCHESI, *Executive Officer*
(916) 574-1800 FAX (916) 574-1810
California Relay Service From TDD Phone **1-800-735-2929**
from Voice Phone **1-800-735-2922**

Contact Phone: **(916) 574-1890**
Contact FAX: **(916) 574-1885**

January 6, 2014

File Ref: SCH # 2011082069

John Powderly
West Sacramento Area Flood Control Agency
1110 West Capitol Avenue
West Sacramento, CA 95691

Subject: Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the Southport Sacramento River Early Implementation Project (EIP), Yolo County

Dear Mr. Powderly:

The California State Lands Commission (CSLC) staff has reviewed the EIS/EIR for the Southport Sacramento River EIP (Project) prepared by the West Sacramento Area Flood Control Agency (WSAFCA) and the U.S. Army Corps of Engineers (USACE). WSAFCA, as a public agency proposing to carry out a project, is the lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code § 21000 et seq.), and the USACE, as the primary federal permitting agency, is the lead agency under the National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 et seq.). The CSLC will act as a trustee agency because of its trust responsibility for projects that could directly or indirectly affect sovereign lands, their accompanying Public Trust resources or uses, and the public easement in navigable waters. Additionally, because the Project appears to involve work on sovereign lands, the CSLC will act as a responsible agency.

CSLC Jurisdiction and Public Trust Lands

The CSLC has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The CSLC also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code, §§ 6301, 6306). All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the Common Law Public Trust.

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and 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 but are not

limited to waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. On navigable non-tidal waterways, including lakes, the State holds fee ownership of the bed of the waterway landward to the ordinary low water mark and a Public Trust easement landward to the ordinary high water mark, except where the boundary has been fixed by agreement or a court. Such boundaries may not be readily apparent from present day site inspections.

Flood protection measures to be considered in the EIS/EIR appear to include the possibility of work waterward of the ordinary high water mark of the Sacramento River, which is State-owned sovereign land under the jurisdiction of the CSLC. A lease and formal authorization for the use of sovereign land will be required from the CSLC for any portion of the Project encroaching on State-owned lands. Please contact Wendy Hall (see contact information below) at your earliest convenience to discuss leasing requirements.

Project Description

WSAFCA proposes to implement flood risk-reduction measures on the uplands and along the west bank of the Sacramento River in West Sacramento. The Project would meet WSAFCA's objectives as follows:

- Bring the levee up to standard with Federal and State flood protection criteria; and
- Provide opportunities for ecosystem restoration and public recreation.

CSLC staff understands that the Project could include some or all of the following components:

- Slope flattening of the existing levee;
- Use of seepage berms located to the land side of the levee;
- Rock slope protection located on the water side of the levee;
- Setback levees and/or adjacent levees located landward of the existing levee;
- Relief wells; and
- Slurry cut-off walls.

Secondary activities that support these primary Project components could include:

- Use of neighboring roadways for Project ingress and egress;
- Creation of temporary access roads;
- Construction of new roadways, including elevated spans;
- Resurfacing and/or relocation of existing roadways;
- Removal of vegetation adjacent to the riverfront;
- Extraction of soil from identified borrow sites;
- Disposal of excess soil at identified disposal sites; and
- Relocation of public utilities.

1

Environmental Review

CSLC staff requests that the EIS/EIR be revised prior to certification to address the following potential issues.

General Comments

5-1

1. Portions of the Project will occur on State sovereign lands administered by the CSLC; therefore, the CSLC will be responsible for issuing a lease for the use of sovereign land. The CSLC staff requests that you add the CSLC to the list of responsible agencies in Table ES-3, Responsible and Trustee Agencies, on page ES-10.

2. Adequate Mitigation: Unless the formulation of a mitigation measure is truly impractical or infeasible at this time, which the EIS/EIR does not state is the case, mitigation measures should either be presented as specific, feasible, enforceable obligations, or should be presented as formulas containing "performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way" (State CEQA Guidelines § 15126.4, subd. (b)). Two examples of unspecific mitigation measures that do not provide for adequate public review of the final proposed action are as follows.

5-2

- Raptors. In section 2.4.1, the EIS/EIR states, "WSAFCA will coordinate with CDFW to identify measures to ensure raptors are not adversely affected. These measures may include implementation of suitable buffer widths and phasing of construction." However, the location of the nest in proximity to existing and construction audio or visual impacts to nesting raptors, presence or absence of protective vegetation adjacent to the nest, and other disturbances or protective features could influence the width and effectiveness of a proposed buffer zone. Therefore, the proposed mitigation measure does not provide enough details to analyze mitigation effectiveness. Absent this evidence, it is unclear how the lead agency's significance conclusion is supported.

5-3

- Sensitive Plants. A second example of unspecific mitigation measures is for sensitive plants. Conducting a focused botanical survey for rare, threatened or endangered plant species is not a mitigation measure (for example, see page 3.8-31) in and of itself; the EIS/EIR should also include specific, enforceable measures or formulas containing success criteria that would be required to be implemented based on the results of the proposed surveys. Ideally, baseline biological data and focused sensitive species survey results should be provided in the EIS/EIR, and appropriate mitigation be designed based on the results of the focused rare plant survey providing the species impact, ecological characteristics of the existing population, and measures to avoid, minimize or mitigate the potential impacts.

This approach ensures public review of focused sensitive species survey results, potential impacts, and associated mitigation measures proposed to address the impacts. This provides public opportunity to submit specific comments on the

1
2

adequacy of the mitigation proposed in relation to the impact identified in the focused species surveys.

Biological Resources

3. Vegetation Removal: The implementation of the U.S. Army Corps of Engineers (USACE) Levee Vegetation Policy (Policy), which proposes to remove woody vegetation within the levee prism or within 15 feet of the landside toe or waterside levee toe, is analyzed under the No Action Alternative starting on page 3.1-25 of the EIS/EIR. The analysis details impacts from three quantities of vegetation removal, including the complete application of the Levee Vegetation Policy, no application of Policy, or current application of Central Valley Flood Protection Plan (Plan) management of woody vegetation to allow visibility and accessibility for the levee (i.e., trimming or thinning vegetation, and removal or retention based on engineering inspection and evaluation). The Plan proposes only to remove vegetation directly disturbed by the project envelope. New project levees will be compliant with the Policy, but existing levees will not be modified into compliance beyond the construction disturbance footprint.

   The CSLC approved a resolution in support of House of Representatives Bill H.R. 399, which would "[direct] the Secretary of the Army to undertake a comprehensive review of the [USACE] policy guidelines on vegetation management for levees in order to determine whether current federal policy is appropriate for all regions of the United States" (Levee Revegetation Act). The resolution (see attached) notes that the removal of already significantly reduced riparian vegetation in California "has the potential to severely limit, if not extinguish, the public's ability to access, use and enjoy the State's public trust lands." (8/14/2012 Calendar Item #100, see attached.)

5-4 In consideration of the controversy surrounding implementation of the USACE's vegetation policy to remove woody riparian vegetation from levees, CSLC staff requests that the EIS/EIR analyze potential impacts on special status species relying on, or benefiting from, riparian habitat, such as Swainson's hawk, Delta smelt and native salmonid species.

5-5 4. Invasive and Non-native Species: Section 2.4.3 addresses invasive plant species, and page 3.8.2 cites Executive Order 1311 for Invasive Species. Additionally, a discussion of the CalFed Plan reiterates the Plan's goal to, "Implement actions to prevent, control, and reduce effects from non-native invasive species." However, the EIS/EIR does not mention invasive mussel species. The CSLC staff recommends the EIS/EIR consider the Project's potential to encourage the establishment or proliferation of aquatic invasive species (AIS) such as the quagga mussel. For example, construction boats and barges brought in from long stays at distant projects may transport new species to the Project area via hull biofouling, wherein marine and aquatic organism attach to and accumulate on the hull and other submerged parts of a vessel. If the analysis in the EIS/EIR finds potentially significant AIS impacts, possible mitigation could include contracting vessels and barges from nearby, or requiring a certain degree of hull-cleaning from contractors. The California Department of Fish and Wildlife's Invasive Species Program could

1

5-5 cont'd

assist with this analysis as well as with the development of appropriate mitigation (information at http://www.dfg.ca.gov/invasives/).

5-6

5. Habitat Protection. The two alternatives that provide the greatest length of setback levee and the greatest amount of river channel returned to a floodplain elevation (such that natural riverine processes and emergent vegetation providing habitat for juvenile aquatic species are established) appear to provide the greatest aquatic habitat protection. The installation of rock benches waterside of the levee to support shallow aquatic habitat with instream woody material, and shaded riverine aquatic as described on page 3.9-29 will improve the near shore habitat for aquatic species above existing conditions.

Thank you for the opportunity to comment on the EIR/EIS for the Project. As a trustee and potentially responsible agency, the CSLC will need to rely on the Final EIR for the issuance of any new lease as specified above and, therefore, we request that you consider our comments on the draft EIS/EIR. Please send additional information and final documents for the Project to the CSLC staff listed below.

Please send copies of future Project-related documents, including electronic copies when they become available, or refer questions concerning environmental review to Mara Noelle, Environmental Scientist, at (916) 574-2274 or via e-mail at Mara.Noelle@slc.ca.gov. For questions concerning CSLC leasing jurisdiction, please contact Wendy Hall, Public Land Manager, at (916) 574-0994, or via email at Wendy.Hall@slc.ca.gov.

Sincerely,

Cy R. Oggins, Chief
Division of Environmental Planning
and Management

References

Levee Vegetation Review Act of 2013, H. 399, 113th Cong., 1st Sess. (2013).

Attachments

8/14/2012, Calendar Item #100
8/14/2012, Calendar Item #100, Exhibit A

cc: Office of Planning and Research
Wendy Hall, LMD, CSLC
Mara Noelle, DEPM, CSLC
Pam Griggs, Legal, CSLC
Megan Smith, ICF International

1

Attachment 1

CALENDAR ITEM
C100

A Federal 08/14/12

S Federal S. Pemberton

CONSIDER SUPPORTING FEDERAL LEGISLATION THAT WOULD ENACT THE LEVEE VEGETATION REVIEW ACT OF 2012, WHICH WOULD REQUIRE THE UNITED STATES ARMY CORPS OF ENGINEERS TO ADOPT A REGIONAL VARIANCE POLICY FOR VEGETATION ON LEVEES

INTRODUCTION:

State Lands Commission staff has been reviewing various legislative proposals introduced in the 112th Congress that involve lands under the Commission's jurisdiction. This report describes the proposed Levee Vegetation Review Act of 2012 (House Bill 5831 – Matsui) and proposes a Resolution for the Commission to consider adopting in support of this bill.

LEGISLATIVE PROPOSAL:

House Bill 5831 (Matsui): The Levee Vegetation Review Act of 2012

SUMMARY AND BILL DESCRIPTION:

House Bill 5831 would require the United States Army Corps of Engineers (Corps) to adopt a regional variance policy for vegetation on levees, instead of the Corps' uniform national policy. The bill would require the Secretary of the Army, in consultation with interested federal agencies, state and local governments, tribes, nongovernmental organizations and the public, to undertake a comprehensive review of the Corps' policy guidelines on vegetation management for levees. In conducting the review, the Secretary would be required to study the guidelines in view of: 1) the varied interests and responsibilities in managing flood risks, including the need to provide the greatest levee safety benefit with limited resources; 2) preserving, protecting, and enhancing natural resources, including the potential benefit that vegetation on levees can have in providing habitat for species of concern; 3) protecting the rights of Native Americans pursuant to treaties and statutes; and, 4) any other factors the Secretary considers appropriate.

In conducting the review, the Secretary would also be required to consider factors that promote and allow for variances from the national guidelines on a regional or watershed basis, including soil conditions, hydrologic factors, levee performance history,

1

Attachment 1

vegetation patterns and characteristics, and environmental resources. Corps Regional Integration Teams would be required to recommend to the Chief of Engineers vegetation management policies for levees that are consistent with state and federal laws.

As part of the review, the Secretary would be required to solicit and consider the views of the National Academy of Engineering, which must be made publicly available and included in supporting materials issued in connection with the revised guidelines authorized by this bill.

The Secretary would be authorized to revise the Corps' levee management guidelines two years after the date of enactment of this bill, consistent with the results of the review. The revised guidelines would be required to provide a practical process for approving regional or watershed variances from the national guidelines, reflecting consideration of measures to maximize public safety, regional climatic variations, environmental quality, implementation challenges, and allocation of responsibilities.

BACKGROUND:

California's Central Valley Flood Control System includes approximately 1,600 miles of levees, with trees, brush and other woody vegetation growing on most of them. Ever since the system was turned over the State to operate, vegetation has been encouraged, protected, or introduced by the Corps on many levees.

In the aftermath of Hurricane Katrina, the Corps undertook a review of their levee standards to improve public safety. As part of that process, they adopted a new vegetation management policy requiring the removal of all woody vegetation over 2 inches in diameter from levees throughout the nation; unless a special variance is approved. This policy was adopted even though an Interagency Performance Task Force Report concluded that the flooding in New Orleans from Hurricane Katrina was caused by engineering and construction failures of the levees. Woody vegetation was not cited as a cause of levee failure.

In April 2010, the California Department of Water Resources (DWR) and the California Department of Fish and Game (DFG) submitted comments on the process for requesting a variance from the Corps' vegetation standards for levees. The Departments noted that proposed requirements for a variance are so stringent and ambiguous that variances are unlikely to be issued. Further, their comments expressed the importance of coordinating public safety improvements with protection of the unique and irreplaceable fisheries and wildlife habitats associated with the Central Valley Flood Protection System. They further expressed their view that the Corps' policy will reduce public safety in California, result in extensive and unnecessary environmental and ecosystem destruction, and remove the Corps' responsibility to assist state and local levee maintenance agencies in ensuring the integrity of California's levee system.

1

Attachment 1

Accordingly, DWR and DFG have requested that the Corps cease implementation of its new policy and instead collaborate with California representatives and interested stakeholders to develop and adopt a practical regional variance process consistent with the 2009 Central Valley Flood System Improvement Framework, with the following features:

- Provide a regional approach that addresses the unique setting and history of the Sacramento, San Joaquin, and Delta levee systems.
- Provide the opportunity to allow well-managed, woody vegetation on all levee slopes, as determined by the variance, and not foreclose vegetation options on all but the lower 1/3 waterside of levees.
- Provide clear guidance on the level of detail needed for a variance, how that detail will be evaluated, and an appeal procedure should the Corps and the local sponsor disagree on the outcome of the process.
- Initiate consultation under the Endangered Species Act and complete a National Environmental Policy Act analysis.

House Bill 5831 is consistent with DWR and DFG's approach and proposed solution. It also addresses concerns voiced by a wide range of stakeholders concerning application of the Corps' policy in California, including it having the unintended consequence of actually increasing flood risks and that it would be devastating to the salmon, steelhead and other species in the Central Valley listed under the State and Federal Endangered Species Acts.

OTHER PERTINENT INFORMATION:

Many of the federal levees in California that are subject to the Corps' levee maintenance policy are either on or adjacent to public trust lands under the jurisdiction of the Commission. According to DWR and DFG, the implementation of the Corps' vegetation removal policy will require the removal of dwindling riparian habitat, which will likely have a devastating effect on the species that depend on this unique habitat, including endangered species such as the Chinook salmon, Central Valley steelhead, Western yellow-billed cuckoo and the Swainson's hawk – all public trust resources under the Commission's jurisdiction. The removal of vegetation also has the potential to severely limit, if not extinguish, the public's ability to access, use and enjoy the State's public trust lands.

House Bill 5831 is a bipartisan bill, cosponsored by 30 members of the California congressional delegation. It was introduced on May 11, 2012 and referred to the House Transportation and Infrastructure Committee. To date, no hearings have been set.

RECOMMENDED ACTION:
IT IS RECOMMENDED THAT THE COMMISSION:

1. Adopt the Resolution in support of House Bill 5831 attached hereto as Exhibit A.

1

Attachment 2

EXHIBIT A

RESOLUTION BY THE CALIFORNIA STATE LANDS COMMISSION SUPPORTING H.R. 5831, THE 'LEVEE VEGETATION REVIEW ACT OF 2012,' WHICH WOULD DIRECT THE SECRETARY OF THE ARMY TO UNDERTAKE A COMPREHENSIVE REVIEW OF THE U.S. ARMY CORPS OF ENGINEERS' POLICY GUIDELINES ON VEGETATION MANAGEMENT FOR LEVEES

WHEREAS, the California State Lands Commission serves the people of California by providing stewardship of the lands, waterways, and resources entrusted to its care through economic development, protection, preservation, and restoration; and,

WHEREAS, pursuant to the Public Trust Doctrine, tide and submerged lands, including lands underlying non-tidal navigable waterways are owned by the states and are held in trust for the benefit of the public, and these public trust lands are to be used to promote the public's interest in water dependent or water oriented activities including, but not limited to, water related commerce, navigation, fisheries, environmental preservation and water related recreation; and,

WHEREAS, the Public Trust Doctrine and California's Constitution establish the right of the public to access and use public trust lands, as well as establish the public's right to fish on public trust lands; and,

WHEREAS, through its management of public trust lands, the Commission has the duty to protect these lands and the living resources therein for the purposes of preserving and continuously assuring the public's ability to access, use, and enjoy public trust lands and the resources inhabiting these lands and waters; and,

WHEREAS, California's Central Valley Flood Control System includes approximately 1,600 miles of levees, many of which are located on or adjacent to state sovereign lands, with trees, brush and other woody vegetation growing on most of them; and,

WHEREAS, ever since the Central Valley Floor Control System was turned over the State to operate, vegetation has been encouraged, protected, or introduced by the U.S. Army Corps of Engineers on many levees, much of which was intended to preserve habitat while improving levee stability; and,

WHEREAS, in the aftermath of Hurricane Katrina, the U.S. Army Corps of Engineers undertook a review of their levee standards to improve public safety, and as part of that process, they adopted a new vegetation management policy requiring the removal of all woody vegetation over 2 inches in diameter from levees throughout the nation; unless a special variance is approved; and,

1

Attachment 2

WHEREAS, over the past several years, the California Department of Fish and Game and the California Department of Water Resources, along with other interested parties, have had many discussions and exchanged many letters with the U.S. Army Corps of Engineers requesting that the Corps reconsider their vegetation removal policy and engage in a cooperative effort to address levee reliability issues; and,

WHEREAS, H.R. 5831, which is a bipartisan effort, would direct the Secretary of the Army to undertake a comprehensive review, in consultation with federal agencies, state and local governments, tribes, nongovernmental organizations and the public, of the U.S. Army Corps of Engineers' policy guidelines on vegetation management for levees; and,

WHEREAS, H.R. 5831 would require the U.S. Army Corps of Engineers to examine its vegetation policy and its impact on public safety, regional climatic variations, environmental quality, implementation challenges, use the best available science, and adapt levee policy towards the needs of local communities; and,

WHEREAS, H.R. 5831 would authorize the Secretary of the Army to revise the U.S. Army Corps of Engineers' levee management guidelines, consistent with the results of its comprehensive review, and the revised guidelines would be required to provide a practical process for approving regional or watershed variances from the Corps' guidelines, reflecting consideration of measures to maximize public safety, regional climatic variations, environmental quality, implementation challenges, and allocation of responsibilities; and,

WHEREAS, the Commission believes that the enactment of H.R. 5831 would considerably protect and enhance the public trust lands either on or adjacent to the federal levees in California that are subject to the U.S. Army Corps of Engineers' levee maintenance policy; now, therefore, be it

RESOLVED BY THE CALIFORNIA STATE LANDS COMMISSION that it supports H.R. 5831 (Matsui), the 'Levee Vegetation Review Act of 2012', that would require the Secretary of the Army to undertake a comprehensive review of the U.S. Army Corps of Engineers' policy guidelines on vegetation management for levees and would require the U.S. Army Corps of Engineers to move to regional variances with input from the state and local entities that are most familiar with the unique challenges facing each area; and be it further

RESOLVED, that the Commission's Executive Officer transmit copies of this resolution to the President and Vice President of the United States, to the Governor of California, to the Majority and Minority Leaders of the United States Senate, to the Speaker and Minority Leader of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

1

2.6.1 Responses to Letter 5

5-1

The California State Lands Commission (CSLC) has been moved from the list of Trustee Agencies to the list of Responsible Agencies. As with other Responsible Agencies, CSLC received notice of the availability of the Draft EIS/EIR, as well as a copy of the document for review. Please see Table 1-3 in Section 1.6.2.2, Responsible and Trustee Agencies.

5-2

Section 2.4.1, Nesting or Roosting Raptors Survey, describes an EC to conduct preconstruction surveys near areas of staging or construction and to work with CDFW to identify measures to avoid adverse effects if nesting raptors are found. Through the commitment, WSAFCA agrees to seek determination by CDFW of "suitable buffer widths," rather than commit solely to a static buffer width. This approach ensures any buffers employed would be adequate to prevent adverse effects, by taking into account nest proximity to the disturbances or protective features mentioned in the comment.

The potential effects on these species, and mitigation measures proposed to reduce those effects, are described in Section 3.10, Wildlife, specifically Effect WILD-4 and WILD-6 and Mitigation Measures VEG-MM-1, VEG-MM-3, WILD-MM-8, and WILD-MM-9. The mitigation identified has been developed based on CDFW input on appropriate construction buffers for avoidance of impacts to the species of concern. The significance of each alternative's effects determinations are based upon these mitigation measures and do not rely upon Section 2.4.1, Nesting or Roosting Raptors Survey, to reduce or support the document's significance conclusions.

5-3

Where property access made sensitive plant surveys possible, the baseline biological data requested in the comment was gathered and reported in Volume I. Specifically, see Section 3.8.1.2, Environmental Setting under Special-Status Plant Surveys, which states, "Special-status plant surveys have not yet been conducted in all parts of the project area, although many parts were covered during the vegetation mapping and delineation surveys. Not all parcels in the project area were granted access permission, which limited the areas available for the survey. A list of plant species observed during all surveys is provided in Appendix F.1."

Mitigation Measure VEG-MM-7: Retain Qualified Botanists to Conduct Floristic Surveys for Special-Status Plants during Appropriate Identification Periods, in combination with Mitigation Measure VEG-MM-8: Avoid or Compensate for Substantial Effects on Special-Status Plants, provides direction for focused sensitive plant surveys and appropriate measures to avoid, minimize, or mitigate effects if special-status plants are found during the survey and would be affected by the project. Because onsite mitigation is not expected to be feasible for the project, the proposed mitigation includes offsite preservation of an existing population of the affected species or the purchase of credits at a mitigation bank.

5-4

Sections 3.9, Fish and Aquatic Resources and Section 3.10, Wildlife, analyze the potential impacts on special status species that could result from removal of riparian vegetation. These sections include discussions of the potential effects on various special status avian and aquatic species, including Swainson's hawk, delta smelt, and native salmonid species.

5-5

Species of concern related to the operation of barges and other equipment in the lower Sacramento River include invasive mussels (e.g., quagga mussels [*Dreissena bugensis*] and zebra mussels [*Dreissena polymorpha*]) and aquatic plants (e.g., Brazilian waterweed [*Egeria densa*] and hydrilla [*Hydrilla verticillata*]). An EC addressing aquatic invasive species (AIS) was added to Chapter 2 (Section 2.4.22, Aquatic Invasive Species Prevention).

Analysis of this potential effect was conducted and added to Section 3.9, Fish and Aquatic Resources; specific analysis for Alternatives 1 through 5 is in Section 3.9.3, Effects and Mitigation Measures. The project was determined to have a less-than-significant effect on AIS proliferation.

5-6

WSAFCA selected Alternative 5 as the APA, which is one of the two alternatives that would provide the greatest length of setback levee and the greatest aquatic habitat protection.

2.7 Letter 42—Cindy Messer, Delta Stewardship Council

Letter 42

DELTA STEWARDSHIP COUNCIL
A California State Agency

980 NINTH STREET, SUITE 1500
SACRAMENTO, CALIFORNIA 95814
WWW.DELTACOUNCIL.CA.GOV
(916) 445-5511

January 17, 2014

Mr. John Powderly
West Sacramento Area Flood Control Agency
1110 West Capitol Avenue
West Sacramento, CA 95691

RE: Draft Southport Sacramento River Early Implementation Project Environmental Impact Statement/Environmental Impact Report, SCH#2011082069

Dear Mr. Powderly:

Thank you for the opportunity to comment on the draft Southport Sacramento River Early Implementation Project Environmental Impact Statement (EIS)/Environmental Impact Report (EIR). This letter provides comments on the EIR/EIS and content of the environmental information that is relevant to our agency's responsibility in connection with the proposed project.

42-1 State law specifically directs the Delta Stewardship Council (DSC) to provide "advice to local and planning agencies regarding the consistency of local and regional planning documents with the Delta Plan" (Water Code Section 85212). The DSC adopted the Delta Plan on May 16, 2013, and the Plan's regulatory policies became effective on September 1, 2013. The Delta Plan, including its policies and recommendations, should be acknowledged in the final EIS/EIR's description of the project's environmental setting. The draft EIS/EIS states that the Southport Sacramento River Early Implementation Project would, "implement flood risk reduction measures along the Sacramento River South Levee in the city of West Sacramento." This project expects to bring regional levees up to standard with Federal and state levee design criteria, as well as provide opportunities for ecosystem restoration and public recreation. The draft EIS/EIR indicates that the considered alternatives may include construction of:

- Adjacent levees.
- Setback levees.
- Slurry cutoff walls.
- Seepage berms.
- Slope flattening.
- Rock Slope protection.
- Erosion site bank stabilization.

"Coequal goals" means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place."
– CA Water Code §85054

We recommend the following matters be discussed or acknowledged in the final EIS/EIR:

42-2 • **Inconsistencies with the Delta Plan.** The EIS/EIR should discuss any inconsistencies between the project and the Delta Plan, as required by 15125(d) of the CEQA Guidelines.

42-3 • **Land Use and Agricultural Resources.** The draft EIS/EIR identifies the potential land use and agricultural resource impacts and provides possible mitigation measures. In Section 3.11.1.1 Regulatory Framework, page 3.11-1through page 3.11-2, it also recognizes various federal, state, and local regulations. We commend your efforts on coordination and compliance with different federal, state, and local entities and their regulations and recommend including the DSC in this section of the EIR/EIS. The DSC is an independent State agency charged with furthering the achievement of the State's coequal goals and has specific jurisdiction over and regulations related to land use in the secondary zone of the Delta (23 California Code of Regulation (CCR) Section 5010).

For example, the possible alternatives listed in Section 3.11.3 Effects and Mitigation Measures, page 3.11-6 through page 3.11-14 should be verified for consistency with Delta Plan Policy DP P2 (23 CCR Section 5011), which calls for siting flood management infrastructure to avoid or reduce conflicts with local land uses when feasible.

42-4 • **Biological Resources.** This draft EIS/EIR provides biological resource impact assessments and identifies "Setback Levee with Slope Flattening" as the Applicant-Preferred Alternative (APA). It also indicates that the City of West Sacramento and West Sacramento Area Flood Control Agency (WSAFCA) have goals to expand and enhance habitat for fish and wildlife, public recreation, and general open space values, and the Southport project provides excellent opportunities to realize these benefits. In the final EIS/EIR, please verify that the project and the possible outcomes will be consistent with policies identified in the Delta Plan. Such policies include Delta Plan Policy ER P2 (23 CCR Section 5006), which calls for restoring habitats at appropriate elevations; and Policy ER P4 (23 CCR Section 5008), which states that levee projects must evaluate and, where feasible, incorporate alternatives, including the use of setback levees, to increase floodplains and riparian habitats.

Other matters for your consideration

42-5 In Section 4.2.3.1, Flood Risk-Reduction Projects, on page 4-14 of this draft EIS/EIR, it mentions the Delta Plan and the Delta Plan Programmatic Environmental Impact Report (PEIR), but with out-of-date information. Please update the information to state that the Delta Plan was adopted on May 16, 2013, and its regulatory policies became effective on September 1, 2013. For reference, the latest information about the DSC, Delta Plan, and PEIR can be found on the DSC's web site at http://www.deltacouncil.ca.gov/.

42-6 The Delta Reform Act specifically established a certification process for compliance with the Delta Plan's regulatory policies (See attachment on Covered Actions for details). According to the Delta

1

42-6 cont'd

Reform Act, it is the state or local agency approving, funding, or carrying out the project that must certify consistency with the Delta Plan. This certification is subject to appeal to the DSC. Should you determine the project is a covered action, a way to streamline the process and make full use of the EIR is to include the information and analysis needed to support the certification of Delta Plan consistency within the EIR, including potentially including a draft certification as an appendix to the final EIR.

42-7

Please also note that the final PEIR for the Delta Plan includes a Mitigation Monitoring and Reporting Plan that describes the mitigation required for covered actions. If you should determine this project is a covered action, it may be affected by the Delta Plan's Policy GP1 (23 CCR Section 5002(b)(2)), which states, "Covered actions not exempt from CEQA must include applicable feasible mitigation measures identified in the Delta Plan's PEIR or substitute mitigation measures that the proposing agency finds are equally or more effective." Even if the project is not a covered action, we encourage consistency with the Delta Plan's Policies and Recommendations, including Recommendation DP R16, which encourages recreation on public land use. We commend you on proposing to provide West Sacramento residents with recreation opportunities that are compatible with implementation of flood risk-reduction measures.

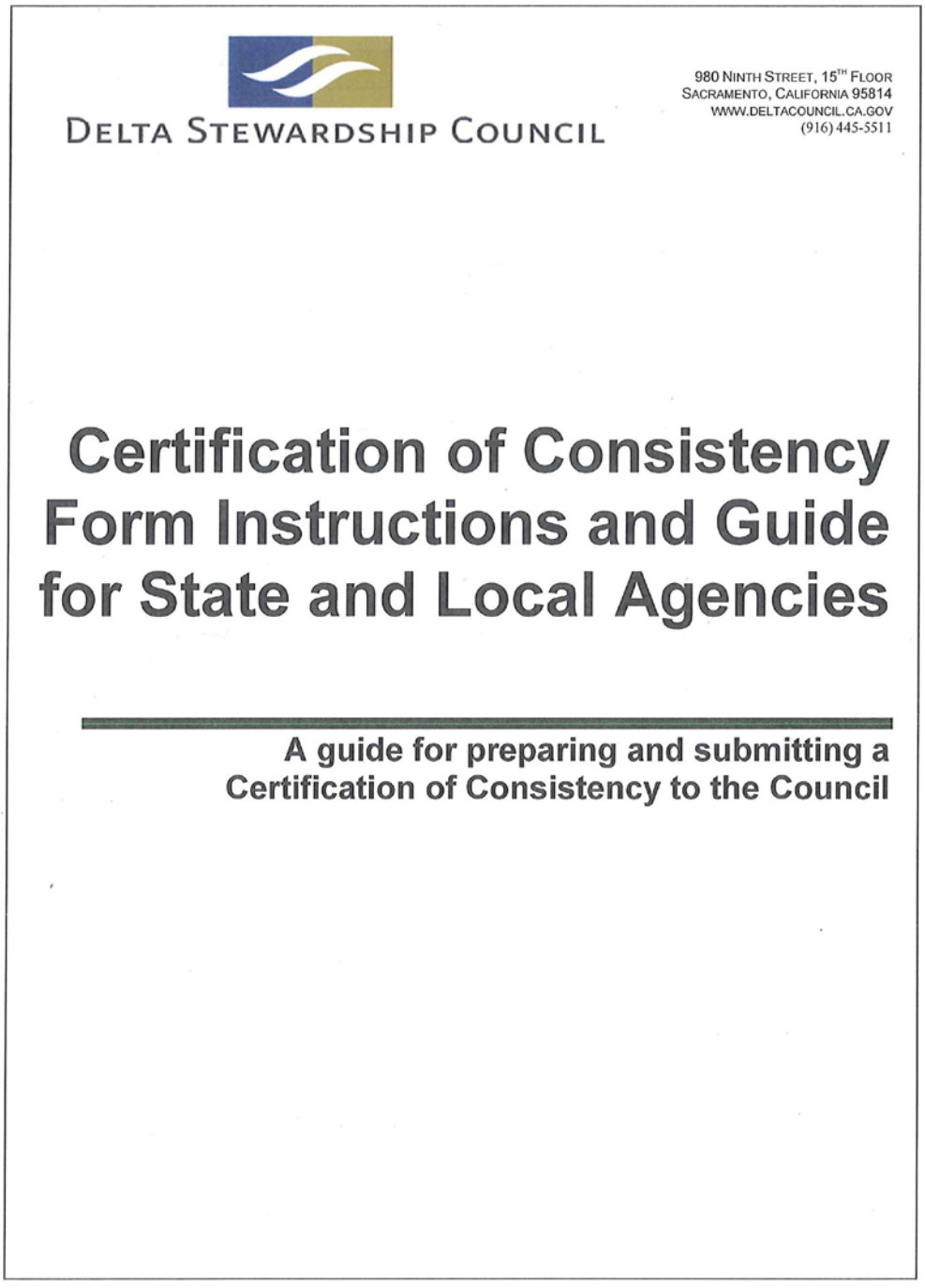
I encourage you to contact my staff You Chen (Tim) Chao at YouChen.Chao@deltacouncil.ca.gov or (916) 445-0143 with your questions, comments, or concerns. We would like to work with you to ensure the consistency of the Southport Sacramento River Early Implementation Project with the Delta Plan while also avoiding, minimizing or mitigating potential environmental impacts and we look forward to continued coordination between our agencies to further our related efforts. We are available to continue discussions about how to ensure that your project is consistent with the Delta Plan.

Sincerely,

Cindy Messer
Deputy Executive Officer
Delta Stewardship Council

Enclosure

1



DELTA STEWARDSHIP COUNCIL

980 NINTH STREET, 15TH FLOOR
SACRAMENTO, CALIFORNIA 95814
WWW.DELTACOUNCIL.CA.GOV
(916) 445-5511

Certification of Consistency Form Instructions and Guide for State and Local Agencies

A guide for preparing and submitting a Certification of Consistency to the Council

1

Table of Contents

Page **2** of **12**

1

Introduction

A state or local agency that proposes to undertake a covered action, prior to initiating the implementation of that covered action, are required to submit a written certification to the Council, with detailed findings demonstrating that the covered action is consistent with the Delta Plan.(Water Code Section 85225).

The Council requests that certifications of consistency be submitted electronically. The Council has developed an on-line certification of consistency form that will guide the user in submitting the necessary detailed findings of consistency. This document may be used to assist state and local agencies in preparing to fill out the certification of consistency in advance of using the on-line form.

Before beginning the certification process, you are also encouraged to visit the Council website (http://www.deltacouncil.ca.gov/covered-actions) and review all of the resources available including obtaining Early Consultation with Council staff.

A certification of consistency is required for each covered action. State and local agencies should carefully review each regulatory policy in the Delta Plan for guidance on what details to include and attach to the certification.

This guide is organized into four distinct parts:

Part I: **Preparing a Certification of Consistency**

Part II: **Submitting a Certification of Consistency**

Part III: **Attaching Documents to the Certification of Consistency**

Part IV: **Regulatory Policies and Appendices**

Page 3 of 12

1

Part I
Preparing a Certification of Consistency

You must register for a user account with this system using an approved state or local agency e-mail address. If you have already registered, please login to create and submit a certification of consistency. If your agency is not listed in the system as an approved state or local agency, please contact Council staff at (916) 445-0513 to be added.

The on-line form will guide you through certification process; however, it is recommended that the agency collect all the documentation related to the certification of consistency, including the detailed findings as to whether the covered action is consistent with the Delta Plan, in advance of using the on-line form.

Once the on-line form has been initiated, the user may save the work in progress without having to complete and submit the form. The user may return at another time to make edits to the form, complete the form or submit the completed certification of consistency to the Council.
PLEASE NOTE: Once the user has clicked the submit button – the user will not have the option of making additional edits, but if necessary, the user will have the option of withdrawing the submitted certification of consistency.

All information in the Certification of Consistency form including agency and proponent profile details and all attached documents will be posted for public view.

Once registered and logged in, you will be required to enter the title of the covered action to begin the process (covered action title may be edited at any time before submission). The complete certification process includes 3 steps which are explained below:

Step 1 – Agency Profile - Create an agency profile for each covered action being submitted.

A. GOVERNMENT AGENCY:

Agency Type:
State Agency

Agency Name: *

Primary Contact: *

Address: *

City, State ZIP: * * *

Telephone/Fax: *

E-mail Address:

B. GOVERNMENT AGENCY ROLE IN COVERED ACTION:*

(check all that apply)

☐ Will Carry Out ☐ Will Approve ☐ Will Fund

Page 4 of 12

1

Step 2 - Covered Action Profile - Complete all components in this area including all text and attachments if applicable. Click the link at the bottom of this section to attach any relevant documents. (See Part III for more details on submitting attachments).

IT IS RECOMMENDED THAT YOU ENGAGE IN EARLY CONSULTATION WITH DSC STAFF AND/OR COMPLETE THE COVERED ACTION CHECKLIST TO DETERMINE IF THE PLAN, PROGRAM OR PROJECT IS CONSIDERED A COVERED ACTION AND TO IDENTIFY RELEVANT REGULATORY POLICIES.

A. COVERED ACTION PROFILE:*

(choose only one)

○ Plan ○ Program ◉ Project

Title:

B. PROPONENT CARRYING OUT COVERED ACTION:

☐ Same as Agency

Proponent Name:

Address:

City, State ZIP:

C. AT LEAST 10 DAYS PRIOR TO THE SUBMISSION OF A CERTIFICATION OF CONSISTENCY TO THE COUNCIL, agencies whose actions are not subject to open meeting laws (Bagley-Keene Open Meeting Act [Gov. Code sec 11120 et seq.] or the Brown Act [Gov. Code sec 54950 et seq.]) with regard to its certification, must post for public review and comment, their draft certification on their website and in their office, and mail to all persons requesting notice.

Does this apply to your agency?*

○ Yes ◉ No

Any state or local public agency that is subject to open meeting laws with regard to its certification is also encouraged to take those actions.

(Note: Any public comments received during this process must be included in the record submitted to the Council in case of an appeal.)

Yes = Please attach any supporting evidence of the public review and comment period in the upload section J. at the bottom of this form.

Page **5** of **12**

1

D. COVERED ACTION SUMMARY: *

(Project description from the CEQA document may be used here.):

E. STATUS IN THE CEQA PROCESS:*

In Process

F. STATE CLEARINGHOUSE NUMBER:

(if applicable):

G. COVERED ACTION ESTIMATED TIME LINE: *

Start and End Date:

H. COVERED ACTION TOTAL ESTIMATED PROJECT COST: *

(round to dollars):

I. IF A CERTIFICATION OF CONSISTENCY FOR THIS COVERED ACTION WAS PREVIOUSLY SUBMITTED, LIST DSC REFERENCE NUMBER ASSIGNED TO THAT CERTIFICATION FORM:

(if applicable):

J. SUPPORTING DOCUMENTS You must upload evidence to support answer C.

Upload Documents

Attachment XXXX [x]

(See Part III for more details on submitting attachments).

Page 6 of 12

1

Step 3 – Consistency with Delta Plan - Complete all components in this area by selecting Yes, No, or Not Applicable. You will be prompted on each response to including justification and/or attach detailed findings to support your answer. (See Part III for more details on submitting attachments).

Yes = Please include detailed findings of consistency with this portion of the relevant regulatory policy.
You may click the upload button to attach detailed findings and also provide specific text regarding the attachment.
No = Please include clear identification of areas where consistency with this relevant regulatory policy is not feasible, an explanation of the reasons why it is not feasible, and an explanation of how the covered action nevertheless, on whole, is consistent with the coequal goals. That determination is subject to review by the Council on appeal.
N/A = Please confirm the reason this regulatory policy is not relevant to the covered action.

Delta Plan Chapter 2

G P1 / 23 CCR SECTION 5002 – **Detailed Findings to Establish Consistency with the Delta Plan.**
In General: (23 CCR SECTION 5002 (a), (b), (1)) This regulatory policy specifies what must be addressed in a certification of consistency filed by a State or local public agency with regard to any covered action.
Read More

Specific requirements of this regulatory policy:

a. **Mitigation Measures**(23 CCR SECTION 5002 (b), (2))
The covered action is not exempt from CEQA, and includes applicable feasible mitigation measures identified in the Delta Plan's Program Environmental Impact Report, (unless the measure(s) are within the exclusive jurisdiction of an agency other than the agency that files the certification of consistency), or substitute mitigation measures that the agency that files the certification of consistency finds are equally or more effective.
Is the covered action consistent with this portion of the regulatory policy?
○ Yes ◉ No ○ N/A

b. **Best Available Science** (23 CCR SECTION 5002 (b), (3))
The covered action documents use of best available science as relevant to the purpose and nature of the project.
Is the covered action consistent with this portion of the regulatory policy?
◉ Yes ○ No ○ N/A

c. **Adaptive Management** (23 CCR SECTION 5002 (b), (4))
The covered action involves **ecosystem restoration** or **water management**, and includes adequate provisions, appropriate to its scope, to assure continued implementation of adaptive management.
Is the covered action consistent with this portion of the regulatory policy?
◉ Yes ○ No ○ N/A
Please include detailed findings of consistency with this portion of the relevant regulatory policy, which shall be satisfied through both of the following:

A. An adaptive management plan that describes the approach to be taken consistent with the adaptive management framework in Appendix 1B of the Delta Plan, and;
B. Documentation of access to adequate resources and delineated authority by the entity responsible for the implementation of the proposed adaptive management process.

Page **7** of **12**

1

Delta Plan Chapter 3

WR P1 / 23 CCR SECTION 5003 - **Reduce Reliance on the Delta through Improved Regional Water Self-Reliance**

Is the covered action consistent with this regulatory policy?

○ Yes ○ No ◉ N/A

WR P2 / 23 CCR SECTION 5004 - **Transparency in Water Contracting**

Is the covered action consistent with this regulatory policy?

◉ Yes ○ No ○ N/A

Delta Plan Chapter 4

BEFORE COMPLETING THIS CHAPTER OF THE FORM, PLEASE REVIEW THE FOLLOWING:

Conservation Measure: (23 CCR SECTION 5002 (c))

A conservation measure proposed to be implemented pursuant to a natural community conservation plan or a habitat conservation plan that was:

(1) Developed by a local government in the Delta; and
(2) Approved and permitted by the California Department of Fish and Wildlife prior to May 16, 2013

is deemed to be consistent with the regulatory policies listed under Delta Plan Chapter 4 of this form (i.e. sections 5005 through 5009) if the certification of consistency filed with regard to the conservation measure includes a statement confirming the nature of the conservation measure from the California Department of Fish and Wildlife.

Is a statement confirming the nature of the conservation measure from the California Department of Fish and Wildlife available?

◉ Yes ○ No ○ N/A

Please attach the statement confirming the nature of the conservation measure from the California Department of Fish and Wildlife. **You will not be required to complete sections 5005 through 5009 if a statement is uploaded.**

ER P1 / 23 CCR SECTION 5005 - **Delta Flow Objectives**

Is the covered action consistent with this regulatory policy?

○ Yes ○ No ○ N/A

ER P2 / 23 CCR SECTION 5006- **Restore Habitats at Appropriate Elevations**

Is the covered action consistent with this regulatory policy?

○ Yes ○ No ○ N/A

ER P3 / 23 CCR SECTION 5007 - **Protect Opportunities to Restore Habitat**

Is the covered action consistent with this regulatory policy?

○ Yes ○ No ○ N/A

Page **8** of **12**

1

ER P4 / 23 CCR SECTION 5008 - Expand Floodplains and Riparian Habitats in Levee Projects

Is the covered action consistent with this regulatory policy?

○ Yes ○ No ○ N/A

ER P5 / 23 CCR SECTION 5009 - Avoid Introductions of and Habitat for Invasive Nonnative Species

Is the covered action consistent with this regulatory policy?

○ Yes ○ No ○ N/A

Delta Plan Chapter 5

DP P1 / 23 CCR SECTION 5010 - Locate New Urban Development Wisely

Is the covered action consistent with this regulatory policy?

○ Yes ○ No ◉ N/A

DP P2 / 23 CCR SECTION 5011 - Respect Local Land Use When Siting Water or Flood Facilities or Restoring Habitats

Is the covered action consistent with this regulatory policy?

○ Yes ○ No ◉ N/A

Delta Plan Chapter 7

RR P1 / 23 CCR SECTION 5012 - Prioritization of State Investments in Delta Levees and Risk Reduction

Is the covered action consistent with this regulatory policy?

○ Yes ○ No ◉ N/A

RR P2 / 23 CCR SECTION 5013 - Require Flood Protection for Residential Development in Rural Areas

Is the covered action consistent with this regulatory policy?

○ Yes ○ No ◉ N/A

RR P3 / 23 CCR SECTION 5014 - Protect Floodways

Is the covered action consistent with this regulatory policy?

○ Yes ○ No ◉ N/A

RR P4 / 23 CCR SECTION 5015 - Floodplain Protection

Is the covered action consistent with this regulatory policy?

○ Yes ○ No ◉ N/A

Page 9 of 12

1

Part II
Submitting a Certification of Consistency

After completing Step 1, 2, and 3 of the on-line certification of consistency form, select the Review and Submit tab to confirm you have entered all required information. If you have successfully entered all the information correct, you will see the following message:

Well done!

Your form is ready to be submitted. Press the green "Submit to DSC" button below to submit your certification.
Only click the Submit button ONCE and wait for the screen to refresh.

Once submitted, the certification will automatically be posted on the Council's website for public view and no information may be revised or updated as the form will have read-only capabilities. If a certification of consistency requires deletion for any circumstances, you may elect to withdraw the certification. A unique ID will be generated for each certification of consistency submitted on-line for tracking purposes. Computerized time and date stamps are automatically posted in the system indicating the timeframe for the statutory appeals process to begin.

The certification of consistency status in the on-line system will initially show as "Public Review Period" on the Council website for 30 calendar days from the time of certification submission. If no person appeals the certification of consistency within 30 calendar days of submission, the status will change to "Covered Action Not Appealed" and the state or local agency may proceed to implement the covered action.

If a valid appeal is filed within the 30 calendar days of certification submission, the "Total Appeals" column in the on-line system will change to indicate the total number of valid appeals received for that covered action. The state or local agency and all parties involved with the covered action will be notified of any appeals filed.

Page **10** of **12**

1

Part III
Instructions for Attaching Documents to the Certification of Consistency Form

Overview
The Certification of Consistency form contains several areas that allow and/or require document attachments which may be relevant to the covered action. Any documents attached will be saved to the certification of consistency form and will be posted and available for public view.

Attachment Process
Any area that prompts with an "Upload Documents" button may be selected to open a dialog box for uploading your relevant detailed finding document(s). The dialog box will prompt you to browse for the relevant document(s) within your own computer files to attach to the form. You will also be able to provide a detailed text description clearly identifying specific areas of relevance to each attachment you provide. It is recommended that you give specific instructions regarding page references, etc. for identifing detailed findings withing the attached document(s).

Attachment File Type
You may upload a read only document such as, such as a pdf file, If you are not able to attach your document to the Certification of Consistency form due to file size or other difficulties, please contact Council staff at (916) 445-5511 to discuss other options for submitting the attachment.

Page **11** of **12**

1

Part IV
Regulatory Policies and Appendices

Final Regulatory Text:
http://deltacouncil.ca.gov/sites/default/files/documents/files/DPregs1_File_CLEAN__0801.pdf

Appendices:
http://deltacouncil.ca.gov/sites/default/files/documents/files/FinalRegText_appendices_07262013.pdf

Combined Regulatory Text and Appendices:
http://deltacouncil.ca.gov/sites/default/files/documents/files/combined_DPregs1-FRT_appendices_082213.pdf

Page **12** of **12**

1
2

2.7.1 Responses to Letter 42

42-1

The regulatory elements of the project's environmental setting are discussed in Chapter 5, "Regulatory Framework and Compliance." A detailed discussion of the Delta Plan has been added to the Final EIR; please see Section 5.4, State and Regional Plan Consistency.

42-2

Currently, there are no foreseen inconsistencies between the Southport project and the Delta Plan. Expected consistencies are discussed below, in summary, and in detail in Section 5.4.3, Delta Plan.

42-3

The APA is consistent with Delta Plan Policy DP P2 as it minimizes conflict with existing land uses to the extent feasible, taking into account WSAFCA's project objective to provide ecosystem and habitat restoration, as well as preserving and enhancing riparian and other native habitats.

42-4

The APA is consistent with Delta Plan Policies ER P2 and ER P4 as it restores habitats at appropriate elevations while utilizing a setback levee approach. Further detail is contained in Section 5.4.3, Delta Plan, and will be submitted to DSC as part of the required Certificate of Consistency.

42-5

The information identified as out-of-date has been updated as suggested; please see Section 4.2.3.3, Relevant Land Use Plans.

42-6

As described above, the Final EIR has been updated to include information supporting certification of the project as consistent with the Delta Plan. A written Certification of Consistency will be prepared and submitted online prior to project implementation as required by the Delta Reform Act.

42-7

As directed by Delta Plan's Policy GP1, applicable feasible mitigation measures identified in the Delta Plan's Programmatic EIR Mitigation Monitoring or Reporting Plan have been reviewed and found to be consistent with mitigation proposed in the Final EIR.

Chapter 3
Regional and Local Agency Comments and Responses

This chapter contains the comments received on the Draft EIS/EIR from regional and local agencies. Each comment letter has been assigned a unique code, and each comment within the letter has also been assigned a unique code, noted on the left margin. For example, the code "7–2" indicates the second distinct comment (indicated by the "2") in the letter from the Delta Protection Commission, which was the seventh letter recorded (indicated by the "7"). The chapter presents each comment letter immediately followed by the responses to that letter. Table 3-1 summarizes the commenting party and comment letter signatory.

Table 3-1. List of Comment Letters Regional and Local Agencies

Letter #	Commenter
6	Matthew Jones, Yolo-Solano Air Quality Management District
7	Erik Vink, Delta Protection Commission
8	Rob Ferrera, Sacramento Municipal Utility District
9	Robb Armstrong, Sacramento Regional County Sanitation District
10	Karen Huss, Sacramento Metropolitan Air Quality Management District
11	David Morrison, County of Yolo

3.1 Letter 6—Matthew Jones, Yolo-Solano Air Quality Management District

Letter 6

1947 Galileo Ct., Suite 103 • Davis, California 95616 (530) 757-3650 • (800) 287-3650 • Fax (530) 757-3670

December 31, 2013

Ms. Tanis Toland
U.S. Army Corp of Engineers, Sacramento District
1325 J Street
Sacramento, CA 95814

Re: Southport Early Implementation Project Draft EIR

Dear Ms. Toland:

The Yolo-Solano Air Quality Management District (District) has received the initial study for the project referenced above (Project), and is submitting comments to the U.S. Army Corps of Engineers (applicant). The Project would implement flood risk-reduction measures along the Sacramento River South Levee in West Sacramento. The levee would be brought up to Federal and State levee design criteria standards. The District's comments are as follows:

6-1

1. The Sacramento Federal Nonattainment Area (SFNA) does not currently meet the Federal or State ambient air quality standards for ozone. At the present time, the majority of ozone precursors in the SFNA are generated by mobile source activity. Consequently, the air districts of the SFNA encourage alternative transportation modes where possible. The District encourages the applicant to take reasonable steps to ensure that operations associated with the Project do not interfere with the public's ability to walk or bike as an alternative to using a motor vehicle for transportation. On page 2-59 of the EIR, the applicant states that the applicant will coordinate with appropriate City and County public works departments to develop and implement a traffic control plan or plans for the Project. The applicant also states in Section 2.4.6 that Safe pedestrian and bicyclist access, if any exists on the current roadway, will be maintained in or around the construction areas at all times. The District would like to add that the traffic control plan should require all construction related and temporary safety signage, construction related equipment, fencing or materials, etc. be placed in such a way not to conflict with or obstruct active bicycle and pedestrian facilities including shoulders, bike lanes, bikeways, bike paths and sidewalks where applicable.

6-2

2. Mitigation measure AIR-MM-1: Implement Measures to Reduce Exhaust Emissions of NOX

6-2 cont'd

and PM10 appears on page 3.5-20 of the EIR. AIR-MM-1 proposes several actions to accomplish these emission reductions. One of these actions is the use of a modern equipment fleet meeting ARB's 1996 or newer certification standard for off-road heavy-duty diesel engines. The District recommends amending this language to require that all off-road mobile equipment used for the project be certified at least to ARB's Tier 2 standard. In addition, the District recommends that all active diesel haul trucks and on-road construction related trucks over 14,000 GVWR be equipped with either a CARB verified Level 3 particulate filter or an engine that meets the 2007 model year CARB emission standard or cleaner. Idling must be restricted to no more than 5 minutes in accordance with state law.

6-3

3. Mitigation Measure AIR-MM1 also contains an action that requires construction equipment to use reformulated and emulsified diesel fuels where feasible. The District is not aware of an emulsified fuel at this time that has been verified by the California Air Resources Board (CARB) to reduce criteria pollutants. Although the use of biofuels such as biodiesel blends meeting the ASTM standard has been shown to reduce particulate and GHG emissions, it is not recommended in this case since biodiesel can increase Oxides of Nitrogen (NOx) emissions. NOx is one of the primary precursors to ozone.

6-4

4. Mitigation Measure Air MM-4: Mitigate and Offset Construction-Generated NOx Emissions to Net Zero for Emissions in Excess of General Conformity de Minimis Threshold (Where Applicable) and to Quantities Below Applicable YSAQMD and SMAQMD CEQA Thresholds: Mitigation Measure Air MM-4 states that the applicant will undertake in good faith an effort to enter into a development mitigation contract with YSAQMD and SMAQMD to reduce NOX emissions generated by Project construction activities in order to demonstrate that the Project complies with the provisions of the Federal General Conformity rule. For each alternative, this would entail reducing project-related NOx emissions to zero. The applicant proposes to make contributions to the SMAQMD's Heavy-Duty Low-Emission Vehicle Incentive Programs (HDLEVIP) in order to realize these reductions.

   While the HDLEVIP is an ongoing program and is designed to achieve early emission reductions from on-road and off-road vehicles, the amount of reductions that can be obtained by the program is dependent on the number and type of projects available. The total pool of potential projects may also be limited in any given year by other development projects seeking to offset their own emissions. Consequently, Mitigation Measure Air MM-4 will only be effective as a method for demonstrating conformity if enough projects can be funded to realize the necessary emission reductions. The applicant should work with air district staff early in the process to determine whether there will be sufficient emission reduction projects available in the HDLEVIP to offset NOx emissions to zero as described in the mitigation measure.

   If the strategy of offsetting NOx emissions through the HDLEVIP is determined to be feasible, the applicant should distinguish between emissions generated in Sacramento County and emissions generated in Yolo County. For NOx emissions occurring within the Yolo Solano Air Quality Management District, District staff will determine whether projects exist within the District that

1

6-4 cont'd

can be funded to fully offset these emissions. If sufficient projects cannot be identified, any remaining offsets needed could be achieved through the HDLEVIP by funding projects elsewhere in the Sacramento Region. For offset projects administered by the District, a separate administrative fee would apply.

6-5

5. Appendix E - Air Quality and Climate Change Technical Appendix: Section E.1.13.1 of the appendix states that the USACE will also announce the availability of the general conformity determination in the Chico Enterprise Record, Appeal-Democrat, and Gridley Herald. District staff believes these newspapers were referenced in error. The District recommends that the USACE announce the availability of the general conformity determination in newspapers that serve the YSAQMD, SMAQMD and BAAQMD.

6-6

6. Table E.1-4 in Appendix E is titled "Federal Attainment Status of the Project Area within Butte and Sutter Counties." The title should be amended as follows: "Federal Attainment Status of the Project Area within the YSAQMD, SMAQMD and BAAQMD." In addition, the YSAQMD is in the process of being reclassified to Attainment by the USEPA for the 24-hour PM 2.5 NAAQS.

6-7

7. The District would like to add that if any portable diesel fueled equipment greater than 50 horsepower (HP) would be used, such as generators or pumps, the equipment must be permitted with the District. Under specific circumstances as approved by the District, the equipment may instead be registered with the Air Resources Board's (ARB's) Portable Equipment Registration Program (PERP) (http://www.arb.ca.gov/perp/perp.htm).

The District appreciates the opportunity to offer these comments. If you have any questions regarding this letter, please feel free to contact me by phone at 530-757-3668 or via email at mjones@ysaqmd.org.

Sincerely,

Matthew R Jones

Matthew R. Jones

Supervising Air Quality Planner

1
2

3.1.1 Responses to Letter 6

6-1

WSAFCA is committed to minimizing project interference with the public's ability to walk or bicycle. Section 2.4.6, Traffic Control and Road Maintenance Plan, has been edited to include the additional detail requested.

6-2

In the Draft EIS/EIR, mitigation was developed consistent with Yolo-Solano Air Quality Management District (YSAQMD) 2007 *CEQA Guidelines*, Section 6.2. The third bullet in the mitigation requires engines to meet the 1996 or "newer" certification standards. As the comment suggests, the text has been revised to require at least Tier 2 engines. This mitigation would apply to all offroad equipment used for project construction. A new bullet has also been added to require that the fleet average of active on-road diesel haul trucks over 14,000 gross vehicle weight rating be equipped with either a California Air Resources Board (ARB)-verified Level 3 particulate filter or an engine that meets the 2007 model year ARB emission standard or cleaner. Mitigation for off-road haul trucks has been added to ensure the fleet complies with state regulations and to encourage use of newer engines. Idling restrictions of 5 minutes or less are currently identified in the first mitigation bullet. Application of these revised mitigation measures would further reduce the air quality effects described in the Draft EIS/EIR for all alternatives. Because the revised mitigation measures changes fleet composition only, implementation of the revised mitigation would not change the method of implementation of the project alternatives. The revised mitigation measure is not expected to result in any new, significant environmental effects. Please see revisions to Mitigation Measure AIR-MM-1 in Section 3.5.3.2, Alternative 1.

6-3

The mitigation was developed consistent with YSAQMD 2007 *CEQA Guidelines*, Section 6.2. As the comment directs, the eighth bullet in the mitigation referring to reformulated and emulsified diesel fuels has been removed from Mitigation Measure AIR-MM-1 in Section 3.5.3.2, Alternative 1.

6-4

As suggested in the comment, Mitigation Measure AIR-MM-4 in Section 3.5.3.2, Alternative 1, has been revised to further describe the contracting process. The mitigation measure now specifies that NO_X emissions generated in Yolo County will be offset through contributions to YSAQMD's Incentive Programs. Remaining emissions (if any) would be offset through Sacramento Metropolitan Air Quality Management District's (SMAQMD's) Heavy-Duty Low Emission Vehicle Incentive Program. Reference to air district administrative fees has also been added to the mitigation. Early coordination with the air districts is currently recommended under the first bullet regarding WSAFCA responsibilities. Text regarding the influence of other large development projects on the availability of offset projects has been added to the last paragraph of the mitigation. Pursuant to a conversation with district staff (Matthew Jones, February 25, 2014 telephone call with Laura Yoon), sufficient projects should be available to offset NO_X emissions (based on expected applications and known development projects that will be seeking offsets in the near future).

6-5

Appendix E was in error. Section E.1.13.1, General Conformity Determination, has been updated to state that USACE will announce the availability of the general conformity determination in conjunction with the public noticing of the Final EIS and NEPA Record of Decision. Minimally, such notice will be published in the Federal Register.

6-6

The title of Table E.1-4 in Section E.1.4.4 of Appendix E has been revised, and a footnote has been added regarding YSAQMD's reclassification status.

6-7

Applicable air district rules have been added to Section 3.5.1.1, Regulatory Framework.

3.2 Letter 7—Erik Vink, Delta Protection Commission

Letter 7

STATE OF CALIFORNIA – NATURAL RESOURCES AGENCY EDMUND G. BROWN, JR., *Governor*

DELTA PROTECTION COMMISSION
2101 Stone Blvd., Suite 210
West Sacramento, CA 95691
Phone (916) 375-4800 / FAX (916) 376-3962
Home Page: www.delta.ca.gov

Contra Costa County Board of Supervisors
Sacramento County Board of Supervisors
San Joaquin County Board of Supervisors
Solano County Board of Supervisors
Yolo County Board of Supervisors
Cities of Contra Costa and Solano Counties
Cities of Sacramento and Yolo Counties
Cities of San Joaquin County
Central Delta Reclamation Districts
North Delta Reclamation Districts
South Delta Reclamation Districts
CA State Transportation Agency
CA Department of Food and Agriculture
CA Natural Resources Agency
CA State Lands Commission

December 27, 2013

John Powderly
West Sacramento Area Flood Control Agency
1110 West Capitol Avenue
West Sacramento, CA 95691

Subject: Southport Sacramento River Early Implementation Project Environmental Impact Statement/ Environmental Impact Report (SCH # 2011082069)

Dear Mr. Powderly:

Delta Protection Commission (Commission) staff has reviewed the Southport Sacramento River Early Implementation Project (Project) Environmental Impact Statement/ Environmental Impact Report (EIS/EIR) and are providing these advisory comments. Projects within the Primary Zone of the Delta are subject to consistency requirements with the Commission's Land Use and Resource Management Plan (LURMP). Although this Project lies within the Secondary Zone of the Delta, it still has the capability to affect resources of the Primary Zone. For this reason we are submitting the following advisory comments that pertain to your Project:

1. The implementation of flood risk-reduction measures is consistent with the LURMP, which includes the goal of supporting the improvement, emergency repair, and long-term maintenance of Delta levees and channels. The LURMP also includes a policy to support programs to make cost effective levee investments in order to preserve the economy and character of the Delta. That said, the Commission supports the proposed levee improvements.

2. The LURMP includes the recreation goal to promote continued recreational use of the land and waters of the Delta and to ensure that needed facilities that support such uses are constructed, maintained, and supervised. Boating related uses within the Delta totals more than 6.4 million visitor days annually. Given that boating recreation is a significant component of the Delta's economy and any disruption to the marinas within the Project area and their ability to conduct business will have an impact on the recreational economy within the Delta's primary zone, we recommend that

7-1

7-1 cont'd measures be taken to preserve marina access during the construction period at both the Sherwood Harbor Marina and the Sacramento Yacht Club.

7-2 3. Legislation mandates the Commission to prepare a plan for the Great California Delta Trail system, a continuous regional trail corridor that will extend through the Sacramento-San Joaquin Delta, linking the Sacramento and Bay Area regional trail systems. Any recreational trails proposed in your Project could connect to future segments of the Delta Trail. Coordination with the Commission's Delta Trail planning process would be useful in order to potentially link this Project's recreation site(s) to a regional trail system, thus potentially increasing visibility and usage of the site, and contributing to Delta's recreation and tourism economy.

Thank you for the opportunity to provide input on the EIS/EIR. If you have any questions please contact Raymond Costantino, Associate Environmental Planner, or myself at (916) 375-4800.

Sincerely,

Erik Vink
Executive Director

1

3.2.1 Responses to Letter 7

7-1

Under all project alternatives, access to the marinas would be maintained during construction, as described in Environmental Commitment 2.4.10, Preserve Marina Access. To implement Section 2.4.10, WSAFCA would require any selected contractor to provide a construction plan that included maintaining access to the marinas.

7-2

While there are no recreational trails planned as part of the proposed project, the project alternatives were designed to avoid interfering with current and future recreational uses of the project area. WSAFCA and Reclamation District 900 (RD 900) will coordinate with the Delta Trail planning efforts and city staff in developing future recreational access to the project area.

3.3 Letter 8—Rob Ferrera, Sacramento Municipal Utility District

Letter 8

Powering forward. Together.

SMUD™

January 6, 2014

Ms. Megan Smith
ICF International
630 K Street, Suite 400
Sacramento, CA 95814
Megan.smith@icfi.com

Subject: Draft Environmental Impact Statement/Environmental Impact Report for the Southport Sacramento River Early Implementation Project

Dear Ms. Smith,

Thank you for the opportunity to comment on the Draft Environmental Impact Statement/Environmental Impact Report for the Southport Sacramento River Early Implementation Project. The Sacramento Municipal Utility District (SMUD) is the primary energy provider for SRCSD sewer interceptor pump station, within the proposed project location. SMUD's vision is to empower our customers with solutions and options that increase energy efficiency, protect the environment, reduce climate change impacts, and lower the cost to serve our region. As a Responsible Agency, SMUD's goal is to ensure that the construction and operation of the proposed Southport Sacramento River Early Implementation Project limits the potential for significant environmental effects on SMUD facilities, employees, and customers.

SMUD's active participation in the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA) process ensures that our community power requirements are integrated into the planning and environmental review process. Our CEQA and NEPA involvement is consistent with SMUD's strategic directives and core values, which call for us to ensure a safe environment for its employees and customers (Policy SD-6) and to promote environmental leadership through community engagement, improved pollution prevention, energy efficiency and conservation, and conservation (Policy SD-7).

Based on SMUD's review of the DEIS/EIR and our understanding of the proposed project we have identified the following areas of interest and have provided comments accordingly.

8-1 SMUD has an existing 12kV line that provides electricity to the SRCSD sewer interceptor pump station located just south of the South Cross levee. If the proposed borrow site, located south of the South Cross Levee is used for the proposed project, then care will need to be taken to avoid impacting this facility. Implementation of Mitigation Measure UTL-MM-3 would reduce the potential of an adverse impact.

8-2 The document only mentions PG&E as the sole electrical provider in this area. Please include SMUD as the electricity provider for this facility.

SMUD HQ | 6201 S Street | P.O. Box 15830 | Sacramento, CA 95852-0830 | 1.888.742.7683 | smud.org

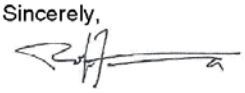
SMUD would like to be kept apprised of the planning, development, and completion of this project. Please ensure that the information included in this response is conveyed to the project planners and any project proponents.

Future NEPA documents should be sent to the attention of the Environmental Management Department at the following address:

Sacramento Municipal Utility District
Attention: Environmental Management
6201 S Street, MS B203
Sacramento, CA 95817

Environmental leadership is a core value of SMUD and we look forward to collaborating with you on this project. Again, we appreciate the opportunity to comment on this DEIS. If you have any questions regarding this letter, please feel free to contact me at (916) 732-6676.

Sincerely,



Rob Ferrera
Environmental Specialist
Environmental Management
Legislative & Regulatory Affairs
Sacramento Municipal Utility District

1

3.3.1 Responses to Letter 8

8-1

As suggested, WSAFCA would take care to implement UTL-MM-3: Verify Utility Locations, Coordinate with Utility Providers, Prepare a Response Plan, and Conduct Worker Training, to mitigate potential impacts on Sacramento Municipal Utility District (SMUD) facilities.

8-2

In Section, 3.15.1.2, Environmental Setting, SMUD has been added as the electrical utility provider for the Sacramento Regional County Sanitation District (SRCSD) sewer interceptor pump station located south of the South Cross Levee.

3.4 Letter 9—Robb Armstrong, Sacramento Regional County Sanitation District

Letter 9

REGIONALSAN
TAKING THE WASTE OUT OF WATER
Sacramento Regional County Sanitation District

Main Office
10060 Goethe Road
Sacramento, CA 95827-3553
Tel: 916.876.6000
Fax: 916.876.6160

Treatment Plant
8521 Laguna Station Road
Elk Grove, CA 95758-9550
Tel: 916.875.9000
Fax: 916.875.9068

www.srcsd.com

November 19, 2013

Ms. Megan Smith
ICF International
630 K Street, Suite 400
Sacramento, CA 95814

Subject: **Notice of Availability (NOA) of a Draft Environmental Impact Statement/Environmental Impact Report (DEIS/EIR) for the Southport Sacramento River Early Implementation Project**

Dear Ms. Smith:

Sacramento Regional County Sanitation District (Regional San) has reviewed the NOA of a DEIS/EIR for the Southport Sacramento River Early Implementation Project (Southport EIP) and has the following comments.

As stated within the NOA, the Southport EIP proposes to implement flood risk-reduction measures along the Sacramento River's South Levee within the City of West Sacramento (City); the proposed project would bring the existing levee up to standard with Federal and state flood protection criteria.

Regional San has the South River Pump Station (SRPS), 66-inch Yolo Force Main, 120-inch Southport Gravity Sewer and associated easements and access roads located within the proposed projects study area.

9-1 Regional San is currently in the final design stages for the South River Pump Station Flood Protection Project, which will utilize soil from borrow sites of neighboring parcels of the SRPS; close coordination between the West Sacramento Area Flood Control Agency (WSAFCA) and Regional San should occur in order to avoid any potential conflict in regards to soil acquisition for both projects.

9-2 The potential removal and/or addition of ground cover over existing Regional San facilities may require that Regional San facilities be raised and/or lowered to meet the finished project grade; load mitigation may also be required for areas where additional loads are placed over Regional San facilities.

Ms. Megan Smith
November 19, 2013
Page 2

Other areas of concern for Regional San are as follows:

9-3 • All weather access to Regional San facilities and pipelines for the purpose of operation and maintenance activities pre/post construction.

9-4 • Improvements proposed to be constructed within existing Regional San easements that may prohibit the intended use of said easements.

9-5 • Potential concerns for any fill placed or removed over Regional San pipelines.

9-6 • Stockpiling or placement of spoils and construction equipment within Regional San easements.

9-7 • Potential construction haul-routes that cross Regional San pipelines.

9-8 • Borrow site excavation in the vicinity of Regional San pipelines and facilities, including the South River Pump Station Flood Protection Project.

9-9 • Coordination of construction activities for the Regional San South River Pump Station Flood Protection Project and the Southport EIP.

9-10 • Borrow site activities located south of the City's South Cross Levee and their relation to the Sacramento River Levee and the potential for increased river seepage.

If you have any questions regarding this letter, please feel free to contact me at (916) 876-6104 or by e-mail at armstrongro@sacsewer.com.

Sincerely,

Robb Armstrong
Regional San

RA:ra (ra)

cc: Kyle Frazier – Regional San
Scott Mueller – Regional San

1

3.4.1 Responses to Letter 9

9-1

WSAFCA and SRCSD are aware of the other's need for borrow material and are coordinating to meet project needs.

9-2

WSAFCA is coordinating with SRCSD to include measures to adjust and/or protect SRCSD facilities for the construction of Village Parkway. SRCSD facilities are not known to be within the proposed levee construction footprint. WSAFCA will coordinate with SRCSD to implement avoidance, minimization, and mitigation measures required where haul routes cross SRCSD facilities, as described in Mitigation Measure HAZ-MM-1: Coordinate and Implement Pipeline Avoidance and Protection Measures, located in Section 3.16, Public Health and Environmental Hazards.

9-3

WSAFCA will coordinate with SRCSD in developing plans and specifications to maintain continued existing levels of access to SRCSD facilities.

9-4

While construction-related activities are expected to occur within SRCSD easements, no conflict with any SRCSD easement would result from project implementation. Should the issue arise, WSAFCA would coordinate with SRCSD to avoid or resolve conflicts that may affect SCRSD's intended use of such easements.

9-5

SRCSD operates the 120-inch Southport Gravity Sewer wastewater interceptor pipeline that runs through portions of the potential borrow areas, haul routes, and adjacent to Segment A. Avoidance of this pipeline is discussed further in Section 3.16, Public Health and Environmental Hazards. SRCSD facilities are not known to be within the proposed levee construction footprint. SRCSD has reviewed the plans for the proposed Village Parkway alignment and all comments are being incorporated into the continuing project design efforts. WSAFCA will continue to coordinate with SRCSD in developing the plans and specifications for the proposed project.

9-6

It is not expected that such use of SRCSD easements would be part of the project alternatives. Staging areas and stockpiles would not encroach on existing SRCSD easements without specific written permission from SRCSD.

9-7

As discussed in response to Comment 9-5 above, SRCSD facilities are in proximity to project haul routes. WSAFCA will coordinate with SRCSD to protect SRCSD facilities where haul routes may cross such facilities.

9-8

As discussed in response to Comment 9-5 above, SRCSD facilities are close to project borrow sites. WSAFCA will coordinate with SRCSD to protect SRCSD facilities in conjunction with borrow activities, should they occur in the vicinity of SRCSD pipelines. Borrow sites being considered in the vicinity of the SRCSD facilities are also sites considered by SRCSD for its proposed South River Pump Station Flood Protection Project. WSAFCA staff is working cooperatively with SRCSD staff in recognition of each other's borrow needs and sources.

9-9

WSAFCA will coordinate with SRCSD to reduce the possible effects of concurrent construction activities, as discussed in Section 4, Growth-Inducing and Cumulative Effects.

9-10

In the event the use of borrow sites adjacent to an existing or proposed levee is negotiated with property owners, geotechnical analysis, including seepage and slope stability analysis, would be performed to establish the appropriate grading and proximity to the flood protection system for borrow extraction activities to avoid an increased risk of underseepage.

Borrow activities would then be set back a safe distance, as determined by the results of the analysis, from the landside toe of existing levees to avoid impact on the integrity of the levee. Site-specific seepage and slope stability analysis would be conducted, as applicable, in accordance with Federal and state levee design criteria enumerated and discussed in Section 3.1, *Flood Risk Management and Geomorphic Conditions*.

3.5 Letter 10—Karen Huss, Sacramento Metropolitan Air Quality Management District

SACRAMENTO METROPOLITAN AIR QUALITY MANAGEMENT DISTRICT

Letter 10

Larry Greene
AIR POLLUTION CONTROL OFFICER

December 30, 2013

SENT VIA EMAIL ONLY

U.S. Army Corps of Engineers, Sacramento District
Ms. Tanis Toland, Environmental Resources Branch
1325 J Street
Sacramento, CA 95814-2922

ICF International
Ms. Megan Smith, Project Manager
630 K Street, Suite 400
Sacramento, CA 95814

Draft Environmental Impact Statement/Environmental Impact Report, Southport Sacramento River Early Implementation Project (SAC201301479)

Dear Ms. Toland and Ms. Smith:

The Sacramento Metropolitan Air Quality Management District (SMAQMD) is responding to the notice of availability of the draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the Southport Sacramento River Early Implementation Project, released on November 8, 2013. Staff comments on the project follow.

1. Mitigation Measure Air MM-4 states the applicant will undertake, in good faith, an effort to enter into a development mitigation contract with the Yolo Solano Air Quality Management District (YSAQMD) and the SMAQMD to reduce NOx emissions generated by construction activities in order to demonstrate the project complies with the provisions of the Federal General Conformity Rule. For each alternative, this would entail reducing project-related NOx emissions to zero. The applicant proposes to make contributions to the SMAQMD's Heavy-Duty Low-Emission Vehicle Incentive Program (HDLEVIP) in order to realize these reductions.

10-1 While the HDLEVIP is an ongoing program and is designed to achieve early emission reductions from on-road and off-road vehicles, the amount of reductions that can be obtained by the program is dependent on the number and type of projects available. The total pool of potential projects may also be limited in any given year by other development projects seeking to offset their own emissions. Consequently, Mitigation Measure Air MM-4 will only be effective as a method for demonstrating conformity if sufficient projects can be funded to realize the necessary emission reductions. The applicant should work with SMAQMD and YSAQMD staff early in the process to determine whether there will be sufficient emission reduction projects available in the HDLEVIP to offset NOx emissions to zero, as described in the mitigation measure.

2. The PM_{10} NAAQS status for SMAQMD listed in Table 3.5-1 (and Table E.1-4) should be changed from Moderate Nonattainment to Attainment. The Federal Register Notice indicating the change in attainment status became effective on October 28, 2013, can be accessed at the following link: http://www.gpo.gov/fdsys/pkg/FR-2013-09-26/pdf/2013-23245.pdf.

10-2

777 12th Street, 3rd Floor ▪ Sacramento, CA 95814-1908
916/874-4800 ▪ 916/874-4899 fax
www.airquality.org

10-3 3. Appendix E does not contain the emissions analyses calculations for the project, therefore the calculations cannot be reviewed and confirmed.

10-4 4. Activities occurring in Sacramento County are subject to all applicable SMAQMD rules in affect at the time of construction. A list of commonly applicable rules is attached. SMAQMD rules can be obtained at www.airquality.org or by calling SMAQMD's Compliance Assistance Officer at (916) 874-4884.

Please contact me at 916-874-4881 or khuss@airquality.org if you have any questions regarding these comments.

Sincerely,

Karen Huss

Karen Huss
Associate Air Quality Planner/Analyst
Land Use and Mobile Sources Division

Attachment

Cc: Larry Robinson, SMAQMD
Matt Jones, YSAQMD

1

ATTACHMENT

SMAQMD Rules & Regulations Statement (revised 3/12)

All projects are subject to SMAQMD rules in effect at the time of construction. A complete listing of current rules is available at www.airquality.org or by calling 916.874.4800. Specific rules that may relate to construction activities or building design may include, but are not limited to:

Rule 201: General Permit Requirements. Any project that includes the use of equipment capable of releasing emissions to the atmosphere may require permit(s) from SMAQMD prior to equipment operation. The applicant, developer, or operator of a project that includes an emergency generator, boiler, or heater should contact the SMAQMD early to determine if a permit is required, and to begin the permit application process. Portable construction equipment (e.g. generators, compressors, pile drivers, lighting equipment, etc.) with an internal combustion engine over 50 horsepower are required to have a SMAQMD permit or a California Air Resources Board portable equipment registration. Other general types of uses that require a permit include, but are not limited to dry cleaners, gasoline stations, spray booths, and operations that generate airborne particulate emissions.

Rule 403: Fugitive Dust. The developer or contractor is required to control dust emissions from earth moving activities, storage or any other construction activity to prevent airborne dust from leaving the project site.

Rule 414: Water Heaters, Boilers and Process Heaters Rated Less Than 1,000,000 BTU PER Hour. The developer or contractor is required to install water heaters (including residence water heaters), boilers or process heaters that comply with the emission limits specified in the rule.

Rule 417: Wood Burning Appliances. This rule prohibits the installation of any new, permanently installed, indoor or outdoor, uncontrolled fireplaces in new or existing developments.

Rule 442: Architectural Coatings. The developer or contractor is required to use coatings that comply with the volatile organic compound content limits specified in the rule.

Rule 460: Adhesives and Sealants. The developer or contractor is required to use adhesives and sealants that comply with the volatile organic compound content limits specified in the rule.

Rule 902: Asbestos. The developer or contractor is required to notify SMAQMD of any regulated renovation or demolition activity. Rule 902 contains specific requirements for surveying, notification, removal, and disposal of asbestos containing material.

Naturally Occurring Asbestos: The developer or contractor is required to notify SMAQMD of earth moving projects, greater than 1 acre in size in areas "Moderately Likely to Contain Asbestos" within eastern Sacramento County. Asbestos Airborne Toxic Control Measures, Section 93105 & 93106 contain specific requirements for surveying, notification, and handling soil that contains naturally occurring asbestos.

1
2

3.5.1 Responses to Letter 10

10-1

Please see response to Comment 6-4.

10-2

Table 3.5-1 in Section 3.5.1, Affected Environment, has been revised. SMAQMD is identified as a maintenance area (pursuant to the EPA's Greenbook) to account for the redesignation period and applicable general conformity requirements.

10-3

Calculation information is available as part of the administrative record upon request. Copies of the air quality calculations have been provided to Ms. Huss.

10-4

Applicable air district rules have been added to Section 3.5.1.1, Regulatory Framework.

3.6 Letter 11—David Morrison, County of Yolo

Letter 11

County of Yolo
PLANNING AND PUBLIC WORKS DEPARTMENT

Ed Smith
INTERIM DIRECTOR

292 West Beamer Street
Woodland, CA 95695-2598
(530) 666-8775 FAX (530) 666-8156
www.yolocounty.org

January 6, 2014

Megan Smith, Project Manager
ICF International
630 K Street, Suite 400
Sacramento, CA 95814
VIA EMAIL: megan.smith @icfi.com

Re: Notice of Availability of a Draft Environmental Impact Statement/Environmental Impact Report for the Southport Sacramento River Early Implementation Project

Dear Ms. Smith,

The purpose of this letter is to provide comments in response to the above referenced Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the Southport Sacramento River Early Implementation Project (EIP), which was released on November 8, 2013. In general, this letter focuses primarily on potential construction impacts and proposed soil borrow activities located within the unincorporated county.

Agricultural Surface Mining Permit

As indicated on page 3.3-2 of the EIS/EIR, the preparers acknowledge that an Agricultural Surface Mining Permit is required for any soil borrow activities on lands located in unincorporated Yolo County, in accordance with Title 10, Chapter 8 of the Yolo County Code. This is a discretionary action that would require separate approvals and CEQA compliance. Please be advised that the County has received an application (ZF #2013-0020) for an Agricultural Surface Mining Permit for the Watermark Farms property (APNs: 044-020-010, -014, -021), which is analyzed as a potential borrow site in the EIS/EIR. This application has been put on hold by the applicant while the Southport EIS/EIR is circulating for public review. It is possible that the CEQA document for Watermark Farms Agricultural Surface Mining Permit (ZF# 2013-0020) may tier off of the EIS/EIR, where applicable.

11-1 The EIS/EIR assumes that the borrow sites will be returned to agricultural production once excavation activities have ceased, but does not discuss the methods and feasibility of restoring the mined sites to agricultural productivity. Any application for an Agricultural Surface Mining Permit would be required to submit a soil analysis and a detailed reclamation plan in accordance with Title 10, Chapter 8 of the Yolo County Code and the State of California Surface Mining and Reclamation Act.

11-2 Additionally, please note that the northern half of the Watermark property was also analyzed as a potential borrow site in the Sacramento Regional County Sanitation District (SRCSD) EIR for the South River Pump Station Flood Protection project. It would be beneficial for WSAFCA to analyze this as a reasonably foreseeable project within the EIR and to coordinate with

11-2 cont'd SRCSD (timing of construction, availability of borrow materials, etc.) if both agencies plan to use borrow materials from the Watermark property.

Biological Resource Impacts
As indicated in WILD-MM-9, the removal of agricultural land on the borrow sites located within the unincorporated county would be required to mitigate for the loss of Swainson's hawk foraging habitat in accordance with the provisions of the Yolo Natural Heritage Program (YNHP) joint powers agreement. This requirement, or a similar requirement, would be attached to any discretionary approval for an Agricultural Surface Mining Permit if removal of agricultural land is proposed.

Agricultural Mitigation
The permanent removal of agricultural land is a significant issue that has local and regional consequences. The County's Agricultural Conservation Easement Program requires 1:1 mitigation for permanent conversion or removal of farm land, whether for permanent or for the temporary loss of agricultural productivity. Please note that the County is currently studying the feasibility of increasing the requirement for agricultural mitigation to a 2:1 ratio. Please note that agricultural conservation easements may not be "stacked" with other conservation easements.

11-3 Impacts to County Roads
The Yolo County Public Works Division is concerned about the condition of those portions of South River Road located in the unincorporated county. Any Yolo County portion of South River Road will need to be monitored throughout the project by county staff, which would require a Public Works encroachment permit with a fee deposit for staff time and equipment. Public Works may require a bond or letter of credit to accompany the permit for surety for the amount to reconstruct the county road facilities to be utilized. Any damages to county facilities will need to be repaired/replaced to county standards. Road reconstruction could be required by the applicant if damage is significant.

Flood Hazard Development Permit
As indicated on page 3.1-4, the preparer acknowledges the necessity for obtaining a Flood Hazard Development Permit for borrow sites located in unincorporated Yolo County. In order to ensure that the borrow activities will not adversely divert flood water or increase flooding on nearby properties and the surrounding area, WSAFCA or the applicant for any Agricultural Surface Mining Permit, shall submit an application for a Flood Hazard Development Permit, including a signed and sealed drainage report addressing County Code Sections 8-3.403(a) and 8-3.403(c), with the County well in advance of construction.

The County appreciates the opportunity to comment on EIS/EIR. If you have any questions about the items addressed in this letter, please contact Jeff Anderson, Associate Planner, by e-mail at jeff.anderson@yolocounty.org or by phone at (530) 666-8036.

Sincerely,

David Morrison
Assistant Director

1

3.6.1 Responses to Letter 11

11-1

WSAFCA will comply with all appropriate Yolo County requirements and permits, and will coordinate with Yolo County regarding necessary Surface Mining and Reclamation Act (SMARA) permits once borrow site locations have been finalized. Pursuant to its SMARA application, WSAFCA will develop a reclamation plan for the borrow areas that is consistent with SMARA regulations, as described under Mitigation Measure GEO-MM-1 in Section 3.3, Geology, Seismicity, Soils and Mineral Resources.

11-2

The effects of the South River Pump Station Flood Protection Project are considered cumulatively with the effects of the Southport project in Chapter 4, Growth-Inducing and Cumulative Impacts. WSAFCA is actively working in coordination with SRCSD regarding the borrow material at the Watermark site.

11-3

As discussed in Section 3.4, Transportation and Navigation, use of county roads for construction activities would be limited to possible transportation of borrow material only. Should use of county roads for project construction be necessary, WSAFCA will seek a Yolo County Public Works encroachment permit as discussed in Section 2.4.6, Traffic Control and Road Maintenance Plan.

Chapter 4
Non-Governmental Entity Comments and Responses

This chapter contains the comments received on the Draft EIS/EIR from non-governmental entities. Each comment letter has been assigned a unique code, and each comment within the letter has also been assigned a unique code, noted on the left margin. For example, the code "13–4" indicates the fourth distinct comment (indicated by the "4") in the letter from the Yolo Audubon Society, which was the thirteenth letter (indicated by the "13") recorded. The chapter presents each comment letter immediately followed by the responses to that letter. Table 4-1 summarizes the commenting party and comment letter signatory.

Table 4-1. List of Comment Letters from Non-Governmental Organizations

Letter #	Commenter
12	Jim Pachl and Judith Lamare, Friends of the Swainson's Hawk
13	Chad Roberts, Yolo Audubon Society
14	Marty Swingle, Capital West Realty, Inc.
15	Meredith Williams, Pacific Gas & Electric
16	Dan Ramos, Ramco Enterprises
17	Denice Seals, West Sacramento Chamber of Commerce
18	Gary Albertson, Project Management Applications, Inc.
19	Kent Baker, Baker-Williams Engineering
20	Michael Smith, Sun M Capital, LLC
21	Jeff Savage, Sacramento River Cats
22	Victoria Yokoyama, Yokoyama Farm
23	Jeanne Pavao, Miller Starr & Regalia, on behalf of Seecon Financial & Construction

4.1 Letter 12—Jim Pachl and Judith Lamare, Friends of the Swainson's Hawk

Letter 12

Friends of the Swainson's Hawk
717 K Street, Suite 529
Sacramento, Ca. 95814
916-447-4956
www.swainsonshawk.org

January 6, 2013

Ms. Tanis Toland
U.S. Army Corps of Engineers, Sacramento District
Delta Programs Integration & Ecosystem Restoration
1325 J Street
Sacramento, CA 95814
Email: tanis.j.toland@usace.army.mil delivered via email

Ms. Megan Smith, Project Manager
ICF International
630 K Street, Suite 400
Sacramento, CA 95814
Email: megan.smith@icfi.com delivered via email

Comments on the EIR/EIS for the Southport Sacramento River Early Implementation Project (City of West Sacramento)

Dear Ms. Toland and Ms. Smith,

Friends of the Swainson's Hawk is an IRC 501(c)(3) nonprofit corporation dedicated to promoting public awareness and understanding of the Swainson's Hawk and to the protection and restoration of the Swainson's Hawk and its habitat in California. We previously commented on the Supplemental NOP of the EIR/EIS of this project by letter dated April 5, 2013.

1. The DEIR/EIS should be recirculated due to lack of complete or current information

12-1 The project has undergone a number of changes since release of the NOP which are not disclosed in the DEIR/EIS, and details are now fixed which were not disclosed in the DEIR/EIS. The DEIR/EIS is based on 40% design but the project is now at 60% design. We understand that some of these changes and additional details were disclosed at a stakeholder meeting in December 2013, which we were not able to attend, but the public has not been provided with the opportunity to review and comment upon these changes or upon the project in light of these changes and new details. CEQA requires that a project description must be accurate and complete. (CEQA Guideline §15124; see also Kostka, Zischke, *Practice Under the California Environmental Quality Act*, 2nd Edition, March 2013 update, Calif Continuing Education of the Bar, Sections 12.2-12.15.

1

12-1 cont'd In addition, certain proposed mitigation measures discussed below fail to provide information that is sufficient to determine the adequacy of the mitigation measures. The DEIR/EIS should be updated to reflect current information, including needed details of the mitigation measures, and be recirculated. The Recirculated DEIR/EIS should include information, to the extent possible, regarding the proposed State of California West Sacramento Floodplain Mitigation Bank, which is an intended use for the floodplain setback area that would be created by the EIP.

12-2 We respectfully point out that a number of landowners, including several well-financed developer and speculator interests, submitted comments on the NOPs which were highly critical of the project. We think that there is high likelihood that one or more of these interest might bring a CEQA or NEPA lawsuit challenging the EIR/EIS and for that reason recommend that WSAFCA comply carefully with the technical requirements of CEQA and NEPA.

2. Swainson's Hawks

The Swainson's Hawk is listed as threatened specie under the California Endangered Species Act. The bulk of the Central Valley population of Swainson's Hawk nests in Yolo, Sacramento, Solano, and San Joaquin Counties – all counties which are undergoing major urban expansion. California's Swainson's Hawks migrate to Mexico and southward for the winter. The DEIR/EIS and other authorities acknowledge that the Southport area contains a number of active nest trees being used by the Swainson's Hawk. The Swainson's Hawk is known for its fidelity to its nesting territory and existing nests, using the same nest year after year, which is why the loss of existing nest trees and trees which are suitable for Swainson's Hawk nesting in the project area is a significant environmental impact upon the Swainsons's Hawk. The open fields and low-growing agricultural crops within the Southport are important foraging habitat for the local Swainson's Hawk population, especially for nesting hawks and young. Loss of this foraging habitat due to the project would have a significant impact upon the ability of nesting pairs to forage for rodents to feed their nestling young.

12-3 The DEIR/EIS fails to identify all known Swainson's Hawk nesting sites in the project area. The DEIR/EIS improperly relies exclusively upon DFW's Natural Diversity Data Base ("NDDB") to identify known existing Swainson's Hawk nest trees. (DEIR/EIS, Plate 3.10-1, map, "Wildlife Locations in the Study Area." The NDDB is notoriously incomplete and should not be relied on as an exclusive source of information. Additional nest tree locations are shown in a map titled "Swainson's Hawk Nesting Distribution, Yolo County, 2007" published by the Yolo Natural Heritage Program and available on its website. It is attached as Exhibit A to the letter of Friends of the Swainson's Hawk, April 3, 2013, which is included in Appendix B, "Scoping Reports Part One", of this DEIR/EIS. Our letter of April 3, 2013, including the 2007 nest map, is incorporated by reference into this comment letter. Nest trees on this map in or within 5 miles of the project area should be identified and project impacts disclosed for those nest trees which are within the project or within one mile of the project area.

Loss of foraging and nesting habitat elsewhere due to urban development and vineyard conversions in Sacramento and San Joaquin Counties, the Clarksburg area, the northern end of Southport, and elsewhere in the region may have pushed more of the regional Swainson's Hawk

1

12-3 cont'd population into the Southport area. Additional on-the-ground surveys are needed to determine if, and where, there may be additional Swainson's Hawk nests in the project area.

a. Loss of Swainson's Hawk nest trees and potential nesting habitat is not mitigated to less than significant or to the extent feasible; information provided by the DEIR/EIS regarding potential loss of Swainson's Hawk nest trees and nesting habitat and mitigation measures is incomplete; formulation of measures to mitigate for loss of SWH nest trees and potential nesting habitat is improperly deferred

The Swainson's Hawk nests in large trees, of which there are a considerable number within the project's footprint. Destruction of large trees due to the project would eliminate yet more potential nesting habitat in an area which is important for Swainson's Hawk nesting and is under pressure from proposed urban development plans.

The DEIR/EIS fails to disclose the number and location of known Swainson's Hawk nest trees that would be removed by the project. The DEIR/EIS should disclose any nest trees that would be removed by the project.

Likewise, the DEIR/EIS fails to disclose the number and location of trees, or grove of trees, that would be removed due to the project. There are many trees within portions of the project footprint, including large trees which are potential nesting habitat for Swainson's Hawks and other raptors, and trees protected by West Sacramento ordinances. Many years are required for a tree to achieve a size suitable for Swainson's Hawk nesting. For that reason, and because of the importance of the Southport area for Swainson's Hawk nesting, project features should be designed to avoid the need to remove known Swainson's Hawk nest trees and large trees that are potential Swainson's Hawk nesting habitat.

12-4 However, the proposed mitigation for loss of SWH nesting habitat is limited to VEG-MM-1 (compensate for loss of woody riparian habitat), VEG-MM-6, (compensation for loss of protected trees). (DEIR/EIS p. 3.10-31.) VEG-MM-3 (contractor training) .

VEG-MM-6 is inadequate because it would compensate only for loss of trees protected by local ordinance, and would allow replacement trees to be located at locations unsuitable for Swainson's Hawk nesting. (e.g.: in a residential subdivision or other developed area.)

VEG-MM-1 is inadequate because it is limited to compensation for loss of woody riparian habitat. It appears from the project maps, particularly for alternative 5, that a considerable amount of woody habitat would be removed outside the riparian zone and thus would not qualify for compensation under VEG-MM-1as woody riparian habitat.

Likewise, there is potential for SWH nest trees and potential SWH nesting habitat to be removed or adversely impacted by the excavation of borrow pits. There is no requirement to mitigate for the effects on SWH nest trees and potential SWH nesting habitat outside of the riparian zone, except for individual trees that are "protected trees" under local ordinance. The location of the actual borrow pits (as versus "study areas"), and the location of those trees which may be

3

1

removed by the borrow pits or adversely affected by borrow pit construction and operation, is not disclosed in the DEIR/EIS.

Mitigation Measure VEG-MM-1 improperly defers formulation of mitigation measures to a later date. Of particular concern is the lack of any information about the location, or acceptable locations, of the mitigation trees and tree plantings. As written, VEG-MM-1 would authorize "re-vegetation plans" at unknown locations that could potentially be many miles distant from the area impacted by the project, in areas not frequented by nesting Swainson's Hawks or suitable for Swainson's Hawk nesting. There are no criteria or standards for the location of mitigation projects to mitigate for the EIP's impacts upon Swainson's Hawk nest trees and nesting habitat. What entity will own the land upon which tree mitigation would occur? What entity would plant, monitor and steward the mitigation trees?

12-4 cont'd

There are many large trees, both single and in groves, within the Study Area, including the large area inland from the proposed levee project. These large trees are potential Swainson's Hawk nest habitat, and are presently used by multiple other species. Removal of these trees can and should be avoided, whether for the levee project or for the borrow pits, equipment staging areas, roads, or other infrastructure associated with the construction of the project. The EIR/EIS should identify any trees that would be removed by the project.

Loss of Swainson's Hawk nest trees and potential nesting habitat as a result of the project should be fully mitigated by planting multiple replacement oaks, cottonwoods or other tree species suitable for SWH foraging as close as possible to the site of the former nest tree or potential nesting habitat, and stewarded and monitored for the appropriate number of years.

b. Loss of Swainson's Hawk foraging habitat is not mitigated to less than significant or to the extent feasible; information providing by the DEIR/EIS regarding potential loss of Swainson's Hawk foraging habitat and mitigation measures is incomplete; formulation of measures to mitigate for loss of SWH foraging habitat is improperly deferred

The Study Area encompasses large areas of grassland which are foraging habitat for Swainson's Hawk. Some of these lands will be used to excavate borrow for the levee project. The DEIR/EIS should identify the actual site and size of potential borrow pits, disclose the biological values that would be impacted by the excavation of borrow, and identify temporal loss of foraging habitat.

12-5

The DEIR/EIS, Effect WILD-4 calls for restoration of borrow pits by filling to a depth not exceeding three feet below grade, seeding and returning it to its pre-excavation use construction was complete. For that reason the DEIR/EIS presumes that there will be no long-term loss of foraging habitat caused by the borrow pits and does not require any mitigation for loss of SWH foraging habitat due to borrow pit excavation.

That presumption is erroneous and not supported by fact. Due to the high water table in Southport during normal years, isn't it very likely that the restored borrow pits would fill with water, even if the restored borrow pit is no more than three feet below grade, thereby making

4

1

them useless for SWH foraging activity for at least a part of the SWH reproductive season and a permanent loss of Swainson's Hawk foraging habitat value.

The DEIR/EIS improperly fails to require mitigation for temporal loss of Swainson's Hawk foraging habitat due to excavation of borrow pits. The progress of the project is dependent upon the pace of funding. Experience has demonstrated that the flow of funding for projects of this type and size is excruciatingly slow and irregular. The time needed to find funds to pay the inevitable cost overruns will add further delay. The effect will be a significant temporal loss of Swainson's Hawk foraging habitat while the borrow pits remain open and active, which could be many years. CEQA requires that significant temporal loss of habitat be mitigated.
Mitigation Measure WILD-MM-8 requires a mitigation ration of 1 to 1 for permanent loss of Swainson's Hawk foraging habitat, through the Yolo County NCCP/HCP JPA. However the DEIR/EIS fails to disclose that there is serious question about whether local government jurisdictions that comprise the JPA will continue or terminate the JPA and the NCCP/HCP effort due to financial issues. The DEIR/EIS must provide for alternative mechanism for providing mitigation land for permanent loss of SWH foraging habitat due to the project in the event that the JPA ceases to function.

12-5 cont'd

The DEIR/EIS provides no information or standards for the location of mitigation land to compensate for loss of SWH foraging habitat. Mitigation Measure WILD-MM-9 discloses that CDFW has concerns about the project's potential individual and cumulative effects on SWH, and recommends that mitigation be located in close proximity to the nesting hawks that might be affected by the loss of SWH foraging habitat. However Mitigation Measure WILD-MM-9 fails to provide any standards for acceptable locations for SWH mitigation land. As written, WILD-MM-9 would authorize mitigation land many miles distant from the Southport area, thereby failing to mitigate for impacts on SWH which use the project area for foraging or nesting.

Mitigation Measure WILD-MM-9 allows payment of a mitigation fee to the Yolo JPA, with the JPA to use the fee to buy SWH conservation easements in the future. Experience has shown that payment of a mitigation fee often leads to long delays of many years in acquiring mitigation. It is all too common that the amount of a mitigation fee paid today proves inadequate to buy the designated amount of mitigation land in the future. The Yolo Habitat JPA normally requires that for projects of 40 or more acres, the developer acquire and transfer to the JPA title to a conservation easement on suitable land, approved by the JPA, prior to start of development. Notably the DEIR/EIS does not contains such a requirement, which creates serious doubt about the enforceability of the requirement of 1 to 1 mitigation for loss of SWH foraging habitat.

3. Corps of Engineers vegetation removal policy

We understand that it will be necessary to remove some trees to allow construction of the setback levees and breaching of the existing levees. However, we are very concerned about the detrimental effects of removal of additional trees simply to comply with the discredited Corps of Engineers policy which claims that trees can cause levee failure and therefore should be removed from levees and the area near the base of levees. The Corps policy has been thoroughly discredited by the California Department of Fish and Wildlife (formerly Fish and Game),

12-6

5

1

California Department of Water Resources, the U.S. Fish and Wildlife Service, and independent scientists expert on flood protection in the Central Valley.

The project should be designed to remove as few trees as possible. The EIR/EIS should address the detrimental impacts of tree removal to biological and recreational values, and particularly to the nesting potential of species, such as Swainson's Hawk, listed as threatened or endangered under the State Endangered Species Act.

The EIR/EIS should specifically identify those proposed removals of trees and other vegetation which would be undertaken to comply with the Corps policy but otherwise would be unnecessary for this project, and assess the impacts of such tree and vegetation removals. The decision-makers and public are entitled to know the effects upon the environment of the Corps tree and vegetation removal policy as applied to the Southport area by this project.

Project alternatives which call for set-back levees for flood control need not comply with the corps policy on the existing levees which will no longer be relied upon for flood control, but there is no assurance that these project alternatives will be adopted, even though staff recommends Alternative Five.

12-6 cont'd

Unfortunately, the project proposes (reluctantly) to comply with the misguided Corps policy to prohibit trees on the new setback levees, a zone within 15 feet of the water side of the setback levee, and 50 feet within the land side of the setback levee. This will eliminate and prevent the re-establishment of a substantial amount of woody vegetation that provide a part of the wildlife value of the area. There is no evidence that tree removals, or prohibition of trees on and adjacent to the new levees have flood control value.

To the contrary, the Corps notion that grass and low-growing vegetation will protect a levee against the erosive force of the Sacramento River during high flow conditions is ludicrous, as has been repeatedly demonstrated during high flow conditions. Healthy trees and large shrubs provide partial protection against the erosive force of high flow conditions, and the roots help hold the levee soil together.

We concur with and incorporate herein by reference the letter of Friends of the River and Defenders of Wildlife, September 26, 2011, commenting on the first NOP for this project, contained in Appendix C, "Scoping Reports Part Two" of this DEIR/EIS which details some of the factual and legal fallacies of the misguided Corps policy.

4. <u>Disturbance and Destruction of Riparian Habitat Within the Study Area.</u>

There are existing canals, old borrow pits, and other ponds throughout the Study Area. These ponds, canals, and wetlands are lined with riparian vegetation and trees and may support numerous riparian species. An adequate EIR/EIS for the project would include a biological study of all of these areas to determine what plants, wildlife, and other biological values are present. The presence of the Giant Garter Snake, listed as threatened under the Federal Endangered Species Act, is possible in the canals and possibly in some of the ponds.

12-7

6

1

12-7 cont'd The EIR/EIS should show how the project will avoid impacting these ponds, canals, and wetlands. There is plenty of land available for borrow pits that would not impact existing riparian and wetland values of these areas. The Study Area includes linear flooded borrow pits lined with dense riparian vegetation and trees which parallels the south side of the cross-levee between the Sacramento River and ship channel, and a canal running southward from the cross levee in unincorporated Yolo County which is lined with riparian vegetation and trees which merit further study and protection.

5. Bee lakes

12-8 Title of Bee lakes and adjacent lands were acquired by the State Lands Commission for the purpose of management as habitat lands. For that reason, this property held in trust by the State Lands Commission for the people of the State of California should not be credited as habitat mitigation for the EIP or any other project, because the land is already under permanent protection.

Thank you for the opportunity to comment.

Respectfully submitted,

Judith L. Lamare,
President, Friends of the Swainson's Hawk, Inc.

James P. Pachl,
Legal Counsel, Friends of the Friends of the Swainson's Hawk, Inc.

7

1
2

4.1.1 Responses to Letter 12

12-1

The possible adverse environmental effects of project implementation presently known to the lead agencies have been accurately and completely disclosed in the Draft EIS/EIR. Consistent with common NEPA and CEQA practice, the Draft EIS/EIR discloses the potential environmental effects of the APA and its alternatives at a preconstruction level of design. While project design refinements and planning have advanced during development of the Draft EIS/EIR, the proposed project area, construction methodology, and other environmental effects triggers have remained substantially unchanged, as described in Chapter 6, "Revisions to the Applicant Preferred Alternative" of Volume II. Such refinements have not resulted in any increased or undisclosed environmental effects, nor deprived the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. Therefore, the lead agencies find the Draft EIS/EIR to be adequate and recirculation of the Draft EIS/EIR unnecessary.

Information concerning the possible future uses of the offset area is provided in Chapter 2, "Alternatives," beginning at Section 2.2.5, Alternative 2—Setback Levee.

12-2

Comment considered. The Draft EIS/EIR and the Final EIS and Final EIR have been developed with careful consideration of the technical requirements of NEPA and CEQA.

12-3

As described in Section 3.9, Wildlife, under Effect WILD-4, project implementation has the potential to result in significant effects on nesting Swainson's hawk and their developing young. Section 3.10.3, Effects and Mitigation Measures, describes these effects and the mitigation that has been identified to reduce these effects to a less-than-significant level.

The comment notes correctly that the California Natural Diversity Database (CNDDB) is not a comprehensive list of special-status species that could occur in a particular area. The CNDDB was one of many resources used to develop a list of potentially occurring special-status wildlife species in the project area (Table 3.10-1). The discussion of effects on Swainson's hawk under Alternative 1 (Effect WILD-4) and Plate 3.10-1 (revised), identifying the locations of Swainson's hawk nests and nest territories, have been updated with the most current information presently available to the public from the Yolo Natural Heritage Program, as suggested in the comment. This information provides information on nesting habitat use within the project area but is not an indicator of the number of active nests that are likely to be present in a given year.

Based on existing survey data for the project area, there is sufficient information on the location and presence of nests and nesting habitat to inform the degree of project impacts on Swainson's hawk without project-focused surveys. Protocol-level surveys would be conducted prior to construction as directed by WILD-MM-8 to identify where there are active nests to be avoided during construction.

12-4

The effects on Swainson's hawk as part of other development plans in the area will be assessed during environmental review for those projects.

Table 3.10-4 and Effect WILD-4 for each alternative provide a maximum acreage of loss of Swainson's hawk nesting habitat, which is defined as riparian woodlands, valley oak woodlands, and walnut woodlands. Impacts on these habitats are depicted on Plates 3.8-2 through 3.8-6. As a grading plan is not yet available, specific tree loss is not known at this time. As indicated in Volume II, Chapter 2, "Federal and State Agency Comments and Responses," under response to Comment 4-2, WSAFCA is continuing its efforts to reduce impacts on existing trees, including known and potential Swainson's hawk nest trees, as project development continues. The overall acreage of loss provides sufficient information to assess the significance of this impact on Swainson's hawks and was used in the document following consultation with and concurrence by CDFW personnel. Specifically, during a May 23, 2013 site visit with CDFW for the project, Crystal Spurr and Phillip Poirier stated that compensation for nesting habitat loss could be provided on an acre per acre, linear feet, or inch per inch basis, depending on what is appropriate for the restoration plan. CDFW requested that a tree removal assessment (showing the precise location of trees, species of trees, and size or acreages of tree loss) be provided for the California Endangered Species Act Incidental Take Permit application and Streambed Alterations Agreement request, which will be submitted to CDFW for its consideration.

The combination of VEG-MM-1 for riparian habitat and VEG-MM-6 for protected trees would adequately mitigate for loss of Swainson's hawk nesting habitat by preserving or restoring acreage at a minimum 2:1 ratio for riparian and inch to inch replacement for protected trees, which will result in significant tree plantings and long-term habitat improvement. The planted trees will not initially provide nesting habitat for Swainson's hawk due to their size; however, once established, the overall acreage and number of trees will greatly surpass the actual number of trees removed, resulting in an overall habitat gain.

VEG-MM-1 states that If WSAFCA identifies onsite areas that are outside the USACE vegetation-free zone and chooses to compensate onsite or in the project vicinity, a revegetation plan will be prepared. Due to the large quantity of trees needed for project mitigation, WSAFCA will designate land specifically for this mitigation within the offset area and surrounding project footprint. Please see Volume II, Appendix A, "Draft Mitigation Monitoring Plan" (Draft MMP), for more information on WSAFCA's mitigation planting plan. Thus, mitigation will not be distant from the area of impact. VEG-MM-1 also states that WSAFCA will monitor and maintain the plantings as necessary for 5 years.

Alternative 5, the APA, has the least effect on Swainson's hawk nesting habitat (38 acres). The grading plan under current development will aim to further minimize removal of native trees, particularly heritage trees that have a higher likelihood of supporting nesting Swainson's hawk.

Regarding disturbance of borrow areas, Section 3.10.2.2, Determination of Effects, states, "excavation in borrow areas is assumed to avoid sensitive habitats wherever feasible, including riparian woodlands, valley oak and walnut woodlands, emergent wetlands, ditches, ponds, and perennial drainages. Protected trees located outside of woodland habitats would also be avoided or such loss mitigated in accordance with the City's Tree Preservation Ordinance." Because WSAFCA would not extract material from all of the borrow areas identified in the analysis, avoidance of sensitive resources, including nesting trees, would be feasible. In addition, removing trees to acquire

borrow would not be economically preferable, as the cost to mitigate for tree removal would make the borrow more expensive than trucking it from offsite locations.

12-5

Please see response to Comment 4-1 in Volume II, Chapter 2, "Federal and State Agency Comments and Responses."

The Draft EIS/EIR identified multiple large areas for potential use as borrow sites, which will be narrowed as WSAFCA continues to develop the project and determine where borrow pits would be located. This approach discloses possible effects of borrow extraction, and provides WSAFCA with the ability to feasibly avoid environmental impacts such as those on waters of the United States or disturbance of special-status species or their habitat. This flexibility would be an overall benefit to Swainson's hawk in that it allows the project to avoid removing or disturbing nesting habitat or active nests.

Borrow site analysis conducted to date by WSAFCA does not provide any evidence that a final condition 3 feet below present grade would result in groundwater inundation of the borrow areas, as the comment asserts. Regardless, because areas where a high water table exists would be costly and impractical for use as borrow, these areas would generally be avoided. If seasonal wetland habitat were to be created where borrow pits come close to the water table, these areas would typically be dry in the summer season and provide habitat for small rodents (prey) at a time when nesting Swainson's hawks would be foraging.

Temporary loss of foraging habitat during project construction and during borrow excavation would be incremental, with only small areas being disturbed at any given time, as described in response to Comment 4-1. Based on the availability of foraging habitat (grassland and non-orchard agriculture) close to historic nests within and adjacent to the project area, also described in response to Comment 4-1, the temporary loss of foraging habitat from incremental use of borrow areas is not considered a significant temporal loss. This information has been added to the effects discussion under Effect WILD-4 for each alternative. Please see Section 3-10.3, Effects and Mitigation Measures.

WSAFCA has performed extensive engineering and financial assessments of the alternatives, including the APA, and determined the APA to be technically and economically feasible as it would meet the project's objectives of reducing flood risk within the funding capabilities of WSAFCA and its funding partners. While WSAFCA has weighed the costs of all analyzed alternatives, including expected costs of creation, operation, monitoring, and maintenance of the offset area, such costs have not been analyzed in depth in the EIS/EIR, as cost is not a specific subject of NEPA and CEQA review. Long-term delays in setback levee construction are not anticipated, and creation of a restored floodplain area would provide extensive long-term benefits to many species, as described in the EIS/EIR.

Temporary effects on foraging habitat are defined in Volume I as effects not exceeding 1 year. WILD-MM-9 acknowledges CDFW's recommendation that foraging habitat be mitigated close to the affected nests. WSAFCA will conduct onsite mitigation as described in response to comment 4-01.

As described in Section 3.10.1.1, Regulatory Framework, WSAFCA is aware of the need to coordinate with the JPA for projects resulting in more than 40 acres of foraging habitat loss and understands that the JPA would likely require WSAFCA to locate and negotiate a conservation easement on an

appropriate property in Yolo County. Mitigation Measure WILD-MM-9 was expanded to include this condition.

12-6

The comment's assertion that the project proposes to comply with ETL 1110-2-571 is incorrect. The action alternatives do not include removal of any vegetation from existing levees solely for the purpose of complying with ETL 1110-2-571. Any vegetation removal described as part of the action alternatives was included in the project description because such removal was determined to be necessary to facilitate project construction, such as the placement of rock slope protection.

While seeking a variance from the ETL would not reduce the amount of vegetation removal analyzed in the Draft EIS/EIR, WSAFCA will continue to refine the project design in order to reduce construction-related vegetation removal.

Sections 3.9, Fish and Aquatic Resources, and 3.10, Wildlife, address the potential impacts on special status species that could result from removal of vegetation. These sections include discussions of the potential effects on various special-status avian and aquatic species, including Swainson's hawk, delta smelt, and native salmonid species.

As discussed in responses to Comment 2-2 (Volume II, Chapter 2, "Federal and State Agency Comments and Responses"), upon construction of the setback levee, the remnants of the existing levee located in the offset areas in Alternatives 2, 4, and 5 would no longer be Federal flood control levees and would not be subject to the vegetation criteria used for Federal flood control levees. However, as stated above, none of the five analyzed alternatives includes vegetation removal for the purpose of complying with ETL 1110-2-571.

12-7

WSAFCA performed extensive biological research on the project area for use in preparing the analysis. Methods used to identify vegetation and wetland resources in the project area included prefield investigations of available data, reconnaissance-level site visits, mapping of the current vegetation cover types, and a delineation of waters of the United States. Detailed descriptions of these methods are described in Sections 3.8, Vegetation and Wetlands; 3.9, Fish and Aquatic Resources; and 3.10, Wildlife. The location riparian habitat and waters of the United States within the project area are depicted on Plate 3.8-1. Giant garter snake aquatic habitat in the project area is shown on Plate 3.10-1(revised) and potential effects on suitable giant garter snake habitat is described in Section 3.10, Wildlife, under Effect WILD-3.

Regarding potential effects on riparian and aquatic habitats within borrow areas, see response to Comment 12-4, above. Section 3.8.3, Effects and Mitigation Measures, describes effects on riparian habitat and waters of the United States in under Effect VEG-1 and Effect VEG-2, respectively. Mitigation Measures VEG-MM-1 and VEG-MM-5 provide compensation for the permanent loss of these habitats, while VEG-MM-2, VEG-MM-3, and VEG-MM-4 describe measures to avoid and minimize effects on riparian and aquatic habitats adjacent to but outside of the project footprint.

12-8

No habitat mitigation credit is proposed for Bees Lakes under any project alternative.

4.2 Letter 13—Chad Roberts, Yolo Audubon Society

Letter 13

Yolo Audubon Society
P.O. Box 886 Davis, CA 95617

06 January 2014

Megan Smith, Project Manager
ICF International
630 K Street, Suite 400
Sacramento, CA 95814
Megan.Smith@icfi.com

Subject: Comments, Southport Early Implementation Project Draft EIR/EIS

Dear Ms. Smith,

The following comments are submitted on behalf of the Board of Directors of the Yolo Audubon Society (YAS). I am the designated representative of the YAS for this project. The Yolo Audubon Society is a local chapter of the National Audubon Society, and a separate organization; the YAS represents local conservation concerns in Yolo County and a small portion of northern Solano County. The YAS largely follows the policy guidance of the National Audubon Society on major conservation and environmental issues, but frequently also identifies and addresses issues of local concern. Acting on behalf of the Board and our members I have participated as a stakeholder in the planning discussions for this Early Implementation Project (EIP), as well as the processes for two earlier EIPs. I have reviewed the Draft Environmental Impact Report/Statement (EIR/EIS), and offer the following minimal comments regarding the document and the design approach as formulated to date.

In general, the YAS Board favors/supports the alternative approaches identified for the Southport EIP that include setback levees and a restoration of floodplain conditions and connectedness between the Sacramento River and its floodplain. Alternatives 2, 4, and 5 are all superior for purposes of environmental enhancement and floodplain management. We understand that the WSAFCA/City preferred alternative is Alternative 5; given that Alternative 5 is associated with the least extensive loss of current habitat values for riparian-associated wildlife and plant species, the YAS supports this selection.

As a member of the WSAFCA stakeholder group for conservation concerns, the YAS Board would like to express support and praise for the WSAFCA focus in the design work (including the fishery emphasis and the extensive hydrological analyses) carried out for this project. The YAS Board supports the many elements in the Central Valley flood management planning process conducted by the Department of Water Resources and local agencies over the past half-decade that incorporates the conservation benefits of flood management that looks to reconnect rivers with their floodplains. This project is exemplary, and the YAS Board really wants it to be enacted as (in part) a "proof of concept" for these larger goals of Central Valley flood and floodplain management.

The YAS concurs with the EIR/EIS conclusion that the loss of riparian habitat (for example, significant effects VEG-1, FISH-3, WILD-1, WILD-4, WILD-6, and WILD-7, as well as the less-significant effects WILD-8, WILD-9, and possibly WILD-10) is a significant impact that

will remain incompletely mitigated as part of the construction process. However, the YAS supports the restoration of floodplain, wetland, and riparian habitat areas as described generally in the Draft EIR/EIS, and considers that the restoration/enhancement of floodplain and riparian habitat elements to the newly established floodplain areas created by the setback levees will result in environmentally beneficial conditions that may in time offset the short-term losses of habitat values resulting from construction.

Based upon preliminary information presented at stakeholder workshops the restoration and/or enhancement elements that could be included in the proposed project are more than likely to offset the losses in habitat value because of the project, if implemented. Planting palettes for the floodplain areas that have been described in stakeholder meetings include a more complex type of riparian habitat than currently exists in the project area. The YAS Board views the increased complexity that would result if the proposed planting schema is implemented as representing more desirable riparian habitat conditions than currently exist in the project area.

13-1

The primary concern of the YAS Board regarding the mitigation measure proposed to offset the riparian habitat impact (Mitigation Measure VEG-MM-1, page 3.8-26)[1] is that there are too few details available to members of the public to fully understand and comment upon the content of this measure. What we have now is an informal "promise" to do some good things for riparian areas and associated species, but the EIR/EIS doesn't include the details that have been suggested to stakeholders; will these details actually be implemented? Moreover, the vagueness of the stated mitigation measure is troubling, because the stated measure (which we conceptually approve) does not contain sufficient information to allow us to determine whether the project proponent will, in the future, have complied with the measure or not.

The measure repeatedly states that a plan or plans "will be developed" in the future, but the details of these plans are not currently specified. Indeed the planting schema that has been presented in stakeholder workshops (which is enticingly complex and would, if implemented, likely accomplish the commitment made in this measure) is nowhere included in the commitments stated in VEG-MM-1 (or in other, related mitigation measures) in the Draft EIR/EIS, and has not been made available to stakeholders during the EIR/EIS review period even after stakeholders specifically requested them.

13-2

The comments about the loss of riparian habitat value are addressed primarily in the EIR/EIS in the "vegetation" section of the document. The YAS believes that this discussion should be repeated entirely, or amplified, in the "wildlife" section of the document, because the most significant habitat types in the project area for wildlife are universally riparian in some form. While the mitigation measures identified for wildlife impacts in section 3.9 includes measure VEG-MM-1, no additional details of the measure, and no additional commitment to its content or implementation, are included. The discussion in section 3.9 of the Draft EIR/EIS doesn't suitably emphasize the importance of the loss of riparian habitat to sensitive wildlife (particularly Yellow-billed Cuckoo and Swainson's Hawk), and also doesn't emphasize how a successful restoration or enhancement of riparian areas will be identified for these and other, less-sensitive wildlife species.

[1] Precisely the same concern about the vagueness of the proposed mitigation measure affects FISH-MM-2, page 3.9-29.

1

Megan Smith, ICF International
Comments, Southport Early Implementation Project Draft EIR/EIS
06 January 2014
Page 3

13-2 cont'd

The YAS Board believes that the EIR/EIS should have provided sufficient details of VEG-MM-1 (and FISH-MM-2), as well as providing an opportunity for review and comment by interested parties in a manner that would allow those parties to conclude that the mitigation for riparian impacts will, in actual effect, compensate for the habitat losses resulting from construction. It may well be true that many of the details of the enhancement program may fall under permit processes that involve other agencies, but the point remains that as these mitigation measures are currently stated the EIR/EIS cannot demonstrate a commitment by the applicant to offset the significant environmental impacts identified in the document.

13-3

The YAS Board is aware that there are substantial concerns locally for the "early implementation" of the flood management elements of this project. The YAS Board has stated on numerous occasions that it will support efforts by the City of West Sacramento to protect its citizens and it physical infrastructure from the effects of flooding because of potential levee failures. However, the Board does expect that the City will follow through with the environmental measures that offset any impacts resulting from these flood-protection projects.

The Board is concerned, in effect, that the Draft EIR/EIS was issued at a time when many project details had not yet been worked out, and which are consequently not included in the environmental document. How can we be assured that the promises made in the document will be executed, to undertake costly and potentially contentious mitigation measures that we read in the environmental document are necessary if the impacts to the environment are to be offset? How will the WSAFCA/City guarantee that these measures, which are not clearly specified, are included in the project when it's implemented?

We look forward to additional interactions regarding the proposed project as it nears full design, including opportunities to provide commentary about the riparian habitat elements for the Sacramento River. It seems inevitable that this project will be seen by many people and agencies in the Central Valley as a first step in creating a more holistic concept of flood management in the valley. We look forward to a successful result.

If you have questions, feel free to contact me at the address(es) in the stakeholder files.

Sincerely,

Chad Roberts

Chad Roberts, Conservation Chair
Yolo Audubon Society

Copies: John Powderly
Chris Ledesma
YAS Board members
Tanis Toland

1

4.2.1 Responses to Letter 13

13-1

WSAFCA is committed to implementing all identified feasible mitigation as required by CEQA. While Mitigation Measure VEG-MM-1 provides adequate information regarding the concepts of the revegetation plan and the success criteria for a CEQA analysis, WSAFCA is presently developing additional detail to include in its applications for necessary project authorizations from USACE, USFWS, NMFS, CDFW, CSLC, Central Valley Water Board, and Central Valley Flood Protection Board, among others. Please see the Draft MMP in Volume II, Appendix A for more information, including the planting details that have been presented in the environmental stakeholder workshops mentioned in the comment.

13-2

As described in response to comment 13-01 above, WSAFCA is committed to implementing all feasible mitigation identified in Volume I, as required by CEQA. In order to keep the document at a publicly accessible length and reduce its level of complexity, the lead agencies sought to avoid repeating information in multiple document sections. Accordingly, throughout Section 3.10, Wildlife, readers are directed to pertinent previous sections of Section 3.8, Vegetation and Wetlands, to facilitate their review of applicable information in that section. As described in Volume I, WSAFCA will implement VEG-MM-1 in order to avoid effects on vegetation and wildlife.

13-3

As WSAFCA has demonstrated through its implementation of previous Early Implementation Project (EIP) efforts, it is committed to implementing the proposed mitigation measures and environmental commitments found in Volume I as required by CEQA. Specifically, WSAFCA will include in its construction specifications all construction-related mitigation measures relied upon in Volume I to reduce a significant effect to a less-than-significant level, as well as all permit requirements imposed by the regulatory agencies charged with protecting the species present onsite and their habitat. Any project adopted by WSAFCA will include a Mitigation Monitoring and Reporting Plan, allowing for public review and oversight of WSAFCA's mitigation commitments.

4.3 Letter 14—Marty Swingle, Capital West Realty, Inc.

Letter 14

Dear Megan Smith,

December 31, 2013

My name is Marty Swingle and I am a Real Estate Broker, conducting business as Capital West Realty, Inc, located in West Sacramento, California. We are a full service residential real estate company with 15 Realtors working in West Sacramento and the surrounding communities.

Business has been good for us, but unless the appropriate course of action is followed regarding our flood protection, there could be adverse effects for my business, but more importantly, for homeowners throughout West Sacramento. I currently reside in West Sacramento and I own 3 residences within the city limits, all of which I have purchased flood insurance for, so I understand the need to participate in the program.

Being a commissioner on the West Sacramento Housing Advisory Commission, I know that flood risk-reduction has been this city's top priority for the last 7 years. Mainly for increasing public safety in this city, but also because improvement will result in increased property values for homes located near the levees, and also throughout the entire city. If there is a major flood or if West Sacramento is mapped into a flood zone due to NFIP reform, there could be major impacts to the property values of all the homes in West Sacramento. It's critical to keep up the progress on the city's flood program.

I am recommending that Alternative 5 be considered as the best alternative because it provides the ideal opportunity to maximize the amount of levee construction with the funds available. You may know that this alternative will draw funds from voter-approved sales tax allocations, a flood in-lieu fee on new development and property tax assessment, which places the burden on those who will benefit most from these improvements and what I believe, is the smartest way to approach this effort.

I am available for further comment or any questions you may have and would be happy to speak with you further, if you wish.

Kind regards,

Marty Swingle
Broker/Owner – Capital West Realty, Inc
2055 Town Center Plaza, STE 130
West Sacramento, CA 95691
916-718-7134
marty@capwestrealty.com

CAPITAL WEST REALTY

4.3.1 Responses to Letter 14

14-1

The comments provided have been noted and considered by the lead agencies.

4.4 Letter 15—Meredith Williams, Pacific Gas & Electric

Letter 15

From: Williams, Meredith J <M3WG@pge.com>
Sent: Thursday, January 02, 2014 12:44 PM
To: Smith, Megan
Cc: Wong, Toby; Hinkey, Joshua
Subject: Comments on the Draft EIS/EIR for the Southport Sacramento River Early Implementation Project

Dear Megan,
PG&E would like to provide the following comments on the Draft EIS/EIR for the Southport Sacramento River Early Implementation Project.

15-1 1. Please include PG&E as an "Interested party" on the List of Recipients.
15-2 2. PG&E relocation and installation of utility infrastructure will avoid habitat and Waters to the greatest extent practicable. If it is necessary, or incidental, to "take" special status species, or "fill" Waters of the U.S. to complete our work, it is PG&E's understanding that these activities are covered by the Project Permits obtained by the Project Proponent.
15-3 3. PG&E would like the Project Proponent to identify which mitigation measures apply to the utility relocation work.

Please direct responses or additional questions to the PG&E Project Manager, Josh Hinkey, copied on this message.

Thank you,
Meredith

MEREDITH WILLIAMS | PG&E LAND PLANNER
350 Salem Street, Chico, CA 95928 | Internal 751-4652 | External 530/894-4652 | Mobile 530/701-5820

1

4.4.1 Responses to Letter 15

15-1

Pacific Gas & Electric (PG&E) has been added to the list of Other Interested Parties in Chapter 8, "List of Recipients," as requested.

15-2

The APA and its alternatives each include necessary utility relocations; WSAFCA will coordinate with PG&E and other affected utilities to provide coverage for regulated activities under the Southport project permits.

15-3

WSAFCA will coordinate with PG&E to provide the requested mitigation measures for reference by PG&E.

4.5 Letter 16—Dan Ramos, Ramco Enterprises

Letter 16

RAMCO ENTERPRISES, INC.

January 2, 2014

Megan Smith, Project Manager
ICF International
630 K Street, Suite 400
Sacramento, CA 95814

Dear Ms. Smith,

As a developer and business owner in the City of West Sacramento, I understand the importance of flood protection to the city. As soon as new flood protection requirements were imposed in 2007, the city went to work.

West Sacramento voters approved a flood in-lieu fee on new development and property tax assessment to support flood improvement projects. As an active member of the West Sacramento Chamber of Commerce, I helped get these important measures passed to expedite our flood protection program. This helps the City to take advantage of state funding mechanisms maximize levee improvements.

Continuing this proactive approach will benefit current and future West Sacramento business owners, making our City a desirable place to live and work. The City is working actively to complete levee improvements before FEMA reevaluates West Sacramento's flood zone designation. We want to make sure the city gets a favorable flood zone designation with low flood insurance rates if for some reason our city is mapped into a flood zone with a flood insurance requirement. So far these efforts have helped keep FEMA at bay.

The potential for future citywide benefits from levee projects should be considered in finalizing a levee project for the Southport community. A setback alternative would accomplish this. Alternative 5 takes the most advantage of the state's cost-share program, maximizing the amount of work that can be done throughout the city for the flood protection program. Best using the funds available on the Southport EIP will allow the flood program to continue advancing work throughout the city.

I am happy to answer questions at (916) 372-6170.

Sincerely,

Dan Ramos
Vice President

P.O. Box 175 ● 1450-B Harbor Boulevard ● West Sacramento, CA 95691
Tel (916) 372-6170 ● Fax (916) 372-0937 ● Email fcramos@ramco-ent.com

4.5.1 Responses to Letter 16

16-1

The comments provided have been noted and considered by the lead agencies.

4.6 Letter 17—Denice Seals, West Sacramento Chamber of Commerce

Letter 17

west sacramento
CHAMBER OF COMMERCE

Megan Smith, Project Manager January 3, 2014

ICF International
630 K Street, Suite 400
Sacramento, CA 95814

Dear Ms. Smith,

As the president and CEO of the West Sacramento Chamber of Commerce, projects impacting businesses and the economic landscape of our city are especially important to me. West Sacramento is home to nearly 50,000 residents, $5.3 billion in commercial, residential and industrial property, and is home to important international and local businesses. It is crucial that our city allows these businesses to thrive.

Improvements to the nearly 6-mile stretch of levee in Southport community are crucial, for not only the Southport area but also the entire city of West Sacramento. That reach of levee is the most vulnerable in the City's 52-miles of levees. If the Southport levee fails, our City's businesses will be hugely impacted.

On Wednesday, December 18th, the West Sacramento Chamber of Commerce board voted to support alternative 5. The Chamber feels Alternative 5 is the best option for the city of West Sacramento because of the immediate and future benefits resulting from the project. Bringing the levee up to 200-year standards will increase the public safety of the City. Alternative 5's setback levee will also provide for future recreational opportunities like hiking, biking and fishing. These recreational amenities will likely become a beacon in the community for current and future residents to enjoy.

I look forward to the continued progress of West Sac Flood Protect.

Sincerely,

Denice Seals
President/CEO
West Sacramento Chamber of Commerce

Good for business.
www.westsacramentochamber.com
1401 Halyard Dr. Suite 120, West Sacramento, CA 95691 Phone: (916) 371-7042 Fax: (916) 371-7007

4.6.1 Responses to Letter 17

17-1

The comments provided have been noted and considered by the lead agencies.

4.7 Letter 18—Gary Albertson, Project Management Applications, Inc.

Letter 18

PMA

PROJECT MANAGEMENT APPLICATIONS
INCORPORATED

January 06, 2014

Re: Draft Environmental Impact Statement/Environmental Impact Report for the Southport Sacramento River Early Implementation Project
Watermark Farms' Comments
PMA Job #131

Ms Tanis Toland
U.S. Army Corps of Engineer
Sacramento District
Delta Programs Integration & Ecosystem Restoration
1325 J Street
Sacramento, CA 95814
Email: tanis.j.toland@usace.army.mil

Megan Smith, Project Manager
ICF International
630 K Street, Suite 400
Sacramento, CA 95814
Email: megan.smith@icfi.com

Dear Ms. Toland and Ms. Smith,

On behalf of Watermark Farms LLC (Watermark), owners of the potential Southport Sacramento River Early Implementation Project (Project) off-site borrow site located south of the South Cross Levee, we are writing to provide you with comments and additional information regarding the above referenced Draft Project Environmental Impact Statement/Environmental Impact Report (Draft EIS/EIR). Watermark anticipates that this off-site borrow source as identified in the EIR/EIS will be available as a source of fill material for the project consistent with the description contained in Section 2.2.3.3 of the Draft EIR/EIS. Watermark is in the process of obtaining a Surface Mining Permit from Yolo County in anticipation of making this material available for this and other flood control projects planned in the vicinity. The Yolo County Surface Mining Permit approval will be subject to site-specific environmental review related to but independent of the Project, including borrow site-specific mitigation measures (if necessary) and a site Reclamation Plan. Site reclamation is planned to include, at a minimum, removal and stockpiling of surface organic soils to be replaced during site reclamation to return the site to its current agricultural use. We anticipate that the Watermark site will make approximately 700,000 to 1,100,000 cubic yards of fill material available for the Project. We understand that the off-site borrow need of the Project is approximately 2,000,000 cubic yards depending on the alternative, therefore based on our estimate of the material available from this site, it has the potential to supply 35% to 55% of the Project off-site borrow demand. Based on this information, and a review of the Draft EIS/EIR, we submit the following comments and input.

1450 HARBOR BOULEVARD
SUITE F
WEST SACRAMENTO, CA 95691

T: 916.375.0200
F: 916.375.0012
W: pmasacramento.com

2.2.3.3 Common Elements and Assumptions, Sources of Borrow Material

18-1 Based on our assessment of the Watermark site, approximately 700,000 to 1,100,000 cubic yards of material is anticipated to be available to meet project needs. This potential borrow site is as depicted in Plate 1-5 and is within less than 400 feet of the southern end of the project. If the existing levee crown is used as a means of access to the site, then access to the Project corridor could be accomplished through traversing less than 400 lineal feet of South River Road from the northeast corner of the Watermark site.

By contrast, the Draft EIS/EIR states that the haul distance to the Deep Water Ship Channel (DWSC) dredge spoil site is approximately 12 miles (round trip). However, it is our estimation that the distance from the west end of Channel Drive to the intersection of Linden Road and South River Road is approximately 6 miles. The north end of the DWSC dredge spoil site is located approximately 4 miles south of Channel Drive. Therefore the approximate round trip distance for material hauled from the DWSC site is approximately 20 miles rather than 12 miles as stated in the Draft EIS/EIR.

2.4.6 Traffic Control and Road Maintenance Plan

18-2 Due to its close proximity to the southern end of the levee, the Watermark site has the potential to significantly reduce the Project effect on local public roads (as little as 400 linear feet of South River Road may be affected if access is gained from the southern extent of the Project levee).

2.4.17 Soil Supply Protection Measures

Watermark anticipates that management of this borrow site will be consistent with the Soil Supply Protection Measures descried in the Project Draft EIR/EIS.

Mitigation Measure GEO-MM-1: Implement the Reclamation Actions of a Project-Specific Reclamation Plan

18-3 Because the Watermark site anticipates obtaining a Surface Mining Permit under the requirements of the SMARA, we anticipate developing a site Reclamation Plan as a condition of the Permit. Watermark will work with the West Sacramento Area Flood Control Agency to assure consistency of the Watermark Site Restoration Plan with Environmental Commitments and Mitigation Measures of the Project.

3.4.1.2 Environmental Setting (Transportation and Navigation)

18-4 We recommend that Plate 3.4-1 be revised to show the segment of South River Road from Gregory Avenue to the North extent of the Watermark site as being part of the off-site material borrow haul routes for year 1 and 2. Also, if the South River Road segment within the project area is to be used as part of the haul route, a role we believe it would suitably support, we recommend that it be identified as part of the year 1 and or year 1 and 2 haul route.

3.4.2.1 Assessment Methods (Transportation and Navigation)

18-5 The Watermark site is in close proximity to the project and if truck permits can be issued to permit heavy loads, the number of trucks and number of truck trips can be significantly reduced to meet off-site borrow demands. Utilizing truck trains and multiple trailers, the load per truck could be increased over the capacity assumed in Appendix D by approximately 100%. This would reduce the number of Project truck trips for material from the Watermark site by ½. Assuming that 35% to 55% of the Project off-site borrow material is supplied by the Watermark site, the total truck trips and associated transportation and navigation effects under TRA-1, TRA-2 and TRA-3 could be significantly reduced.

1

Mitigation Measures AIR-MM-1: Implement Measures to Reduce Exhaust Emissions of NOx and PM10 and AIR-MM-2: Mitigate and Offset Construction-Generated NOx Emissions to Quantities below Applicable BAAQMD CEQA Thresholds

18-6 The Watermark site's use as a Project off-site material borrow source is consistent with Mitigation Measure AIR-MM-1 inasmuch as it has the potential to reduce the number of equipment and total truck trips necessary to import fill material and therefore reduced the emissions of NOx and PM10 from this activity. The Watermark site's use as a major source of off-site material borrow is also consistent with Mitigation Measure AIR-MM-5 where reduced trips and higher material transportation efficiencies have the potential to reduce NOx emissions.

Mitigation Measure CC-MM-1: Implement Measures to Minimize GHG Emissions during Construction

18-7 Use of the Watermark site as a Project off-site material borrow source is consistent with Mitigation Measure CC-MM-1 where reduced trips and higher material transportation efficiencies have the potential to also reduce greenhouse gas emissions.

Mitigation Measure NOI-MM-1: Employ Noise-Reducing Construction Practices

18-8 Use of the Watermark site as a Project off-site material borrow source and allowing for near-direct access to the site corridor via the southern extent of the existing levee, consistency with Mitigation Measure NOI-MM-1 can be achieved by reducing exposure of sensitive receptors to noise from the Project off-site haul operations. This is accomplished by reducing and/or eliminating off-site material haul operations from the residential and commercial areas along Jefferson Blvd., Industrial Blvd., Linden Road, and Davis Road.

Mitigation Measure LU-MM-2: Avoid Important Farmland in Borrow Area

18-9 It is unclear from Plate 3.11-2 whether any portion of the Watermark site is identified as Important Farmland. Watermark is committed to managing the off-site borrow site with the purpose of restoring the site to its pre-project condition. It is our opinion that by implementing Mitigation Measure GEO-MM-1 and implementing the permit-required Reclamation Plan, the effect of surface mining at this site is consistent with the Draft EIS/EIR statement (Page 3.11-8, lines 29 though 36) that important farmland (if any) at this site would only be temporarily affected.

Mitigation Measure VIS-MM-2: Develop a Soil Borrow Strategy and Site Reclamation Plan

18-10 Due to the existing site disturbance and relatively remote location of the Watermark Site, located away from existing residential and commercial development, the potential for visual effects from use of this site as an off-site borrow source is not significantly different from the DWSC site. Please consider the Watermark site as equivalent to the DWSC site with respect to priority under Mitigation Measure VIS-MM-2.

We appreciate the opportunity to provide the above clarifications and comments to the Project EIS/EIR. If you require any additional information regarding these comments, please feel free to contact me at (916) 375-0200, or by e-mail at galbertson@pmasacramento.com

Sincerely,

Gary Albertson
President, PMA Inc.
CC: Doug Dickson, Neil Koehler, Dan Ramos

1
2

4.7.1 Responses to Letter 18

18-1

Because the project site is approximately 5.6 miles in length, round-trip distances from various borrow sites to the project site were determined based on an average distance.

18-2

As stated in Chapter 2, "Alternatives," the Watermark property is being evaluated as a potential source of borrow material.

18-3

Comment noted.

18-4

Allowing use of South River Road in Segment A as a haul route is being considered. Use of South River Road would be subject to approval of the City of West Sacramento and issuance of appropriate permits to the contractor.

18-5

Permitting of heavy loads would be at the discretion of the appropriate agency, either Yolo County or the City of West Sacramento. However, WSAFCA is not currently considering the use of oversize loads on public streets because of potential harm to public safety and possible damage to streets due to increased weight.

18-6

As stated in Chapter 2, "Alternatives," the Watermark property is being evaluated as a potential source of borrow material.

18-7

As stated in Chapter 2, "Alternatives," the Watermark property is being evaluated as a potential source of borrow material.

18-8

As stated in Chapter 2, "Alternatives," the Watermark property is being evaluated as a potential source of borrow material.

18-9

Comment noted.

18-10

Comment noted.

4.8 Letter 19—Kent Baker, Baker-Williams Engineering

Letter 19

Southport Sacramento River Early Implementation Project Draft EIS/EIR Public Meeting

WSAFCA West Sacramento Area Flood Control Agency

US Army Corps of Engineers Sacramento District

Comment Card

Name: KENT BAKER Date: 1-6-2014

Telephone: 916-331-4336 Email: KBAKER@BWENGINEERS.COM

Affiliation: BAKER-WILLIAMS ENG. CO/ SYC Title (if applicable):

Street Address: 6020 RUTLAND AVE #19

City: CARM. State: CA Zip: 95608

Thank you for your interest in this flood risk-reduction effort. The West Sacramento Area Flood Control Agency and the U.S. Army Corps of Engineers value your input. Please provide us with your comments regarding the content of the Draft Environmental Impact Statement/ Environmental Impact Report that has been prepared for this project. Please write legibly in the space below.

For your convenience, you may take this self-addressed card home, fill it out, and fold it in half and mail it. You may also send comments via email to Megan Smith at *megan.smith@icfi.com* or Tanis Toland at *tanis.j.toland@usace.army.mil*. **All comments must be received or postmarked by Monday, January 6, 2014.**

- Megan Smith, ICF International, 630 K Street, Suite 400, Sacramento, CA 95814
- Tanis Toland, U.S. Army Corps of Engineers, Sacramento District, Delta Programs Integration & Ecosystem Restoration, 1325 J Street Sacramento, CA 95814

See ATTACHED.

1/2

19-1 A.) Alternate 2 and 5 propose an offset levee in segments E and F. The offset floodplain area is expected to be inundated an average 77 days per year. When the river flows subside and the water surface lowers and offset area is no longer inundated, will this increase the amount of silt that is deposited in the Sacramento Yacht Club marina?

Currently an average 5,000 yards of silt is removed from the marina annually.

19-2 B.) Alternate 2 proposes to hydraulically connect Bees Lake to the river. Will this hydraulic connection affect the Sacramento Yacht Club's domestic well?

19-3 C.) Will the yacht club be able to access the future public utilities such as water, sewer and gas through the new levee?
Currently the existing levee is high enough so the utilities could go through the levee above the 3-foot freeboard requirements.

Will this still be the case with the proposed alternatives?
If not, how will the Yacht Club in the future be able to access utilities on the landside of the levee?

2/2

1
2

4.8.1 Responses to Letter 19

19-1

Based on geomorphic analyses conducted to date, WSAFCA does not anticipate a change in the amount of sediment deposition at the Sacramento Yacht Club marina as a result of the project. In general, shear stresses through the project reach would be slightly reduced with no significant direct effect on main channel erosion or deposition expected. Geomorphic analyses are ongoing and will be finalized for the 90% designs. Please see Section 3.1, Flood Risk Management and Geomorphic Conditions, and Appendix C (Volume I).

19-2

Because any hydraulic connection of the Sacramento River with Bees Lakes would be a surface water connection, and occur only during seasonal flow events as stated in Section 3.2, Water Quality and Groundwater Resources, no related effects on adjacent wells would be expected to result from implementation of Alternative 2.

19-3

Under all five alternatives, a minimum of 3 feet of freeboard above the 200-year water surface elevation would be provided that would allow installation of future public utilities to serve the Yacht Club, subject to local, state and Federal restrictions.

4.9 Letter 20—Michael Smith, Sun M Capital, LLC

Letter 20

Sun M Capital, LLC
75 Malaga Cove, Suite 14
Palos Verdes Estates, CA 90274
Direct: 310-809-8898
E-mail: michaelsoffice@gmail.com

January 6, 2014

Megan Smith, Project Manager
ICF International
630 K Street, Suite 400
Sacramento, CA 95814

Ms.TanisToland
U.S. Army Corps of Engineers, Sacramento District
Attn: Environemtal Resources Branch, 1325 J Street
Sacramento, CA 95814

Re: Southport Sacramento River Early Implementation Project

Dear Megan Smith & Tanis Toland,

We own approximately 400 acres of the River Park project within West Sacramento. The majority of the project is within the Study Area of the Southport Sacramento River Early Implementation Project. The River Park project is a master planned community consisting of a variety of land uses including 2,280 Residential Units, Commercial, Marina, School and a Regional Park. The project is entitled, has vested rights and a signed development agreement.

20-1 We support an alternative bringing the levee up to State and Federal Standards which has the least impact to the future development of our project. We also support full public access to future open space areas of the completed project, including public access points from our project, hiking trails & Bicycle paths.

Sincerely,

Michael Smith
Project Coordinator

4.9.1 Responses to Letter 20

20-1

Comment is noted and has been considered by the lead agencies. While increased recreational access is not planned as part of the proposed project alternatives, the project alternatives were designed to avoid interfering with current and future recreational uses of the project area.

4.10 Letter 21—Jeff Savage, Sacramento River Cats

Letter 21

January 3, 2014

Megan Smith, Project Manager
ICF International
630 K Street, Suite 400
Sacramento, CA 95814

Dear Ms. Smith,

The Sacramento River Cats are proud to call West Sacramento home. The growing city has proved to be a wonderful venue for our team, our employees and our fans. The public safety and economic development of the City of West Sacramento are important to the continued success of our franchise.

More than 8,000 fans and hundreds of employees travel to Raley Field for each game, perhaps unaware of the 52-mile levee system protecting them during each inning. Levee improvements in the northern end of the city have already made our region safer. Improvements to the Southport levee will undoubtedly do more.

Based on the ongoing progress of West Sac Flood Protect and the City of West Sacramento's levee improvement work, I strongly support Alternative 5. The City's strong track record of success and three local funding mechanisms has allowed it to take advantage of state funding available. Alternative 5 allows West Sac Flood Protect the opportunity to maximize the amount of levee construction with available funds.

Quickly and efficiently constructing this project will benefit the entire City of West Sacramento by increasing public safety and safeguarding development. I look forward to following this project and am happy to speak more on the subject at 916-376-4730.

Sincerely,

Jeff Savage
General Manager
Sacramento River Cats

Triple-A Affiliate

400 Ballpark Drive, West Sacramento, CA 95691 • (916) 371-HITS • www.rivercats.com

RALEY FIELD
Whatever you're game for.

4.10.1 Responses to Letter 21

21-1

The comments provided have been noted and considered by the lead agencies.

4.11 Letter 22—Victoria Yokoyama, Yokoyama Farm

YOKOYAMA FARM
WEST SACRAMENTO, CALIFORNIA

January 6, 2014

RESPONSE TO WSAFCA SOUTHPORT SACRAMENTO RIVER EIP/EIS/EIR

by Victoria Y. Yokoyama

Submitted by Email and U.S. Mail to:

Ms. Tanis Toland
U.S. Army Corps of Engineers
1325 J Street
Sacramento, CA 95814

A. History.

Our farm is located on South River Road, north of Linden Road in Segment F of the West Sacramento Area Flood Control Agency (WSAFCA) Southport Sacramento River Early Implementation Project, Environmental Impact Statement, Environmental Impact Report (EIP/EIS/EIR) dated November 2013 (Fig. 1).

The Yokoyama farm is part of our heritage created by our parents, Harry Masaru and Aya Yokoyama who were born in Sacramento, and our grandparents who immigrated to Sacramento in the early 1900s. Our family was forcibly removed from California and placed in concentration camps during World War II (WWII) (Conrat 1972). Our grandparents, parents and children returned to their home in Sacramento after the war. In 1947 as tenant farmers they built their temporary first home in what is now considered Segment G of the EIS/EIR. In 1966, they purchased their land, and later built their dream home in its current location.

The Sacramento region is rich with Japanese American history which in rooted in farming (Maeda 2000). Our family farm has produced both field crops and high cash vegetable crops to supply local and regional markets with grain and fresh produce. At one time more than 100 leased acres were in production with green onions to fulfill domestic markets. Our future production will be focused on organic produce with an anticipated annual value of $296,000-$390,000 with local outlets including a farmer's fruit stand and retail grocery stores (Santa Ana 2012, Yolo County Agriculture Department 2013). Additionally, we will be involved in the promotion of agri-tourism (Lynch 2008) and specialty crop production research.

The West Sacramento levee system has never failed during Sacramento River high water events since my parents first farmed in the area. South River Road on top of the levee provides a tourist's vista of the Sacramento River and has been a popular attraction in California for many decades (Dillon 1982).

The WSAFCA EIP/EIS/EIR will destroy the integrity and history of the West Sacramento area by implementation of the proposed Alternative 5 with construction of a setback levee to meet the 200 year criteria for flood control. I am presenting justifications for alternatives to the Alternative Plan 5 for the Yokoyama Farm, and documenting inadequacies of the WSAFCA preferred Alternative 5 plan.

B. Confiscation and Loss of Our Home and Land.

22-1

Under the WSAFCA Alternative Plan 5 our home and our fertile river frontage farmland will be condemned and destroyed (Fig. 2). A major street, Village Parkway will divide our land in half in a north-south direction isolating the eastern half from the western half of the farm. I have met with the WSAFCA staff regarding the Village Parkway construction through our property under their pretense that the street was mandatory regardless of levee plans. I have now learned after reviewing the EIS/EIR that Village Parkway is only mandatory in the WSAFCA preferred Alternative Plan 5. In highly questionable actions, the agency has sought property appraisals from many landowners affected by Alternative Plan 5 without regard to the outcome of the EIS/EIR.

Our family was removed from their home and farm in World War II and we do not intend to be forced to leave again. We propose an adjacent levee, cutoff wall, and narrow seepage berm as geotechnical engineering solutions to save our home and river frontage farmland. The alignment of Village Parkway Road atop the existing levee will prevent endangering and hindering farm operations, and prevent potential economic ruin of our farm.

C. Levee Improvement Methods to Prevent Personal Property Loss to the Yokoyama Farm in Segment F.

1. Implementation of an Adjacent Levee and Narrow Seepage Berm.

22-2

a. Geotechnical Environmental Water Resources Construction Services (ENGEO) conducted an independent geotechnical engineering study and their results show that alternative levee repair methods can be used to reduce the extreme loss of personal property on the Yokoyama Farm. The results of the ENGEO study (Appendix 1) clearly states that an adjacent levee with 100 foot wide seepage berm will result in superior mitigation against underseepage compared to the setback levee with seepage berm. Underseepage is the primary geotechnical issue in Segment F.

b. ENGEO and Seecon Financial and Construction (Seecon), the largest landowner in Segment F, developed a Hybrid Alternative Plan (Fig. 3) implementing an adjacent levee with narrow seepage berm. Seecon is our northern neighbor and the Yokoyama Farm and other West Sacramento farm families have been growing crops on their land for three generations. Although, our home is shown in the maintenance corridor in this plan, ENGEO has provided other levee repair techniques (Appendix 1) that can be implemented to save our house including a partially penetrating cutoff wall with

1

narrower seepage berm or relief wells. Relief wells are described and designated in the EIS/EIR for site specific conditions.

2. Implementation of an Adjacent Levee, Cutoff Wall, and Narrow Seepage Berm

a. A shallow cutoff wall in conjunction with a seepage berm was considered for evaluation for the Yokoyama Farm by the WSAFCA Board in a letter dated September 6, 2012. A hybrid combination will prevent the unacceptable, severe loss of personal property that will occur in Segment F with the use of a 300 foot wide seepage berm (Alternatives 1 and 3) or a setback levee and wide seepage berm (Alternatives 2, 4, and 5). Hybrid combinations have been implemented in several locations, notably the southern part of Segment B, to save homes and land in Alternative 1-5 plans. This would be a feasible plan for the Yokoyama Farm and is specified by ENGEO in Appendix 1 as a solution to prevent severe personal property loss to fulfill flood repair criteria.

22-2 cont'd

3. Implementation of an Adjacent Levee and Cutoff Wall.

a. A cutoff wall was requested for consideration by WSAFCA for the Yokoyama Farm since the beginning of 2012. Segment G, north of Segment F will be provided with an 84 foot deep by 3 foot wide slurry cutoff wall for a subdivision of homes. This subdivision is on land that was previously farmed by our family since the end of WWII. Thirty to 40 foot cutoff walls have been provided in other segments of Alternatives 1-5, and used in the southern portion of Segment B to save homes. A cutoff wall in combination with other underseepage mitigation measures also need to be considered for our home and farmland in Segment F.

4. Maintain South River Road Atop of Existing Levee.

22-3

a. Alternative Plans 1 and 3 maintain South River Road in its present alignment atop the existing levee in most of the segments. Retention of South River Road in its current position would prevent the Yokoyama Farm from division into two isolated parcels (Fig. 2). Furthermore, the integrity and scenic beauty of this famous Sacramento Delta road (Dillon 1982) will enhance tourism in the area. Emergency and maintenance vehicles will also have access to the levee vicinity, a service not readily available with a setback levee.

D. Inadequacies of a Setback Levee in WSAFCA Alternatives 2, 4 and Preferred Alternative 5.

22-4

1. Setback Levee Breached in 200 Year Flood Event.

a. The existing levees in West Sacramento have never been breached, but a setback levee is proposed by the WSAFCA in Alternative 2, 4 and Preferred Alternative 5 as a remedial solution for 200 year flood control. However, use of a setback levee will

1
2

22-4 cont'd

require removing portions of the existing levee to allow water to flow in and out of the floodplain channel. The setback levee is no taller in height than the existing levee so in a 200 year flood event, the setback levee will be breached with water spilling over the top according to the 100 and 200 year flood 2D hydraulic model as reported by MBK Engineers, June 29, 2011.

22-5

2. Widen Flood Plain and Increase River Meandering.

a. Setback levees would be difficult or impossible to build in Segment F where the floodplain between levees is currently planned for urban development. Setback levees allow rivers to meander within the floodplain created by the levees (Bolton and Shellberg 2001). When the existing river channel is narrower or pinched downstream, and the setback levee widens the floodplain channel upstream, backwater is created during high flows contributing to aggradation and raising of the riverbed (Lai and Bountry 2007). The potential for river meandering and change in flow characteristics associated with pinching of the levee systems downstream (Bozkurt et al. 2000) needs to be addressed as flood protection will be compromised by the setback levees in the WSAFCA Alternatives 2, 4 and 5.

22-6

3. Lack of Borrow.

a. The source of borrow to build the 3.6 miles of setback levee in WSAFCA Alternative 5 is dubious and has not been committed to the project by any individuals or organizations. Although the Yokoyama Farm has been identified as a source of borrow, we will not allow the upper layers of prime farm soil or the fertile top soil to be removed or disturbed. Excavation, removal of soil, and further lowering of the land elevation at our location or at similar sites will aggravate underseepage conditions. Excavating the inter-levee area between the existing levee and the setback levee will result in permanent standing, underseepage water in the channel (National Technical Information Service 1956).

22-7

4. Conceptual Habitat Restoration in the Inter-levee or Offset Floodplain Area between the Existing and Setback Levees.

a. Two Examples within the EIS/EIR of Previous Restoration Failures.

1. The river side of the levee on our property in Segment F was reinforced with boulders and rock by the California Department of Water Resources (CDWR) in 2006. CDWR preserved the existing trees and native oaks on the riverbank, and planted native vegetation which was maintained with an irrigation system until established. Fencing and warning signs indicating the bank was under restoration were installed to prevent trespassing and damage. Today this section of the levee on the river side is rutted with human paths to the water edge. Fishermen have created artificial beaches. Discarded furniture, major appliances, tires, toxic waste, debris, rubbish and human waste has been dumped over the side of the levee. The garbage will never be removed by the city or county. The original

1

fencing and much vegetation has been destroyed. Feral cats have removed the natural wildlife on the bank and raccoons are the prevalent wildlife species. The site is commonly used by the homeless and for illegal drug activity. The West Sacramento Police Department has limited resources to respond to complaints.

22-7 cont'd

2. The confluence of the Sacramento River and Barge Canal at the northeast corner of the WSAFCA EIS/EIR is shown in Fig. 4. Before the Barge Canal was opened in 1961, a flood basin was created at this corner with two additional levees on the north-south and east-west sides. Using his tractor, my father disked the base or footprint area for the two levees for their construction. The resultant basin was filled with sand dredged from the Sacramento River channel creating a sand dune area. A natural succession of trees, vegetation, and wildlife slowly inhabited the site. Once West Sacramento City began to expand, and homes were built south of the Barge Canal, the once pristine habitat was destroyed by human activity (Fig. 4).

b. Degraded Ecosystems Formed by Setback Levees.

22-8

The WSAFCA EIS/EIR does not demonstrate that the Alternative 5 plan will restore wildlife and speculates that new habitats will occur in the inter-levee between the existing and setback levees. Available literature shows that reconfiguring channels to add meanders in river restoration leads to a decrease in biodiversity because of biologically unsuitable flow regimes and degraded habitat (Palmer et al. 2009). Channelization tends to result in increased water temperatures, allows flora and fauna to be swept away during high flows, and during low flow or dry seasons contain insufficient water depth to sustain temperature and dissolved oxygen for living organisms (Bolton and Shellberg 2001). Human activities in the inter-levee or channel zone result in a reduction in habitat diversity affecting the abundance and diversity of wildlife that can be sustained (Simpson et al. 1982). With changes in optimal environmental conditions, stresses are placed on plants and animals limiting reproduction, survival, and growth (Lynch et. al. 1977). The artificial inter-levee habitat would be of lower quality than natural wetlands and likely to invaded by invasive species (Esty 2007).

c. Future Economic Losses.

22-9

The concept of restoration of habitat and biodiversity by re-configuring channels, in this case by use of setback levees, is not a wise investment (Palmer et al. 2009). The inevitable adjustments that occur in the channel may lead to extensive and costly maintenance to retain the engineering objectives (Bolton and Shellberg 2001). Conservation resources are limited and efforts to conserve riparian or any habitat must be feasible and compatible with human use (Hunter et al. 1999). The WSAFCA Alternative 5 plan is not feasible in Segment F, requires oversight responsibilities, and lacks specific resources for monitoring for compliance. These costs have not been considered or included in the WSAFCA EIS/EIR. Furthermore, cost overruns will be extreme considering that construction of a 2,200 setback levee on the

1

22-9 cont'd

northeast corner of the EIP/EIS/EIR cannot be completed after 3 years under construction (Fig. 4). Long term delays in setback levee construction will cause unmeasurable and irreversible damage to existing riparian forests, native vegetation, wildlife, fish, and other aquatic life.

d. Oppose WSAFCA Migitation Bank

22-10

The WSAFCA applied for a mitigation bank based on the inter-levee or offset floodplain in Alternative 5 without contacting affected home and landowners, and public comments were not solicited for the application. However, our comments concerning the deficiencies of the setback levee and proposed habitat restoration are addressed in this response to the WSAFCA EIS/EIR. The WSAFCA Alternative 5 will allow confiscation of private lands for a mitigation bank to sell credits to developers for profit. We oppose the mitigation bank and such actions by WSAFCA as unethical.

e. Contamination of the Inter-levee Channel with Pollutants.

22-11

The upper Sacramento River may be the source of organic and inorganic pollutants including pesticides (Taylor et al. 1996) and heavy metals that may collect in the inter-levee floodplain in WSAFCA Alternative 5 due to insufficient flushing by water flow through the channel. Pollutants will enter the plant and animal food chain and cause die backs of wildlife and protected species.

f. Insufficient Environmental Conditions to Preserve of Endangered Species.

22-12

1. Habitat for many endangered species of shrimp, fish, and amphibians is not preserved by either the channel bed substrate, water flow patterns, or anticipated dry conditions during droughts and arid seasons in WSAFCA Alternative 5. Water flow characteristics in the inter-levee channel between the existing and setback levee are not well described. Stream flows are needed to remove undesirable accumulations of fines, sand, and other sediment, and periodic flushing is needed for gravel to create a suitable habitat for aquatic animals (Milhous 1998). Spawning gravel for salmon require high pressure, and short flows to remove fine sediments for embryos to survive (Wu 2000). In Alternative 5, the inter-levee channel will be dredged for borrow and the final stream bed is not described, so fish spawning is impossible.

22-13

2. Conservation of Swainson's hawks will not be enhanced by the inter-levee offset floodplain because the bird of prey requires agricultural habitats that include large tracts of alfalfa and grazed grasslands for foraging (Swolgaard et al. 2008). WSAFCA Alternative 5 will remove extensive tracts of farmland currently used for hay production reducing the protected species foraging habitat.

1

22-14

22-15

22-16

22-17

22-18

g. Urban Wildlife Conflicts Created by an Inter-levee Restoration Area.

1. Wild animals may be attracted to inter-levee area but can present a threat to human safety and cause property damage (National Wildlife Research Center 2010). Coyotes are common on the Yokoyama Farm. Predation on pets is the primary contributor to human-coyote conflict, and domestic cats or dog are consistently found in coyote dietary studies (Gehrt 2007). Mountain lions have been personally sighted and reported by others in the area.

2. Densely populated areas adjacent to the inter-levee area may exacerbate human-wildlife-pet disease transmission (Dunbar et al. 2007). Raccoons, opossums, skunks, coyotes, foxes, and bats utilizing the inter-levee area will be close to homes and may vector and transmit rabies, a fatal viral disease of humans and pets (National Wildlife Research Center 2010). Wildlife is also a source of internal and external parasites including worms, fleas, ticks, and mange mites that can transmit diseases such as canine distemper and heartworm (Dryden and Ridley 1999) to domestic animals.

3. Increased densities of wildlife associated with the inter-levee area can also result in a higher prevalence of diseases in urban wildlife that may be greater than what is found in rural habitats impairing reproduction, immune health, and survival (Ditchkoff et al. 2006). These adverse effects on wild mammals and birds may decimate desired species.

4. Mosquitoes will breed in the inter-levee channel water and create a biting nuisance to nearby communities including Sacramento on the opposite side of the river. Mosquitoes including *Culex* spp., *Anopheles* spp., and *Aedes* spp. are vectors of human diseases including western encephalitis, malaria, West Nile virus (Lawler and Lanzaro 2005) yellow fever, and dengue. Mosquitoes endanger the entire Sacramento Metropolitan Region, yet mosquito control methods are not presented in the WSAFCA Alternative 5 plan. Furthermore, underseepage in the dredged inter-levee channel will create continuous standing water for mosquito breeding.

5. Burrowing activities of California ground squirrels can potentially compromise a levee during a flood event (McGrann et al. 2013). The conversion of woodland habitats to grasslands on levees most likely will result in increased occurrence and abundance of ground squirrels and pocket gophers, and thereby increase the potential threat that their burrowing activities pose to levee integrity (Ordeñana et al. 2012). The land side of the setback levee in Alternative 5 will be grassy and without trees, and although not specified in the plan, will require control of ground squirrels. Rodenticide grain baits are currently used by the Yolo County Reclamation District 900 in multiple bait stations placed near the levee on the Yokoyama Farm. The use of toxic bait to control ground squirrels is associated with the death of cotton tail rabbits on our farm. Poisoned squirrels and rabbits

1

22-18 cont'd

will be eaten by predators and scavengers including dogs, coyotes, foxes, vultures, and hawks causing further animal deaths in the food chain.

5. Adverse Recreational Activities.

22-19

Fishing will cause severe erosion of the setback levee and remove fish that were intended to spawn in the inter-levee channel, which is a primary restoration objective of the WSAFCA Alternative 5. Habitat restoration requires decades of optimum environmental conditions and continuous maintenance, but human activities as described in 4.a.1 and Fig. 4 can destroy the inter-levee area within months. Access roads on top of the adjacent and setback levees in Alternatives 2, 4, and 5 would expedite the rapid deterioration of any potential natural habitat.

E. Conclusions

The Yokoyama home and farmland, established by four generations of Japanese Americans in West Sacramento can be saved with the least amount of personal property damage by an adjacent levee and narrow berm, or cutoff wall and narrow berm, and/or additional measures such as relief wells to control underseepage and fulfill 200 year flood levee repair criteria. WSAFCA EIS/EIR Alternatives 1 and 3 will prevent Village Parkway Road from crossing the middle of the farm, splitting the land in half, and hampering farming operations that provide the family and others dependent on the farm for income.

The set-back levee utilized in Alternatives 2, 4, and the WSAFCA preferred Alternative 5 will not prevent a breach, and flood water will spill over the top in a 200 year flood event. The inter-levee channel created between the existing and set-back levees will not provide new habitats for endangered species, and will create severe human-wildlife conflicts as well as exposing people to dangerous communicable diseases in the region including the Sacramento Metropolitan area. Based on previous local restoration projects, any inter-levee habitat created by the set-back levee will be rapidly destroyed by human activity, shelter illegal activities, and will not be monitored or policed. The WSAFCA preferred Alternative 5 causes the greatest loss of personal property, and presents the greatest waste of taxpayer funds and government resources in the EIP/EIS/EIR.

F. References

Bolton, S. M. and J. Shellberg. 2001. Ecological issues in floodplains and riparian corridors. Center for Streamside Studies, University of Washington, Seattle.

Bozkurt, S., P. Dekens, R. Gartland, J. Gragg, J. Lawyer, and M. McGoogan. 2000. Evaluation of Setback Levees on the Sacramento River. University of California, Santa Barbara.

Conrat, M. and R. Conrat. 1972. Executive order 9066. California Historical Society, San 2Francisco, California.

1

Dillon, R. H. 1982. Delta Country. Presidio Press, Novato, CA.

Ditchkoff, S., S. T. Saalfeld, and C. J. Gibson. 2006. Animal behavior in urban ecosystems: Modifications due to human-induced stress. Urban Ecosystems 9: 5-12.

Dryden, M. W. and R. K. Ridley. 1999. Potential health hazards of urban wildlife to humans and their pets. College of Veterinary Medicine, Kansas State University, Manhattan.

Dunbar, M. R., R. T. Sterner, and S. R. Johnson. 2007. Impacts of wildlife diseases in urban environments. Proceedings of the 12th Wildlife Damage Management Conference, April 9-12, 2007, Corpus Christi, Texas.

Esty, A. 2007. Banking on mitigation. American Scientist. 95: 1.

Gehrt, S. E. 2007. Ecology of coyotes in urban landscapes. Proceedings of the 12th Wildlife Damage Management Conference, April 9-12, 2007, Corpus Christi, Texas.

Hunter, J. C., K. B. Willett, M. C. McCoy, J. F. Quinn, and K. E. Keller. 1999. Prospects for preservation and restoration of riparian forests in the Sacramento Valley, California, USA. Environmental Management 24: 65-75.

Lai, Y. G. and J. Bountry. 2007. Numerical modeling study of levee setback alternatives for lower Dungeness River Washington. U.S. Department of the Interior, Bureau of Reclamation Technical Service Center, Denver, Colorado.

Lawler, S. P. and G. C. Lanzaro. 2005. Managing mosquitoes on the farm. University of California, Division of Agriculture and Natural Resources, Oakland, California. Publication 8158.

Lynch, J. A., E. S. Corbett, and R. Hoopes. 1977. Implications of forest management practices on the aquatic environment. Fisheries 2: 16-22.

Lynch, L. 2008. Desirability, Challenges, and Methods of Protecting Farmland. Choices. 23: 16-21.

Maeda, W. 2000. Changing dreams and treasured memories: A story of Japanese Americans in the Sacramento Region. Tom's Printing, Sacramento, CA. 274 pp.

McGrann, M. C., D. H. Van Vuren, and M. A. Ordeñana. 2013. Influence of adjacent crop type on occurrence of California ground squirrels on levees in the Sacramento Valley, California. Wildlife Society Bulletin.

Milhous, R. T. 1998. Modelling of instream flow needs: The link between sediment and aquatic habitat. Regulated Rivers Research Management 14: 79-94.

1

National Technical Information Service. 1956. Investigation of underseepage and its control, lower Mississippi River levees, Volume I. U. S. Department of Commerce, Army Engineer Waterways Experiment Station, Vicksburg, Mississippi.

National Wildlife Research Center. 2010. Reducing urban wildlife conflicts. U. S. Department of Agriculture, Animal and Plant Health Inspection Service, Fort Collins, Colorado.

Ordeñana, M. A., D. H. Van Vuren, and J. P. Draper. 2012. Habitat associations of California ground squirrels and Botta's pocket gophers on levees in California. Journal of Wildlife Management. 76: 1712–1717.

Palmer, M. A., H. L. Menninger, and E. Bernhardt. 2009. River restoration, habitat heterogeneity and biodiversity: a failure of theory or practice? Freshwater Biology 55: 1-18.

Santa Ana, R. 2012. Study shows there's money in small-acreage vegetable production. Agrilife Today, Texas A & M University, College Station, Texas.

Simpson, P. W., J. R. Newman, M. A. Keirn, R. M. Matter, and P. A. Guthrie. 1982. Manual of stream channelization impacts on fish and wildlife. Fish and Wildlife Service, Washington, DC.

Swolgaard, C. A., K. A. Reeves, and D. A. Bell. 2008. Foraging by Swainson's Hawks in a vineyard-dominated landscape. Journal of Raptor Research. 42: 188-196.

Taylor, G. E. Jr., K. B. Schaller, J. D. Geddes, M. S. Gustin, G. B. Lorson, and G. C. Miller. 1996. Microbial ecology, toxicology and chemical fate of methyl isothiocyanate in riparian soils from the upper Sacramento River. Environmental Toxicology and Chemistry 15: 1694-1701.

Wu, F. C. 2000. Modeling embryo survival affected by sediment deposition into salmonid spawning gravels: Application to flushing flow prescriptions. Water Resources Research 36: 1595-1603.

Yolo County Agriculture Department. 2013. Yolo County 2012 Agricultural Crop Report. Yolo County Department of Agriculture and Weights and Measures, Woodland, California.

1

Fig. 1. Location of the Yokoyama Farm in Segment F of the WSAFCA EIP/EIS/EIR on South River Road in West Sacramento. View is to the south from the Barge Canal.

1

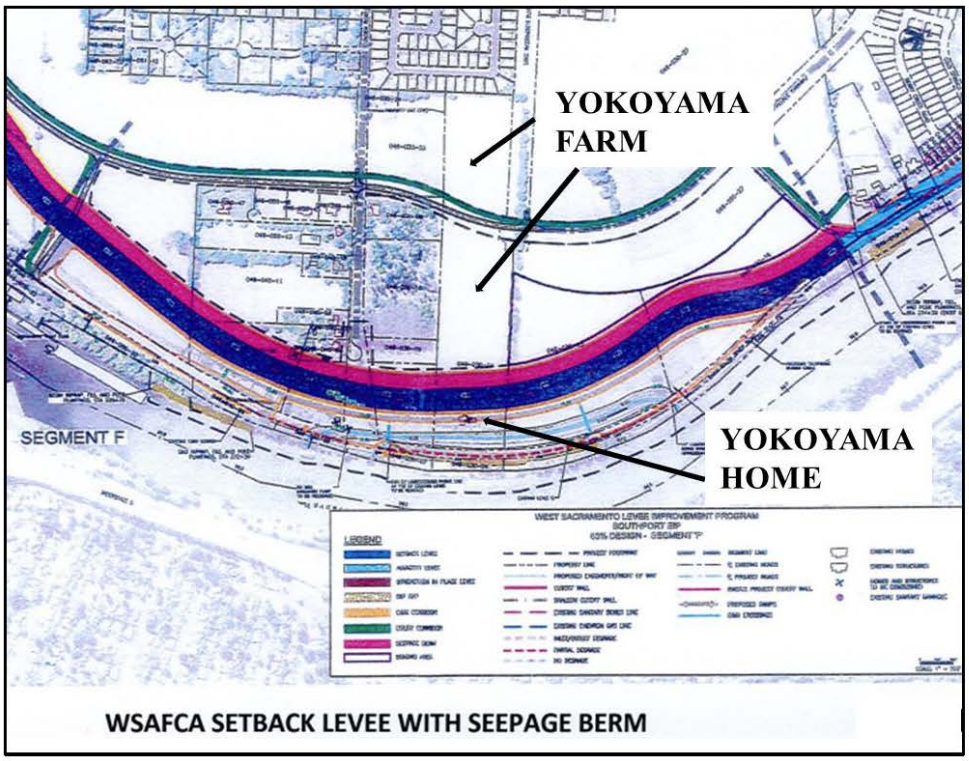


Fig. 2. The Yokoyama house and farm in Segment F and the position of the setback levee and Village Parkway Road in the WSAFCA Alternative Plan 5 that will result in condemnation of the fourth generation Japanese American family home in the inter-levee floodplain, and division and loss of farmland established in 1966.

1

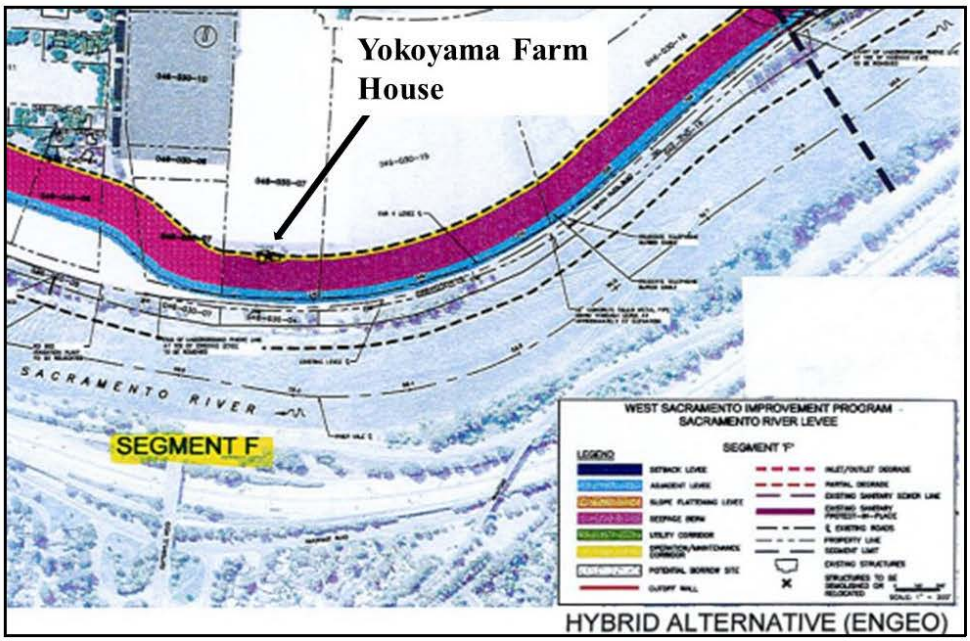


Fig. 3. Location of the Yokoyama farm and home in the Hybrid Alternative plan developed by ENGEO titled, "Seecon Proposed Adjacent Levee with Seepage Berm." Additional measures described by ENGEO in Appendix 1 and the ENGEO/Seecon alternative plan will help save the Yokoyama family home and most of the river frontage farmland.

1

Fig. 4. Construction of the setback levee at the northeast corner of the WSAFCA EIP bordered by the Barge Canal on the north, Sacramento River on the east, and Jefferson Boulevard on the west. Work on the project began on April 6, 2011 and 3 years later, the 2,200 foot long setback levee has not yet been completed. The vacant area in the figure was created on the east by the setback levee, on the north by the barge canal levee, and on the west and south sides by existing levees. Off road vehicles, dirt bikers, paint ballers, hunters, and horseback riders have severely eroded trails into the area that is posted with no trespassing signs. Squatting by homeless people and illegal dumping is common. The closure of the South River Road to construct the setback levee has created a haven for drug dealers and crime due to isolation caused by the absence of regular traffic. An intent of the setback levee project was preservation of wildlife habitat, but few desirable native plants and wildlife find sanctuary in the vicinity.

1

Appendix 1 Page **15** of **16**

ENGEO
Expect Excellence

GEOTECHNICAL
ENVIRONMENTAL
WATER RESOURCES
CONSTRUCTION SERVICES

Project No.
9401.001.000

January 8, 2013

President William Denton and
Members of the Board of Directors
West Sacramento Area Flood Control Agency
110 West Capitol Avenue, 2nd Floor
West Sacramento, CA 95691

Subject: Segment F Yokoyama Farm
3000 South River Road
West Sacramento, California

GEOTECHNICAL CONSIDERATIONS

Honorable President Denton and Members of the Board:

On behalf of our client, Victoria Yokoyama, we reviewed the geotechnical information provided for Segment F of the Southport Early Implementation Project (EIP) in West Sacramento. The purpose of this letter is to highlight several important geotechnical engineering issues regarding the levee alternatives for Segment F.

The March 2012 Project Design report identifies two alternatives for Segment F, an Adjacent Levee with seepage berm and a Setback Levee with seepage berm. The design team's engineering analysis shows that the Adjacent Levee with seepage berm results in superior mitigation against underseepage when compared to the Setback Levee with seepage berm. While the Adjacent Levee was the preferred alternative earlier this year, due to State cost sharing, the design team and West Sacramento Area Flood Control Agency's (WSAFCA) selected the Setback Levee with seepage berm as the preferred alternative. As you know, the WSAFCA selection of the Setback Levee as the preferred alternative for Segment F will require acquisition of much of the Yokoyama property and demolition of their house.

From a geotechnical engineering perspective, if WSAFCA selects the Adjacent Levee with seepage berm for implementation, then the Yokoyama house can possibly be saved. The geotechnical information provided by the design team indicates that one of the primary geotechnical issues in Segment F is underseepage, which is to be mitigated with a seepage berm approximately 100 feet wide. It is our opinion that the footprint of a seepage berm associated with the Adjacent Levee can possibly be reduced such that the Yokoyama house can remain. This would require additional mitigation measures to reduce the exit gradient at the toe, such as a partially penetrating cutoff wall with narrower seepage berm or use of relief wells.

The use of relief wells was dismissed by the design team as technically infeasible for Segment F. Following our review of the subsurface data in Segment F, we conclude that there is a significant and continuous confining layer that can make relief wells a viable alternative. This is also confirmed and clearly shown on Exhibit G-69 of the BCI technical memorandum, dated February 27, 2012.

2213 Plaza Drive • Rocklin, CA 95765 • (916) 786-8883 • Fax (888) 279-2698
www.engeo.com

1

Appendix 1, cont.

West Sacramento Area Flood Control Agency 9401.001.000
Segment F Yokoyama Farm January 8, 2013
GEOTECHNICAL CONSIDERATIONS Page 2

Based on our findings, we suggest that the merits of these potentially viable alternatives be considered by your design team.

If you have any questions or comments regarding this letter, please call and we will be glad to discuss them with you.

Sincerely,

ENGEO Incorporated

Mark M. Gilbert, GE

Jonathan C. Boland, GE

cc: Victoria Yokoyama

1
2

4.11.1 Responses to Letter 22

22-1

While construction of Village Parkway is not "mandatory" as the comment states, it was analyzed as part of Alternatives 2, 4, and 5, and was originally envisioned in 1994 as part of the City's Southport Framework Plan, discussed in Section 3.11, Land Use and Agriculture. Construction of Village Parkway was analyzed as a part of the setback alternatives, Alternatives 2, 4 and 5, due to the partial removal of South River Road under these alternatives.

As is typical for a project of this nature, WSAFCA has initiated the appraisal process to facilitate the proposed project construction schedule. However, no project alternative has been selected, and no offers for real estate would be made until after the Final EIR is approved by the WSAFCA Board.

22-2

WSAFCA has considered and evaluated three alternatives that utilize an adjacent levee in Segment F (Alternatives 1, 3, and 4), as suggested in the comment. Each of these is similar in impact and footprint within Segment F to the alternative described in the comment. However, as explained below, while no single alternative has yet been adopted as a project, these three alternatives have been considered, along with others. The results of WSAFCA's screening process, which included consideration of the factors suggested in the comment, indicate that Alternative 5 presents the most favorable combination of project measures.

WSAFCA evaluated different approaches to mitigate for underseepage for two different levee alignments. The study also evaluated different mitigation measures, one of which included a partially penetrating slurry cutoff wall that extended through the levee embankment and a portion of the levee foundation, but did not finish into a low-permeability layer, in combination with a seepage berm. The results of the analysis, however, demonstrated that the partially penetrating slurry cutoff walls did not reduce the seepage gradient to a sufficient level to eliminate or even reduce the extent of seepage berms.

Relief wells were found to be technically not feasible due to the inconsistencies of the shallow clay layer and the presence of crevasse splay deposits. Soil borings indicate that the low-permeability layer required to terminate the wall in segment F is deeper than 90 feet.

Based on current state and Federal cost-sharing policies with secured local funding sources, the increase in costs associated with implementing slurry cutoff walls beyond 90 feet deep would jeopardize WSAFCA's ability to meet local cost-share requirements on the remainder of the project. Without state and Federal cost-share, implementation of the entire Southport EIP and the West Sacramento Area Levee Improvement Program (WSLIP) would be economically infeasible and impractical.

Chapter 2, "Alternatives," provides a detailed description of the alternative screening criteria applied by WSAFCA. Among the seven criteria are consideration of cost; avoidance, minimization, and mitigation of environmental effects; and land use compatibility, including minimization of property acquisition and other effects on private property (criteria 7, 6, and 5, respectively). While no single alternative has yet been adopted as a project, WSAFCA has identified Alternative 5 as the APA. In balancing the multiple considerations represented by the criteria, the screening process,

including consideration of the three factors suggested in the comment, indicates that Alternative 5 presents the most favorable combination of project measures. Section 3.11, Land Use and Agriculture, analyzes the alternatives' effects on private property. Analyses of the alternatives relative to other environmental resources are under similar topical headings; cost is not a specific subject of NEPA and CEQA review.

22-3

Construction of Village Parkway is consistent with the Southport Framework Plan, as discussed in Section 3.11, Land Use and Agriculture. The loss of South River Road's scenic value under Alternative 2, 4, and 5 is significant and unavoidable, as discussed in Effect VIS-2, Section 3.13, Visual Resources. Village Parkway would provide an alternative evacuation route for the area that does not conflict with maintenance activities and potential flood fight operations. Emergency and maintenance access to the setback levee structure would be provided by planned operation and maintenance (O&M) corridors shown on revised Plates 2-3b, 2-5b, and 2-6b.

22-4

The June 2011 memorandum referenced in the comment, prepared by MBK Engineers (MBK), supported the interim preliminary design phase. Subsequently, MBK performed more detailed analyses, as presented in Appendix C (Volume I), resulting in a different conclusion. The existing levee does not meet current engineering standards. The setback levee has been designed to withstand a 200-year flood event, meaning the levee would not overtop or breach during a 200-year event. The setback levee has been designed to meet both state and Federal standards.

22-5

The effects on planned or existing land uses in the project area are analyzed in Section 3.11, Land Use and Agriculture; the effects of all five alternatives on planned or existing land uses were found to be significant and unavoidable. Specifically, construction of a setback levee in Segment F would interfere with planned land uses between the present levee and the proposed setback levee. However, changing the planned land uses in that area is feasible, as is construction of a setback levee in Segment F.

The use of a setback levee would not compromise flood protection and, in fact, would reduce flood risk. WSAFCA has conducted a geomorphic analysis of the setback alternatives, as described in Section 3.1, Flood Risk Management and Geomorphic Conditions, and concluded these alternatives would not result in significant adverse effects on water surface elevations or sediment transport in the project area. A setback levee would have no significant adverse impacts on flood risk and would in fact have beneficial impacts by reducing flood risk in the floodplain.

22-6

Potential borrow sites identified in Volume I include locations with preferred soil material needed for levee construction. The area on the Yokoyama Farm identified on the landside of the levee as a possible source of borrow material has been removed from consideration; WSAFCA has a policy to only enter into agreements for borrow material from willing property owners.

In the event the use of borrow sites adjacent to an existing or proposed levee are negotiated with property owners, geotechnical analysis, including seepage and slope stability analysis, would be

performed to establish the appropriate grading and proximity to the flood protection system for borrow extraction activities to occur without creating an increased risk of underseepage.

Borrow activities would then be set back a safe distance, as determined by the results of the analysis, from the landside toe of existing levees to avoid impact on the integrity of the levee. Site-specific seepage and slope stability analysis would be conducted, as applicable, in accordance with Federal and state levee design criteria enumerated and discussed in Section 3.1, Flood Risk Management and Geomorphic Conditions.

The offset areas (inter-levee area) would be constructed to have positive drainage to the proposed swales and the river. The interconnection of the offset areas to the river at the inlet/outlets would allow equalization of the water level on either side of the remnant levee, thereby eliminating the hydraulic grade difference that drives underseepage. The excavation of the offset area is considered in the seepage risk analysis of the flood risk-reduction system, contained in Section 3.1, Flood Risk Management and Geomorphic Conditions.

22-7

Under Alternatives 2, 4 and 5, mitigation and restoration efforts along the Sacramento River would be conducted in accordance with the Operations and Maintenance Manual developed for the maintaining agency, a requirement of any USACE Regulatory permit as part of an approved mitigation and monitoring plan. The manual would be developed in accordance with resource agency requirements to address the maintenance and operations of the entire project, including any areas of the project designated as mitigation areas. The habitat is being carefully designed to be self-sustaining, but it is anticipated that some management and maintenance would be required. The Draft MMP (Volume II, Appendix A), includes information on offset area management and maintenance.

WSAFCA has notified the West Sacramento Police Department of the project to ensure the project area would continue to be patrolled and that there would be no drop in service or appreciable increase in public safety hazards. Any changes in the present condition expected as a result of project implementation are discussed and analyzed in Section 3.16, Public Health and Hazards.

22-8

A sustainability report for the setback area was prepared by the Southport EIP ecological design team and extensively peer-reviewed by the natural resource agency staff working on the project, as well as by the project's environmental stakeholder advisory team in order to ensure the proposed design elements would meet the proposed habitat goals and objectives. The proposed offset/inter-levee area would restore natural floodplain processes that existed onsite prior to channelization of the Sacramento River. Channelization of the floodplain habitat is not proposed. Topographic diversity within the setback area would result in a mosaic of terrestrial and aquatic habitats, providing ecological functions and values year-round in conjunction with the prevailing hydrology. The setback area would naturally de-water each summer as river levels drop, minimizing warm, standing water, a condition that favors nonnative aquatic species.

22-9

WSAFCA has performed extensive engineering and financial assessments of the alternatives, including the APA, and determined the APA to be technically and economically feasible as it would

meet the project's objectives of reducing flood risk within the funding capabilities of WSAFCA and its funding partners. While WSAFCA has weighed the costs of all analyzed alternatives, including expected costs of creation, operation, monitoring, and maintenance of the offset area, such costs have not been analyzed in depth in the EIS/EIR, as cost is not a specific subject of NEPA and CEQA review.

Long-term delays in setback levee construction are not anticipated, and creation of a restored floodplain area would provide extensive long-term benefits to many species, as described in the EIS/EIR. Further, construction of a setback levee would reduce the amount of existing vegetation identified for removal.

22-10

To clarify, WSAFCA does not propose the establishment of a mitigation bank as a component of the Southport project. Rather, Alternatives 2, 4, and 5 include an opportunity for ecosystem restoration by means of an expanded floodplain facilitated by constructing a setback levee and subsequently degrading and breaching the old remnant levee.

Such restoration provides the ability to mitigate onsite for vegetation and habitat impacts resulting from the Southport project, and will be required under necessary approvals to comply with local, state, and Federal laws. Since the mitigation requirements have not been finalized by the regulating agencies, the amount of area in the expanded floodplain needed for mitigation is not yet known.

If there is opportunity for additional restoration beyond the mitigation needs of the project, it could potentially be used to mitigate for future projects implemented by WSAFCA, its partners under a Regional Flood Management Plan, or other partnerships (listed in likely order of priority for use). As an example of one such partnership, WSAFCA and the State of California (through DWR's FloodSAFE Environmental Stewardship and Statewide Resources Office) are exploring application of possible surplus restoration toward the conservation strategy associated with the Central Valley Flood Protection Plan, pursuant to which the Southport project is advancing. No agreement has been executed for this potential future use, and such agreement would be subject to approval from the state and Federal fish and wildlife agencies. It may also be possible that WSAFCA could partner with an entity for long-term management of the restored habitat, which may include organizations with experience in mitigation banking, but, again, there is no intent to create a banking enterprise from which mitigation credits would be commercially available and the project is not intended to mitigate for development projects. WSAFCA is not designing the setback area for the purpose of selling credits to developers for profit. As noted above, any purchase of private land (not confiscation) is to achieve the project purposes previously described.

22-11

While there are some low levels of pollutants in the Sacramento River, the river water is relatively clean and a good source of drinking water and agricultural water. Surface water quality in the Sacramento River is discussed in Section 3.2, Water Quality and Groundwater Resources. As occurs with other floodplains and river bypasses along the Sacramento River, this water will bring life to the inter-levee floodplain without causing any pollution-related die backs. In addition, the inter-levee floodplain, or offset area, has been designed to drain flood waters back to the river instead of allowing the waters to evaporate in place.

22-12

This portion of the Sacramento River does not support habitat for endangered shrimp and amphibians, or spawning habitat for salmon and steelhead. Suitable gravel/cobble substrates occur upstream in the higher gradient reaches of the Sacramento River and its tributaries. The dominant substrate of floodplains in this portion of the river are fine sediments, which support the vegetation types and prey resources important to rearing juvenile salmon and other fishes. The proposed floodplain swale is designed to promote habitat diversity on the floodplain (wetland/riparian habitat) and facilitate drainage and connectivity of the floodplain to the river.

22-13

Implementation of any of the project alternatives described in Volume I would result in the loss of grasslands and agricultural lands used for foraging by birds of prey, including Swainson's hawk. Effect WILD-4 describes these project effects on Swainson's hawk foraging habitat, as well as proposed mitigation (WILD-MM-9) to offset this permanent impact. Specifically, Plate 3.8-6 depicts the creation of the offset area as a permanent impact on foraging habitat, an impact that was included in the overall acreage of foraging habitat loss for Swainson's hawk caused by the setback levee alternatives. Although the proposed project would result in a net loss of foraging habitat within the offset area, restoration proposed within this area would include extensive revegetation that, upon maturity, would provide potential nesting opportunities for Swainson's hawk, and therefore would contribute to the long-term conservation of the species. (Also see response to Comment 12-04.)

22-14

Coyotes are already common within the Southport area, and proposed restoration within this area is not likely to attract additional coyotes. Coyotes use open habitats supporting grasses and low-growing agriculture where prey (small rodents) is abundant. Riparian and wetland habitats that are proposed within the offset area are not preferred foraging areas for coyotes.

Mountain lions are rare in the Sacramento area, and although they may occasionally pass through the Southport area (levee and adjacent riparian habitat may provide a potential movement corridor), there is not enough open habitat and prey to support a lion's home range (25–200 square miles) within the Southport area. Creation of the proposed offset area would not result in additional open habitat and thus would not be expected to attract additional mountain lions to the area.

22-15

The river corridor and Bees Lakes provide existing habitat for raccoons, opossums, skunks, and bats. The establishment of the setback area could provide some additional habitat for these species, potentially resulting in a small increase in local populations, while also drawing existing populations away from residential areas. Since these animals will generally stay close to foraging, refuge, and breeding areas, the setback area's distance from existing residential developments would likely result in no or minimal increases in nuisances from wild animals.

Setback areas would not be open to the public for off-leash pet use, and interactions with wild animals would not be expected to increase as a result of domestic animals entering the offset area.

22-16

Proposed restoration within the offset area would convert grassland and agricultural areas to wetland/riparian habitat, which may change the composition of wildlife (i.e., more raccoons, opossums, and squirrels versus mice, skunks, and coyotes) but would not result in higher densities than what the habitat would naturally be able to support. The Ditchokk et al. 2006 paper refers to increased transmission of disease in urban wildlife as a factor of higher population densities resulting from the greater availability of food (i.e., garbage, road kill, human and pet foot sources). Because the proposed project is not expected to introduce new urban food sources, wildlife densities are not expected to increase beyond the carrying capacity of the existing habitat and would not lead to increased disease transmission within desired wildlife that the proposed project intends to attract (i.e., Swainson's hawk).

22-17

The potential risks to human health associated with each alternative are analyzed in Section 3.16, Public Health and Environmental Hazards. Specifically, health risks associated with mosquitoes were analyzed, and were determined to be beneficial (Alternative 2) and less than significant (Alternatives 4 and 5). Mosquito control methods are included for every setback alternative, including Alternative 5. The lead agencies' findings of significance were made in consultation with Sacramento-Yolo Mosquito and Vector Control District.

22-18

As the comment correctly notes, maintenance of levee structures requires addressing risks associated with burrowing animals, primarily rodents such as squirrels. As discussed in Section 2.2.3.3, Common Elements and Assumptions, RD 900 presently maintains bait station application for rodent control, which is conducted under county permit by experts licensed by the state for pest and rodent control. The present maintenance activity would continue under each project alternative.

22-19

Under Alternatives 2, 4, and 5, mitigation and restoration efforts along the Sacramento River would be conducted in accordance with the Maintenance and Operations Manual developed for the maintaining agency. The manual would be developed in accordance with resource agency requirements to address the maintenance and operations of the entire project, including any areas of the project designated as mitigation areas. The habitat is being carefully designed to be self-sustaining, but it is anticipated that some management and maintenance would be required. The Draft MMP (Volume II, Appendix A), includes information on offset area management and maintenance. Fishing along the project area presently occurs as part of the baseline condition. Because such activity in the offset area would be discouraged in accordance with the O&M Manual, it would not be expected to increase erosion, particularly not to such an extent over present use as to imperil either the levee itself or endangered fish species. Further, the offset area, which would contain water only during high flow events, would not present suitable conditions for fishing. It is being designed to increase spawning habitat for juvenile fish and discourage occupancy by mature predator species most often sought by fishermen.

4.12 Letter 23—Jeanne Pavao, Miller Starr & Regalia, on behalf of Seecon Financial & Construction

Letter 23

SEECON
Financial & Construction Co., Inc.
4021 Port Chicago Highway • P.O. Box 4113
Concord, California 94524-4113
(925) 671-7711
CA Lic. #469096

January 6, 2014

Via Hand Delivery

U.S. Army Corps of Engineers, Sacramento District
Attn: Ms. Tanis Toland, Environmental Resources Branch
1325 J Street
Sacramento, CA 95814-2922

Re: Southport Sacramento River Early Implementation Project (EIP)
Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR)

Dear Ms. Toland:

I am writing on behalf of Seecon Financial & Construction Co., Inc. ("Seecon"), the owner of approximately one-half mile of river frontage along the west side of the Sacramento River in Segment F of the Southport Sacramento River Early Implementation Project ("Southport EIP").

During the past two years we have submitted numerous comments to the applicant West Sacramento Area Flood Control Agency (WSAFCA), the City of West Sacramento, the U.S. Army Corps of Engineers and the California Department of Water Resources regarding our concerns with the design of the Southport EIP. The written comments are attached as Attachment A.

23-1 We have repeatedly requested that a project alternative be selected which would provide the desired 200-year flood protection while having only the impact on our Property which is truly **necessary**. The Applicant Preferred Alternative 5 (Setback Levee) would be the most expensive Alternative, take much more private property than **necessary** and have more environmental impact than Alternatives 1 and 4 (Adjacent Levees) or Alternative 3 (Slope Flattening). Those Alternatives (1, 3 and 4) would also provide the needed level of flood protection but with the least impact to private property rights.

23-2 Seecon has numerous concerns about the Southport EIP, as it threatens to upset longstanding land use policies and goals adopted by the City of West Sacramento, and has the potential to cause numerous impacts to the local environment, including health risks to local residents and other sensitive receptors. On April 8, 2013, our counsel, Miller Starr & Regalia, submitted comments on the Supplemental Notice of Preparation of an EIS/EIR for the Southport Project. A copy of that letter is included in Attachment A. The EIS/EIR fails to adequately address the issues raised in that letter and fails to meet the requirements for a legally adequate EIS/EIR.

We offer the following comments on the EIS/EIR and request that these comments be addressed and the EIS/EIR be recirculated prior to the document being finalized.

23-3 The noise impact analysis is inadequate. The Southport EIP would potentially affect the local noise environment in a number of ways. To adequately analyze noise impacts, the EIS/EIR must

1

23-3 cont'd

identify all appropriate sensitive receptors in the Southport area, the City, Yolo County, Solano County, Sacramento County, and the City of Sacramento. The EIS/EIR must also identify sources of noise by specifying both their location and magnitude, such as by providing expected equipment lists and studies demonstrating average and maximum noise levels associated with the operation of said equipment. The EIS/EIR must further, using the above information, evaluate each of the above impacts under appropriate temporal scenarios, such as under existing, short-term, and long-term scenarios. If the analysis discloses there is an existing, substandard condition to which the project will contribute, a special threshold of significance must be developed for such impacts (*Gray v. McCormick,* 167 Cal. App. 4th §§1122-1123).

23-4

The Southport EIP would involve the deconstruction and construction of a levee for what may potentially be an extended duration. During this time frame, it is possible that a significant seismic event may occur, or a significant flooding event may occur. The EIS/EIR fails to adequately analyze whether lands within the City will be adequately protected during the period of project construction.

23-5

The Southport EIP will entail the excavation of fields and other open space areas that may have been subject to subsidence in the past, which have very shallow groundwater tables, and which are near an area waterway. The EIS/EIR needs more than a cursory look at the wisdom of extracting substantial materials in such areas, including dangers posed to nearby, newly

1

23-5 cont'd constructed levees, and whether such excavation will leave borrow sites undevelopable in the future.

23-6 The Southport EIP has the potential to upset a number of longstanding land use policies, and the EIS/EIR should take careful account of the project's consistency with the City's General Plan and other applicable land use documents.

23-7 The Cultural Resources analysis is deficient. The Southport EIP would disrupt substantial amounts of soil that could contain prehistoric, historic, and archeological artifacts, as well as Native American human remains. It could further impact numerous City landmarks (see, e.g. City of West Sacramento Landmarks; see General Plan Background Document, pages 1111-1116). The impacts of excavation, construction, and other project activities on each affected resource must be **adequately** analyzed in the EIS/EIR. Public Resources Code §21083.2.

Below please find additional comments on the Draft EIS/EIR:

23-8 **Page No. ES-3 Line 15.** The Southport EIP is required by NEPA and CEQA to *"avoid minimize, rectify, reduce, eliminate, or compensate for significant effects."* Alternatives 2 and 5 clearly do not minimize or reduce the effect on private property or Air Quality. Much more private property will be unnecessarily condemned for Alternatives 2 and 5 than with the other

1

23-8 cont'd

Alternatives, and they would have a much more negative effect on Air Quality due to the more massive amount of grading they would require.

23-9

Page No. ES-4 Line 13. What feasible measures are proposed to *"be incorporated to reduce the severity of the effect on private property"* with Alternatives 2 and 5? Those impacts are significant, but not totally unavoidable since other, less damaging Alternatives are

23-10

Page No. ES-4 Line 15. If Alternatives 3 and 4 are available which will help to avoid, minimize and reduce the effects of Alternatives 2 and 5, why are those Alternatives not preferred by the Applicant rather than simply indicating the effects of Alternatives 2 and 5 are unavoidable?

23-11

Page No. ES-5 Line 33. If a purpose and objective of the Southport EIP is to *"protect human health and safety and prevent adverse effects on property and its economy"*, why would Alternative 2 or 5 be considered? All the Alternatives provide the **necessary** flood protection, but Alternatives 2 and 5 will create more air pollution and adversely affect and require the taking of much more private property than is necessary.

23-12

Page No. ES-7 Lines 24 – 27. It is stated that the Southport EIP approach was to go beyond the requirements of NEPA and CEQA *"to ensure the affected community and other*

1

23-12 cont'd

interested stakeholders are informed, engaged, and involved". If so, why did WSAFCA and its consultants ignore our numerous requests that an Alternative which would condemn less private property be adopted?

23-13

Page No. ES-8 Line 21. How can it be stated that *"Comments received from the public have been considered to refine the project and environmental analysis"*, when our comment letters and testimony over a two-year period have been ignored while the detailed design of **only** Alternative 5 has proceeded in spite of its **unnecessary** effect on private property and the environment?

23-14

Page No. ES-10 Article 4.3. NEPA requires the project proponent to identify issues of known controversy which have been raised throughout the development of the project. Seecon is a private property owner who will be greatly affected by the implementation of the Southport EIP. We have on many occasions over the past two years indicated our concern and objections to the Setback Levee Alternatives 2 and 5, which would **unnecessarily** take far more of our property than adjacent levee Alternatives 3 and 4. Why are our concerns as expressed in Attachment A not identified as issues of known concern or controversy here and in Chapter 3, Section 3.11 as required by NEPA?

23-15

Page No. ES-13 Line 12. It is indicated that the setback levee Alternatives *"may have a significantly measurable negative effect of raising water surface elevations, which is unacceptable and*

1

23-15 cont'd

would fail [as] an alternative". If this is the case, why is this issue not given more attention in the EIR/EIS? This effect should be analyzed in more detail before indicating a Setback Levee is an acceptable Preferred Alternative.

23-16

Page No. ES-13 Line 25. It is stated that current and planned future land use in the area of the proposed levee implementation should be taken into consideration. Seecon has an approved Project (Newport Estates) and has already installed significant amounts of infrastructure to serve our property adjacent to the existing levee. It is also stated that *"alternatives should be evaluated with consideration of the degree to which they disrupt or interfere with such land uses"*. While we have on many occasions expressed our concerns about the effect of the Setback Levee on our approved and planned Project in Segment F, they have clearly not been considered or evaluated by WSAFCA or in this EIS/EIR.

23-17

Page No. ES-13 Line 32. The Setback Levee Alternatives 2 and 5 will have onerous environmental effects on Segment F when compared to the Adjacent Levee Alternatives 1, 3 and 4. A significant amount of Swainson's Hawk Habitat will unnecessarily be destroyed and the scale of the Setback Levees will have the largest impact on Air Quality. These impacts will be greatly lessened with the implementation of Adjacent Levee Alternatives 1, 3 and 4.

1

Page No. ES-13 Line 42. The cost of the five Alternatives has not been considered by WSAFCA in selecting the Preferred Alternative 5 Setback Levee. It is the most expensive Alternative, requiring more earthwork (imported fill and on site excavation of the Offset Area), **unnecessarily** condemning far more private property, having more environmental impact, and resulting in an **unnecessary** waste of local, State and Federal public funds. Furthermore, the ongoing operation and maintenance costs will be higher to account for vector and mosquito control and the patrolling of a remote Offset Area which would be screened from public view.

23-18

Page No. ES-14 Lines 20-24. Please demonstrate why Alternative 5 is the *"environmentally superior alternative"* and is the *"least impactful"*. Alternative 5 will require far more **unnecessary** real estate acquisition, changes in approved Land Uses, have the largest impact on Air Quality, and destroy more existing habitat than Alternatives 1, 3 or 4.

23-19

Page No. ES-15 Table ES-4. Please explain why with Alternative 1 (Adjacent Levee) there is a slurry cutoff wall with an adjacent levee in Segments A, B, D, E and G, but not in Segment F. We were told during discussions with WSAFCA Staff and its Consultants that a shallow slurry cutoff wall would significantly reduce the width of the seepage berm and therefore take even less private property.

23-20

1

Page No. ES-17 Line 7. It is indicated that Alternative 2 (Setback Levee) will require the importation of 2.4 million cubic yards of fill. There is no indication, however, of the amount of on-site excavation of soil in the Offset Area which will be used as a fill for the Setback Levee **in addition to** the imported fill. This EIS/EIR fails to address this issue. This is a significant consideration in terms of Air Quality. The large diesel equipment which would be used to excavate this material **in addition to** importing and placing material from off site will result in dust and emissions which must be reanalyzed in the EIS/EIR.

23-21

The amount of excavation from the Offset Area has been omitted from the EIS/EIR and has not been disclosed in the Executive Summary when comparing the impacts of the Alternatives. This is a fundamental flaw and the EIS/EIR should be revised to include this analysis and be recirculated.

Page No. ES-19 Line 20. The habitat which would be created in the Setback Levee Offset Area with Alternatives 2 and 5 is far in excess of what is needed to mitigate for the Southport EIP Environmental Impacts. It is clear to us that WSAFCA is intending to create a Mitigation Bank Enterprise and to sell credits to projects outside the Southport Area of West Sacramento. This goal, which has nothing to do with the avowed purpose of the Southport EIP to provide 200-year flood protection, will result in the expenditure of more public funds to **unnecessarily** take more private land than needed to thereby **unnecessarily** harming private property owners. Furthermore, the action of WSAFCA to

23-22

1

23-22 cont'd

create and implement such a Mitigation Bank is beyond the powers of WSAFCA under its Joint Powers Agreement as more fully discussed in the letter to the WSAFCA President and Members of the Board dated April 11, 2013 which is included in Attachment A. Therefore, all references to a Mitigation Bank should be removed from the EIS/EIR.

23-23

Page No. ES-20 Table ES-6. Please explain why with Alternative 3 (Slope Flattening) there is a slurry cutoff wall in Segments A, B, D, E and G, but not in Segment F. We were told during discussions with WSAFCA Staff and its Consultants that a shallow slurry cutoff wall would significantly reduce the width of the seepage berm and therefore take even less private property.

23-24

Page No. ES-21 Table ES-7. Please explain why with Alternative 4 (Reduced Length Setback Levee) there is an adjacent levee with a slurry cutoff wall in Segments A, B and G, but not in Segment F. We were told during discussions with WSAFCA Staff and its Consultants that a shallow slurry cutoff wall would significantly reduce the width of the seepage berm and therefore take even less private property.

23-25

Page No. ES-28. Effects Summary Table (General). The five Project Alternatives in most cases are lumped together leading the reader to assume they have the same impacts or effects. The

1

23-25 cont'd

EIS/EIR should analyze and note if the various Alternatives will have different degrees of effect and therefore require different levels of mitigation.

Page No. ES-33 AIR-2. The degree to which each Alternative will affect Air Quality should be clarified. While they may all exceed Air Quality standards, it should be clear that some Alternatives significantly exceed others and thus have a greater environmental impact.

23-26

Page No. ES-34 AIR-4. Alternatives 2 and 5 require more fill import and extensive on-site excavation in the Offset Floodplain Area. The EIS/EIR should disclose that these alternatives will have greater, more adverse Air Quality impacts due to dust and exhaust emissions. The amount of those impacts should be quantified.

23-27

Page No. ES-36 VEG-1. As with other impacts, it should be clarified that Alternatives 2 and 5 will take significantly more Woody Riparian Habitat than Alternatives 1, 3 or 4. While some loss of habitat will result under all of the Levee Alternatives, a significant portion of it is avoidable by selecting Alternatives 1, 3 or 4. Furthermore, a further reduction in the loss of Woody Riparian Habitat with Alternatives 1, 3 and 4 could be achieved with the addition of a shallow slurry cutoff wall in Segment F.

23-28

Page No. ES-39 FISH-5. The Alternatives with setback levees will create an Offset Area which will strand fish within it when high waters in the river recede. That is not the case with the

23-29

1

23-29 cont'd

Adjacent Levees in Segment F with Alternatives 1, 3 or 4. Please demonstrate how this impact will be *"minimized"* with a grading and drainage plan so that it will be less than significant.

23-30

Page No. ES-41 WILD-4. It should be noted that here will be a loss of Swainson's Hawk foraging and nesting habitat which will be much more significant with the Setback Levee in Segment F under Alternatives 2 and 5.

23-31

Page No. ES-43 LU-2. The conflicts with local Land Use Designations are much more significant in Segment F with Alternatives 2 and 5. These conflicts are largely avoidable and will be significantly reduced with the implementation of Alternatives 1, 3 or 4. Furthermore, a further reduction in the conflicts with local Land Use Designations with Alternatives 1, 3 and 4 could be achieved with the addition of a shallow slurry cutoff wall in Segment F. This has not been analyzed or taken into account.

23-32

Page No. 1–2 Lines 32-41 indicate that NEPA specifies that an EIS must *"consider the effects of the proposed action and alternatives on . . . economic, social and health effects and conflicts with local land use plans."* Furthermore, the EIS must identify alternatives that could *"avoid, minimize, reduce or eliminate the project's environmental effects."* The EIS does not address the economic, social and health effects of the proposed Alternatives. Setback Levee Alternatives 2 and 5 require the **unnecessary** taking of excessive amounts

1
2
3

23-32 cont'd

of land which is in conflict with the Local Land Use Plans for residential and riverfront mixed use development in Segment F. Alternatives 2 and 5 also have unnecessary health effects due to their impact on Air Quality caused by the excessive amounts of mass grading they would require when compared to Alternatives 1, 3 or 4. These differences should be identified as required by NEPA thereby identifying the Alternatives which will avoid, minimize, reduce or eliminate the environmental effects

23-33

Page No. 1–3 Lines 20-25. Alternatives 2 and 5 are in conflict with the City of West Sacramento's Southport Framework Plan and General Plan for Segment F. It should be clearly indicated that these effects and conflicts can be avoided, minimized and reduced if Alternative 3 or 4 is selected.

23-34

Page No. 1–7 Lines 26-35. The primary purpose of the Southport EIP is to provide 200-year level flood protection. It should be clearly indicated that Alternatives 2 and 5 have much larger and **unnecessary** environmental impacts in terms of economic, social and health effects, as well as conflicts with the City's Land Use Plans in Segment F.

23-35

Page No. 1–31 Lines 4-7. The EIS/EIR does not identify issues of known controversy which have been raised by Seecon throughout the development of the Project here. We have provided numerous written (see Attachment A) and oral comments which have been ignored. The

1

23-35 cont'd

concerns we have raised should be addressed and taken into account in the EIS/EIR analysis.

All of the letters in the attached Exhibit A are hereby incorporated into our comments on this EIS/EIR and they should be adequately responded to.

23-36

Page No. 2–19 Line 5. It should be clarified that Alternative 2 will require significantly more earthwork than the 2.4 million cubic yards of import. The amount of dirt generated by the **excavation** of the Offset Floodplain Area should be disclosed and quantified and the dust and emissions generated during the movement, placement and compaction of that dirt should be included in the Air Quality analysis.

Page No. 2–31 Line 6. The same comments as those for Alternative 2 on page **2–19** above apply to the omitted additional earthwork required for Alternative 5.

23-37

Page No. 2–67 Section 2.4.21. It should be noted that the risk of mosquito breeding is of concern **only** with the Alternative Setback Levees in the Offset Area. This will involve a significant health issue and will result in increased cost to the public to monitor and apply pesticides on a permanent basis. Segment F will have many homes adjacent to the Levee and therefore the selection of Alternatives 1, 3 or 4 will eliminate the risk of mosquitos near homes in Segment F.

1

Page No. 3.1–33 Lines 7 and 8. It is indicated that the Setback Levee Alternatives will cause increases in the river water level at the levees on the east side of the Sacramento River in the Pocket Area. This impact has not been fully analyzed and should be since the east levee may not be improved prior to the completion of the Southport EIP.

23-38

Page No. 3.5–1 Section 3.5. The EIS/EIR should include a comparison of the relative Air Quality impacts of the five Alternatives. While the impacts are listed as significant and unavoidable for each alternative, it should be clarified that Alternatives 1, 3 and 4 will avoid a portion of the Air Quality impacts related to Alternatives 2 and 5 which will generate more dust and emissions due to their larger footprint and the amount of earthwork required, especially since the excavation for the Offset Area has been omitted from the Executive Summary.

23-39

Page No. 3.11–2 Lines 19–36. There should be a discussion and analysis of the existing Southport Framework Plan Land Uses and approved Vesting Tentative Maps in the Northeast Village. Setback Levee Alternatives 2 and 5 in Segment F will **unnecessarily** eliminate a significant amount of planned residential and riverfront mixed use development for which oversized infrastructure (roads, storm drains, and sewer and water transmission mains) has been constructed for the Newport Estates Project. In addition, Alternatives 2

23-40

1

23-40 cont'd

and 5 would **unnecessarily** eliminate lots on the existing, approved Vesting Tentative Map for the Newport Estates Project.

23-41

Page No. 3.11–10 Table 3- LU-2. The conflicts with Local Land Use Designations in Alternative 2 are not unavoidable in Segment F and may be greatly reduced if Alternatives 1, 3 or 4 are selected rather than Alternative 2. This EIS/EIR fails to address this issue.

23-42

Page No. 3.11–10 LU-2. It should also be added that Alternative 2 would eliminate a significant amount of residential and riverfront mixed use land in Segment F designated in the current Southport Framework Plan. This is not unavoidable because the amount of land which would be eliminated from development can be greatly reduced with the selection of Alternative 1, 3 or 4. Furthermore, a further reduction in the amount of land eliminated from development with Alternatives 1, 3 and 4 could be achieved with the addition of a shallow slurry cutoff wall in Segment F. This EIS/EIR fails to address this issue.

23-43

Page No. 3.11–13 Table 3.11–7 LU-2. The conflicts with Local Land Use Designations in Alternative 5 are not unavoidable in Segment F and may be greatly reduced if Alternatives 1, 3 or 4 are selected rather than Alternative 5. Furthermore, a further reduction in the conflicts with local Land Use Designations with Alternatives 1, 3 and 4 could be achieved with the addition of a shallow slurry cutoff wall in Segment F. This EIS/EIR fails to address this issue.

1

Page No. 3.11–14 LU-2. It should also be added that Alternative 5 would eliminate a significant amount of residential and riverfront mixed use land in Segment F designated in the current Southport Framework Plan. This would not be unavoidable because the amount of land thereby eliminated from development could be greatly reduced with the selection of Alternative 1, 3 or 4. Furthermore, a further reduction in the conflicts with local Land Use Designations with Alternatives 1, 3 and 4 could be achieved with the addition of a shallow slurry cutoff wall in Segment F.

23-44

Page No. 4–7 Step 6 Lines 35 – 36. It should be clearly explained how and why Alternative 5, the Applicant Preferred Alternative, has been demonstrated to be the *"most practicable"* Alternative. Alternative 5 will require the greatest expenditure of public funds, have the most environmental impact, **unnecessarily** take the most private property, and have the most conflict with existing and planned Land Uses. Alternative 5 would be the most damaging and unnecessary Alternative. Alternatives 1, 3 and 4 will have far less impact while meeting the primary goal of providing 200-year flood protection for the Southport Area.

23-45

23-46 The Southport project, no matter how it is finally designed and implemented, will have significant adverse impacts upon private property. The currently designed Applicant Preferred Alternative for flood control improvements on the Seecon property is a setback levee with

1

23-46 cont'd seepage berm. This alternative is the **most** destructive of private property and is the Alternative with the most unnecessarily large take of private property.

23-47 WSAFCA consultants originally advocated an adjacent levee as the preferred alternative. Seecon submitted to WSAFCA and its Board numerous materials advocating the use of the adjacent levee alternative on the Seecon property. This would greatly reduce the amount of private property required for acquisition and would vastly reduce the amount of borrow materials required. The implementation of the adjacent levee alternative would also significantly lessen the amount of environmental damage. Alternative 5 does not qualify to be the preferred Alternative.

We appreciate this opportunity to comment on the EIS/EIR for the Southport EIP which will have a significant impact on property we have owned and been developing for a number of years. We fully support the effort to improve the flood protection in the area, but only with the impacts to private property and the environment which are truly **necessary**. We look forward to the responses to our comments and questions.

23-48 In view of the significant comments raised by our letter and its attachment and the substantial missing information, the EIR/EIS should be amended and recirculated before any other action is taken.

1
2

Sincerely,

Jeanne C. Pavao
General Counsel

cc: Bill Wendt, Miller Starr & Regalia

Enclosures – Attachment A

JCP:ldj

1

ATTACHMENT A

1

SEECON FINANCIAL & CONSTRUCTION CO., INC.
4021 Port Chicago Highway, P.O. Box 4113, Concord, CA 94524-4113
(925) 671-7711 Fax (925) 689-5979

October 18, 2013

Colonel Michael Farrell, Commander
U.S. Army Corps of Engineers
Sacramento District
1325 J Street
Sacramento, CA 95814

Subject: **Southport Levee Improvement Project, West Sacramento Area Flood Control Agency ("WSAFCA")**

Dear Colonel Farrell:

The Central Valley Flood Protection Board (CVFPB) recently sent you a letter requesting permission under U.S. Code Title 33, Section 408, to proceed with WSAFCA's proposed Southport Sacramento River Early Implementation Project (Southport Levee Project). Seecon is the owner of property in the Southport area of West Sacramento which includes a substantial frontage along the Sacramento River Levee, which is proposed to be modified as part of the Southport Levee Project.

The proposed Project includes deficiencies as we have consistently described to both the WSAFCA and the pertinent regulatory permitting agencies. We want you to be aware of our concerns with WSAFCA's proposed Southport Levee Project as described in the attached letters from our legal counsel. As set forth therein, there are clear problems with the U.S. Army Corps of Engineers processing the Permit for this Project prior to the identification and analysis of all the environmental impacts associated with the Project. In addition, the Project is ill-defined and has been constantly changing, therefore creating uncertainty as to what WSAFCA's ultimate proposal is or will be for the Project.

The Southport Levee Project is proposing a Setback Levee with a Seepage Berm (see Attachment A) which will take a significant amount of the Seecon Property which is master planned for residential development. We have for over a year been requesting a change to an Adjacent Levee with a Seepage Berm as shown on the Hybrid Plan prepared by our consultant (see Attachment B) which will take much less private property.

1

The construction of an Adjacent Levee from a flood protection risk perspective is not only much less costly and equivalent or superior to a Setback Levee, especially in an urban setting like the City of West Sacramento (Southport) where property values and revenues to the City are high when compared to County rural areas, where other levees are proposed. Another problem caused by the Setback Levee (as opposed to an Adjacent Levee) is the injurious flood effect to the public residing in the Pocket Area in the City of Sacramento. This matter requires extensive public review and a more complete evaluation of the EIP Levee Alternatives before the Corps of Engineers can evaluate the Southport Levee Project.

There are components of the Project which are beyond the authority of the WSAFCA Board, such as the creation of a Mitigation Bank Enterprise. In addition, the Project will have unnecessary impacts upon private property, such as our property which is located in Segment F of the Project, even though practicable alternatives exist which would lessen those impacts and which we have proposed on many occasions, but which WSAFCA has failed to consider.

Finally, the Project as proposed contains the most expensive alternative to the public of all the possible alternatives and will require a misuse of State and Federal funds. We have consistently advised WSAFCA that the implementation of a Setback Levee (a currently proposed preferred alternative in Segment F) will result in the loss of a significant amount of real property, impacting internal circulation and adversely affecting the long-planned development of our property.

The proposed Project constitutes the Alternative which is the most expensive and most destructive and injurious to private property with no regard for private property rights evidenced by the excessive and unnecessary taking of private property. As set forth in more detail in the attached letter from our counsel dated August 2, 2013, we have consistently encouraged and recommended that WSAFCA consider an alternative, which provides for an Adjacent Levee on a part of Segment F, resulting in the expenditure of less public funds and less injurious impact to private property.

We strongly encourage and request that the U.S. Army Corps of Engineers not to grant permission to WSAFCA to proceed with the Southport Levee Project as currently proposed. We believe it is an attempt to rush, circumvent and unduly influence the normal Corps of Engineers process in the absence of a publicly vetted and approved EIS/EIR.

1

Please let me know if you have any questions regarding our opposition to the Southport Levee Project as currently proposed.

Sincerely,

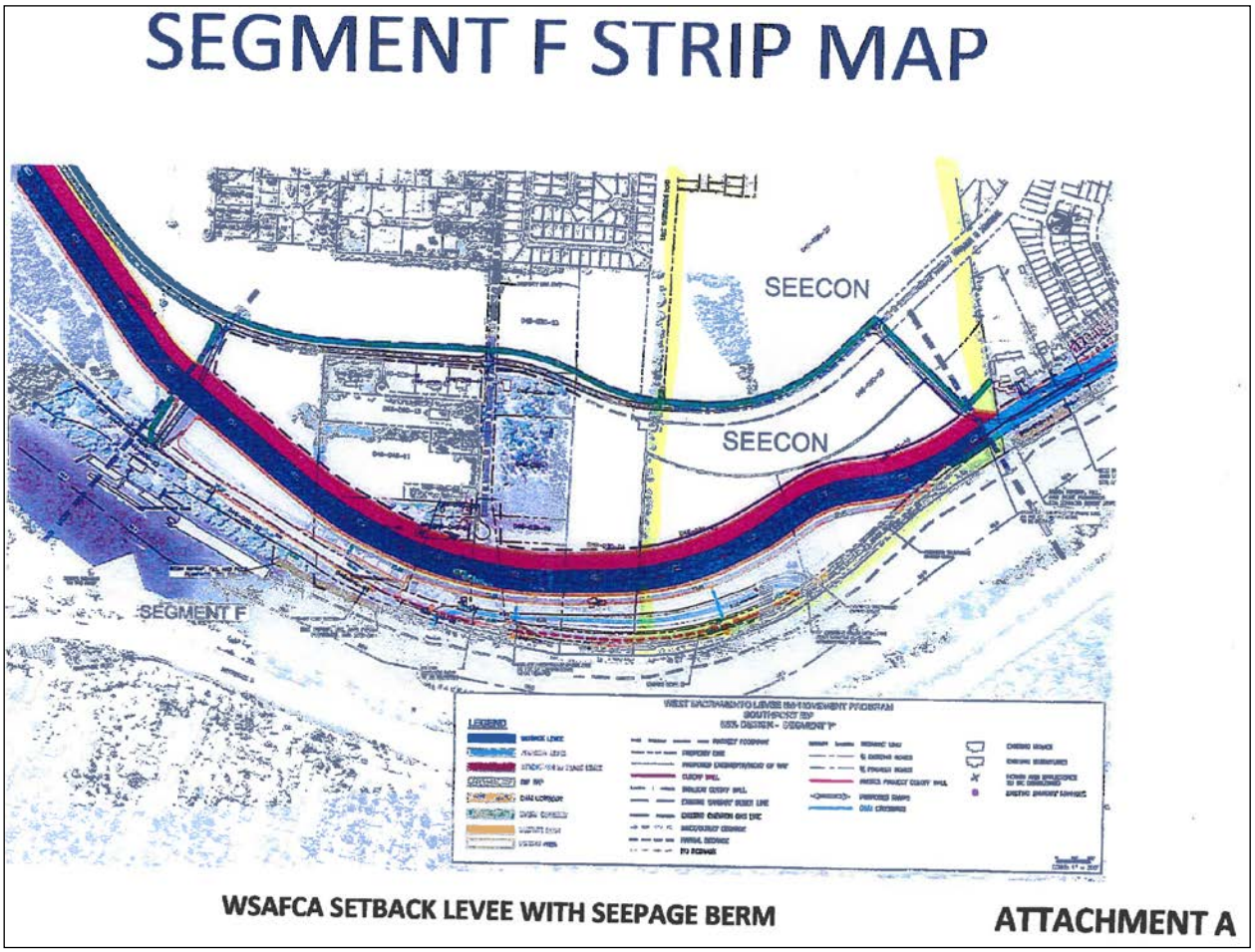
Richard D. Sestero
Project Manager

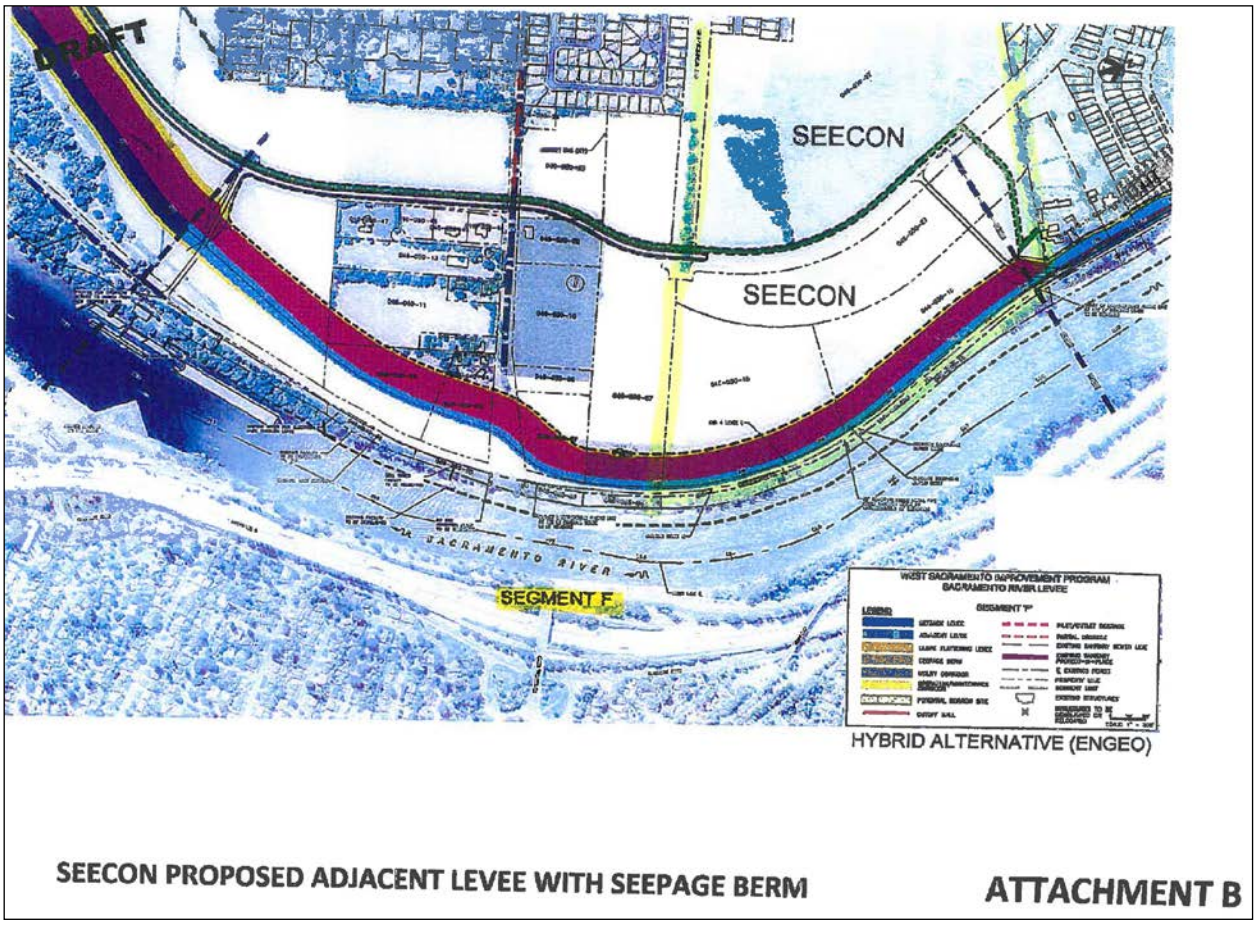
Enclosures

RDS:ldj

cc: Mr. Wilson F. Wendt, Esq.
Mr. Jay S. Punia, Executive Officer, CVFPB

1


SEGMENT F STRIP MAP
SEECON
SEECON
SEGMENT F
WSAFCA SETBACK LEVEE WITH SEEPAGE BERM
ATTACHMENT A


DRAFT
SEECON
SEECON
SACRAMENTO RIVER
SEGMENT F
WEST SACRAMENTO IMPROVEMENT PROGRAM
SACRAMENTO RIVER LEVEE
SEGMENT 'F'
LEGEND
HYBRID ALTERNATIVE (ENGEO)
SEECON PROPOSED ADJACENT LEVEE WITH SEEPAGE BERM
ATTACHMENT B

MILLER STARR REGALIA

1331 N. California Blvd.
Fifth Floor
Walnut Creek, CA 94596

T 925 935 9400
F 925 933 4126
www.msrlegal.com

Wilson F. Wendt
wilson.wendt@msrlegal.com

May 17, 2013

VIA EMAIL AND FEDERAL EXPRESS

Marc Fugler, Project Manager
U. S. Army Corps of Engineers, Sacramento District
1325 J Street, Room 1350
Sacramento, CA 95814

Re: Seecon Financial and Construction Co., Inc.; Comments on Public Notice SPK-2012-00462, West Sacramento Area Flood Control Agency ("WSAFCA") Permit Application to Construct Southport Early Implementation Project ("Southport EIP")

Dear Mr. Fugler:

Miller Starr Regalia represents Seecon Financial and Construction Co., Inc. ("Seecon") in its ownership and operation of property that would be affected by the Southport Early Implementation Project ("Southport EIP"). We are in receipt of the U.S. Army Corps of Engineer's ("Corps") public notice, dated April 18, 2013 (the "Notice"), indicating the Corps is considering an application received by the West Sacramento Area Flood Control Agency ("WSAFCA") for permits under Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act ("DA Permits"). Per this Notice, the Corps has solicited public comment on WSAFCA's application for DA Permits (the "Application"). The purpose of this letter is to provide comment upon the Application, as set out herein; to urge the Corps to reject the Application and refuse to issue the DA Permits; and to request a public hearing in the consideration of the Application, as more particularly set out in Section VII below.

I. INTRODUCTION:

Seecon has significant concerns about the Southport EIP, and has been expressing those concerns and discussing possible alternatives with WSAFCA for more a year. Despite enormous efforts on Seecon's part, WSAFCA has conducted an opaque and less-than-transparent processing of the entitlements required for the Southport EIP. The project as considered is an amorphous, kaleidoscopic mixture of elements, impacts, and effects that change and evolve from stage to stage. In February, 2012, WSAFCA staff had opted for and recommended an Adjacent Levee

1

with seepage berm as the preferred alternative for flood control improvements in Segment F, the segment of the Southport EIP in the Seecon property is located. Later, the preferred alternative for Segment F continued to change to a Setback Levee with seepage berm. Seecon retained geotechnical consultants who have provided numerous communications and reports justifying and establishing the Adjacent Levee with seepage berm and, perhaps, a partially penetrating cutoff wall, as the alternative that would be most effective, and have the least detrimental impact upon private property. We have met with WSAFCA consultants and officials on a number of occasions, and the response we have received is that the design and implementation of the project remains uncertain and will not be decided upon until sometime in the future.

In spring, 2012, we pointed out to the WSAFCA Board that their estimate of necessary borrow material needed to construct the Southport EIP with the Setback Levee alternative in the majority of the segments of the reach was substantially and shockingly understated. WSAFCA denied that claim for a variety of reasons, and maintained that dredging in the area between the existing levee and the Setback Levees and other properties would produce sufficient borrow materials to justify their estimates. Finally, in March, 2013, WSAFCA acknowledged that they would need additional sources of borrow material and the Corps, which is the federal lead agency under NEPA, and WSAFCA, the lead agency under CEQA, issued a Supplemental Notice of Preparation of an Environmental Impact Statement/Environmental Impact Report for the Southport EIP, solely and primarily to address the impacts on an expanded study area to include additional soil borrow sites that may be employed to provide borrow material necessary to construct the Southport EIP. Again, the project has morphed and changed itself into a form and format not anticipated or described in any of the prior EIS/EIR materials and will continue changing once the EIS/EIR public review process starts.

The permits cannot legally and should not be issued for a variety of reasons. First and foremost, the heart of any permitting process is an accurate and complete description of all of the elements that constitute the project. WSAFCA has never provided that, and our analysis of the Application filed with the Corps and dated January 25, 2013 is that it is woefully insufficient to define the confines of the actual Southport EIP. There is no project currently because it keeps changing.

In addition to the fact that the extent and details of the Southport EIP have never been accurately defined, we feel that the Corps must deny the Application for a number of reasons, including the following, and we will submit additional comment and materials if the Corps processing progresses.

- Aside from the fact that WSAFCA has failed to articulate a clear project description, it does not have the legal authority to construct certain components of the Southport EIP that may be referenced in the Application.

1

- WSAFCA's proposal would unnecessarily, and to a much greater extent than required, impact private property interests in violation of both section 404(b)(1) guidelines for specification of disposal sites and applicable eminent domain law. The overarching policy of the Corps, as stated in the Notice, is Avoidance and Minimization of impacts, both upon environmental resources and private property. This project, as currently proposed, maximizes those impacts beyond what is necessary for flood control. We suspect, as set out below, that the real motivation is the creation of the Mitigation Bank Enterprise, an activity which WSAFCA has no authority to undertake.

- There exists preferable alternatives to the Southport EIP, as proposed, that would minimize and avoid impacts on private property in a natural environment that are not contemplated nor analyzed in the Application for the DA permits.

- The Southport EIP would have potentially significant and irreversible impacts on environmental resources, including on the affected aquatic environment and related secondary and cumulative effects. While some sort of flood control improvements are uncontestedly necessary, WSAFCA has not designed its proposal in such a way as to avoid and minimize impacts of private property and the natural environment.

The deficiencies in the Application aside, the Corps' Notice of evaluation of the Application to construct the Southport EIP is deficient and must be revised, corrected and resent pursuant to the discussion set forth below.

II. **COMMENTS UPON APPLICATION:**

We have carefully reviewed the Application executed by WSAFCA on January 25, 2013 and find a number of discrepancies, inconsistencies, omissions and questions relating to its contents that must be clarified and addressed before any further processing should continue:

1. On page 7 in the discussion of the Setback Levee, it is stated that a Setback Levee addresses a number of deficiencies including erosion. There are no erosion concerns relative to that portion of Segment F in which the Seecon property is located. Table CMA-1-EXHIBIT C-3 dated May 2011, attached to WSAFCA's consultant memorandum clearly shows that there are no issues relating to erosion that would dictate or make more desirable the selection of the Setback Levee affecting the Seecon property.

2. On page 2, in Table 2, which addresses the Setback Levee in the discussion of site restoration and demobilization it is stated that pieces of equipment will be necessary once construction and implementation of the

SEEC\49924\902454.5

1

Setback Levee alternative is undertaken. None of this equipment will be effective for use in the area between the existing levee and the Setback Levee once the excavation to provide sufficient borrow material to construct the Setback Levee proceeds. That area is at an elevation such that excavation gets into very wet soil and will go below the water table and additional equipment such as a drag line or similar method of excavation will be required. This equipment tends to be larger, more cumbersome equipment and the environmental impacts and effects of this equipment is much more severe. Despite that, no mention is made in the application nor in any of the other materials surrounding the Southport EIP indicating that this type of equipment will be used.

3. On page 8 the section discussing impacts to the waters of the U.S., it is stated that construction of the Setback Levee would result in the fill of several ditches, which could constitute potential wetlands, within the project area and that portions of irrigation ditches within the offset area would be cut off from the rest of the ditch system on the land side of the new Setback Levee. These ditches would be considered permanently impacted as described elsewhere in the application. This statement is in direct conflict with the statement in the Corps notice on page 2 which states that "there are no impacts to wetlands." It appears these ditches could constitute wetlands and their filling and other impacts are obviously something which must be permitted, accounted for and mitigated.

4. On page 24 of the Application, there is a statement that "if temporary fill material is discharged to drainages to create the crossing, it would be removed entirely and immediately following completion of the project. The contemporarily affected drainage would be restored to pre-project contours and function." This statement is contained in the discussion of borrow material excavation and the implication is that if there is a fill involved it would be a "temporary fill" and need not be permitted. This is obviously not the case. Any fill, whether temporary or permanent, must be identified and be the subject of the application and fully permitted, with appropriate mitigations.

5. Table 11 on page 26 sets out an inconsistency which is contained throughout the Application, and must be explained before any further action can be taken by the Corps. The Permanent Impact Area in acres is stated to be 25.6 acres in the application but is stated in the Corps Notice to be 37.6 acres. This is a major difference and the reason for this difference must be spelled out both in and amended Application and amended Corps Notice and subject to the "avoidance and minimization" standard.

6. Box 23 on page 27 is headed with the overarching keystone of Corps review for these types of projects: avoidance, minimization and compensation. As to avoidance and minimization, it is stated that the Southport EIP has been designed to avoid and minimize impacts to the maximum extent practicable, while still meeting WSAFCA's need for flood protection not only is this

1

statement untrue but the facts of the matter are precisely opposite. The Southport EIP is proposing to utilize the Setback Levee alternative in the vast majority of the approximate 5.6 miles of the Southport EIP. This is not necessary for flood control purposes, but is necessary in order to allow the implementation and imposition of a Mitigation Bank Enterprise that will create 120 acres of mitigation and mitigation credits when only less than one-half of these acres will be necessary for the Southport EIP. The additional mitigation credits will be used by WSAFCA to enhance their funding position with the State of California by selling those credits to the State to use as mitigation for impacts of projects constructed up and down California, having no remote connection to the Southport EIP. The impacts of a Mitigation Bank Enterprise are being foisted upon the backs of Southport area property owners when a much less damaging flood control alternative will suffice.

7. The discussion on page 29 of the frac-out plan is troublesome, and makes clear that the Application and its resulting impacts have been described in a less-than-complete manner. The construction of the Southport EIP will include the use of bentonite slurry, a pressurized fluid used to assist in excavation. This section of the Application blithely states that before excavation begins, WSAFCA will ensure that the contractor prepares and implements a Bentonite Slurry Spill Consistency Plan. This is insufficient. The use of bentonite is a hazardous and dangerous element of construction to the environment, and the plan should be formulated now and made a part of the Application so that its consistency and sufficiency can be analyzed by the Corps and by commentators. The very general bullet points included as things that will be required "at a minimum" are insufficient to indicate what kinds of hazards and impacts to wildlife and private property may result. The Corps should reject the Application because the Bentonite Slurry Spill Contingency Plan has not been prepared.

8. On page 34, in a discussion of mitigation, the statement is made that the Southport EIP has been designed to avoid and minimize impacts to waters of the United States where practicable. Again, that such a statement could even be made in the Application is astonishing, troublesome and evidence of the amazing lack of transparency in this entire process. The Southport EIP, because of the enormous additional setback area necessary to implement the Mitigation Bank Enterprise, will take more than twice as much private property as would be required if a real effort at avoidance and minimization were followed as required of the Corps in the Code of Federal Regulations.

9. There is discussion on page 35 of the so-called "offset area design". This is apparently a veiled reference to the Mitigation Bank Enterprise, but nowhere in this section is it made clear this "draft restoration plan," which is being developed and will be submitted to the Corps upon completion, applies to the Mitigation Bank Enterprise by which impacts of not just this project, but enumerable other state projects throughout the state with no connection to Southport, will be mitigated. It is stated that approximately 120 acres of habitat

1
2

flood plain will be restored or enhanced as a part of the project implementation. It is not stated that only less than one-half acres will be necessary to mitigate impacts of the project with the balance being sold for the use as mitigation by others in other projects. The discussion goes on to say that design of the "restoration project" (ostensibly the Mitigation Bank Enterprise) will be initiated once the Southport EIP 65% design and the public review period for the EIS/EIR are underway. This is an example of "piece-mealing" of the project in its worst form. If permits are to be sought for a Mitigation Bank Enterprise, then the application must include a description of how, where and in what manner that bank will be designed, implemented, operated and maintained. To put off a review of those permits and delay the environmental analysis of the implementation of the Mitigation Bank Enterprise is counter to the requirements of the Clean Water Act, NEPA and CEQA. No further action should be taken on this application until the method by which the Mitigation Bank Enterprise is to be constructed and effected has been detailed and made a part of this Application.

10. Page 39 of the Application contains Box 26, which states that applications to the California Department of Fish and Wildlife and to the Central Valley Regional Water Quality Control Board will be filed after EIS/EIR completion. This is the requirement imposed by the state agencies on filing of applications for permits and it is one which should be adopted by the Corps. There is no reason that an application should be entertained until the EIS/EIR is complete and the true extent of the construction project is defined.

III. THE DESCRIPTION OF THE SOUTHPORT EIP IS INCONSISTENT AND INCOMPLETE, AND WSAFCA DOES NOT HAVE AUTHORITY TO DEVELOP CERTAIN COMPONENTS OF THE PROPOSED PROJECT.

The Corps must deny the Application because of WSAFCA's watery project description and because WSAFCA does not have the legal authority to apply for or construct some of the Southport EIP components the Application contemplates.

A. An essential element of the Southport EIP appears to be the entitlement and construction of a "Mitigation Bank Enterprise" in the resulting river setback area to provide mitigation credits for other State of California projects totally unrelated to Southport; however, this is never directly mentioned and discussed in the Application.

As discussed above in Section II, an essential element in the Corps' permitting process is the provision of an accurate and complete description of the project under review. The permitting of mitigation banks raises a wide range of issues and problems not addressed in the Application. The project description should be

SEEC\49924\902454.5

1

modified to accurately set out all elements of the Mitigation Bank Enterprise, and its impacts should be fully and carefully analyzed.

Though WSAFCA's Application with the Corps does not reference it, there is clear evidence that the agency intends to develop a large Mitigation Bank Enterprise as part of the Southport EIP. On January 7, 2013, WSAFCA staff submitted an application to the California Department of Water Resource ("DWR") for the West Sacramento Floodplain Mitigation Bank Work Plan. The proposal sought funding from DWR in the amount of $5,000,000 to facilitate the planning and creation of 120 acres of riparian floodplain and endangered species conservation credits, with the potential to create 21,000 linear feet of restored and enhanced shaded riverine aquatic (SRA)/channel margin habitat. WSAFCA explicitly indicated that WSAFCA "would partially utilize the Bank to fulfill mitigation" associated with implementation of the Southport EIP, and that "substantial credits will remain for use by the State to mitigate for future project impacts resulting from implementation of the Central Valley Flood Protection Plan (CVFPP)."

WSAFCA intends to create the habitat supporting this Mitigation Bank Enterprise by breaching the existing levee at various points, and allowing waters to settle between the existing levee along the Sacramento River and the proposed, inland Setback Levee. (*See* Application, p. 21 [acknowledging breach would allow flows into "offset areas," but not clearly disclosing purpose].) Allusions to this activity in the Application are oblique, but exist. For instance, the Application indicates "[a]pproximately 120 acres of habitat [sic] floodplain habitat and 21,000 linear feet of SRA habitat will be restored or enhanced as part of the project implementation. The required portions of these acres of riparian habitat and SRA habitat will be used as project mitigation." (Application, p. 35.) The Application fails to make clear that substantial credits would be available for sale to and/or use by projects throughout the state. The Application also states that "offset area design" will provide "compensatory mitigation credits for impacts to protected land cover types and to special-status species and potential habitat for these species," but again fails to disclose that these credits will be available for sale to and/or use by other development projects. (Application, p. 35.)

In terms of permit processing, the Corps should take into account the whole of the action being proposed, and not allow WSAFCA to artificially segment the reasonably foreseeable creation of the Mitigation Bank Enterprise from the more explicitly proposed levee restoration project. The Application is woefully deficient, and should be rejected .

B. WSAFCA has no authority to create, operate, or even apply for a Mitigation Bank Enterprise.

Notwithstanding the above, to the extent WSAFCA did intend its Application to encompass a Mitigation Bank Enterprise, or modifies the Application to more

1

explicitly contemplate this activity, WSAFCA has no authority to create a Mitigation Bank Enterprise.

1. **WSAFCA has no authority to propose a Mitigation Bank Enterprise for use by third-party developers.**

   a. **The Joint Exercise of Powers Act, insofar as it specifically addresses the authorities of WSAFCA, do not permit the creation or operation of a Mitigation Bank Enterprise.**

Any action by WSAFCA to create and implement a Mitigation Bank Enterprise, including the filing of an application for a federal permit, is beyond the power of the agency under the Joint Powers Agreement that created this agency.

The authority of WSAFCA is set forth in California Government Code section 6523, a provision of the Joint Exercise of Powers Act (Gov. Code § 6500 et seq.) Section 6523 grants the agency (1) the "authority to accomplish the purposes and projects necessary to achieve and maintain at least a 200-year level of flood protection" on the Sacramento River for the City of West Sacramento; (2) the ability to "exercise the authority granted to reclamation districts under Part 7 … and Part 8 … of Division 15 of the Water Code for the purposes of Sections 12670.2, 12670.3, and 12760.4 of the Water Code," which essentially involves the financing of a certain and different federal project using assessments and bonds; and (3) the power to create indebtedness and levy assessments to repay that indebtedness in order to finance the same federal project. In essence, three authorities are enumerated under section 6523, none of which authorize the construction or authorization of a Mitigation Bank.

First, section 6523 empowers WSAFCA to "accomplish the purposes and projects *necessary* to achieve and maintain at least a 200-year level of flood protection" for the benefit of the City of West Sacramento. (Emph. added.) Such an authorization should be construed narrowly. In *Beckwith v. County of Stanislaus* (1959) 175 Cal.App.2d 40, 49, the third district court of appeal — the appellate court setting precedential law over the jurisdictions within which WSAFCA operates — held that, in exercising functions under the Joint Exercise of Powers Act, an agency "must be directly concerned with the work to be performed." (*See also* 83 Ops.Cal.Atty.Gen. 82.) Neither the construction nor operation of a Mitigation Bank Enterprise is "directly concerned" with the provision of 200-year flood protection, much less "necessary" for the achievement and maintenance of such protection. After all, the creation and maintenance of a mitigation bank easily can, and usually does, function independently of the construction and operation of levees and other methods of flood control.

SEEC\49924\902454.5

1

The second power conferred by section 6523, which contemplates certain activities performed by reclamation districts, is more specific. That is, this statute empowers WSAFCA to levy assessments and issue bonds for purposes of implementing a flood protection project specifically contemplated under section 101(4) of the Water Resources Development Act of 1992. (Water Code §§ 12670.2, 12670.3, 12670.4, 51200 et seq., 52100 et seq.; *see* Pub. Law 102-580) Aside from the fact that the construction and operation of a Mitigation Bank Enterprise qualifies as neither the levy of an assessment nor the issuance of a bond, we have reviewed engineering reports prepared for the aforementioned federal flood protection project, and these documents do not contemplate a Mitigation Bank Component.

The third authority conferred by section 6523 involves the right of WSAFCA to "create indebtedness and thereafter continue to levy special assessments to repay that indebtedness" in order to finance the aforementioned federal flood protection project, pursuant to the Improvement Act of 1911 and the Municipal Improvement Act of 1913. This authority, insofar as it contemplates the implementation of a federal project that does not include a mitigation bank and, insofar as it contemplates the accrual of debt to finance this project, is irrelevant.

WSAFCA does not possess the authority to create habitat and sell or otherwise transfer mitigation credits pursuant to section 6523. In fact, given the statute specifically enumerates certain financing mechanisms for implementing specific flood control projects, section 6523 would appear to expressly preclude WSAFCA from engaging in other financing schemes.

b. Joint Exercise of Powers Agreement forming WSAFCA does not authorize it to create or operate a Mitigation Bank Enterprise.

Even assuming that the authorities of section 6523 are not inclusive, and that WSAFCA has authorities in addition to those enumerated in that statute, the law would prohibit WSAFCA from undertaking a Mitigation Bank Enterprise.

With regard to joint power authorities in general, such an agency "shall possess the common power specified in the agreement [forming it] and may exercise it in the manner or according to the method provided in the agreement." (Government Code section 6508.) The agreement creating WSAFCA, the "West Sacramento Flood Control Agency Joint Exercise of Powers Agreement" dated July 20, 1994 ("JPA"), recognizes only that the parties to the WSAFCA have the power to "acquire and construct Works for the purpose of controlling and conserving waters for the protection of life and property that would or could be damaged by being inundated by still or flowing water." (JPA, p. 1.) The term "Works" specifically is defined to mean "dams, water courses, drainage channels, conduits, ditches, canals, pumping plants, levees, buildings, and other structures" used to control floodwaters. (JPA,

1

p.3) In discussing the power of WSAFCA to implement projects, the agreement specifies the "Agency's Projects are intended to consist of developing, designing, acquiring, and constructing Works and Facilities[1] as well as funding (including local cost shares of federal projects) of the same, required to attain interim 100-year and at least 200-year ultimate flood protection." (JPA, p. 9.)

In summary, the JPA only authorizes WSAFCA to develop flood protection projects that are "required" to attain "at least 200-year ultimate flood protection," reflecting the narrow scope of section 6523. A Mitigation Bank Enterprise is by no means a prerequisite to implementing a flood protection project, and thus its development lies outside the jurisdiction of WSAFCA.

c. WSAFCA's constituent members are not authorized to create or operate a Mitigation Bank Enterprise, precluding WSAFCA from doing so.

Regardless of what the JPA says, WSAFCA could not create or operate a Mitigation Bank Enterprise because at least some of its constituent members, including Reclamation District No. 900 and Reclamation District No. 537, do not have the authority to undertake such a project.

Pursuant to the Joint Exercise of Powers Act, if "authorized by their legislative or other government bodies, two or more public agencies by agreement may jointly exercise *any power common to the contracting parties* ...." (Gov. Code § 6508 [emph. added].) Essentially, a joint power authority may not exercise a power that all constituent members do not share.

Here, (at least) the two reclamation districts that form WSAFCA have limited authorities, where such authorities do not include the power to create or operate a Mitigation Bank Enterprise. Reclamation districts may be formed "for the reclamation of any land within any city" that is subject to overflow or incursions from the tide of inland waters. (Water Code § 50110.) In implementing any "reclamation works," state law defines this term to mean "such public works and equipment as are necessary for the unwatering, watering, or irrigation of district lands and other district operations." (Water Code § 50013.) Because the establishment and operation of a Mitigation Bank Enterprise is not "necessary" for the unwatering, watering, or irrigation of district land, a reclamation district does not have the authority to undertake that type of development project.

WSAFCA appears to have acknowledged the limitations of its authority. In its application filed with DWR, WSAFCA acknowledges that creation of the Mitigation

[1] Per the JPA, "Facilities" means "any Works financed, acquired, or constructed by the Agency." (JPA, p.3.)

1

Bank Enterprise would be at the periphery of the Agency's powers and subject to "some uncertainties and constraints."

Ultimately, the agency filed an application with the Corps without having the authority to do so or implement the project contemplated. The Application for DA Permits should thus be rejected.

C. WSAFCA does not have authority to excavate all of the borrow sites it is proposing.

Construction of Southport EIP levees will entail the movement of substantial amounts of earth and, accordingly, WSAFCA has proposed a series of borrow sites in proximity to the proposed levee footprints. Seecon has indicated the extent of its property that WSAFCA has designated as a borrow site, as designated in Figure 1 in the Notice. This proposed borrow area encroaches upon a significant amount of property within Segment F of the Southport EIP, one of the seven segments into which the project has been divided. Seecon has informed WSAFCA on numerous occasions that it will not consent to the taking of property that Seecon considers unnecessary to the implementation of flood control improvements, and further has informed WSAFCA that Seecon will not consent to sell any borrow material from the Seecon Property. WSAFCA officials have advised Seecon that they will acquire borrow materials only from willing sellers.

Given that context, Seecon is perplexed that WSAFCA's application to the Corps, and the Corps noticing documents, include approximately a third of the Seecon property as a part of the Additional Study Area. There is absolutely no potential that borrow material will be taken from the Seecon property, and any continued attempt to evaluate WSAFCA's application for DA Permits on contrary assumptions will provide no useful or meaningful information. WSAFCA having no authority to excavate from all of the borrow sites it identifies, the Application must be rejected.

D. WSAFCA does not have authority to utilize all the land it has designated for staging areas.

Though the Corps' notice does not address the location of project staging areas, it appears WSAFCA believes it has the authority to utilize portions of the Seecon property for staging areas. (*See* Application, p. 25.) Seecon has not given WSAFCA permission to use its property for such purposes and, it not being necessary to stage construction on any specific property, WSAFCA's pursuit of this activity on Seecon's land would constitute an unlawful taking of property. The Application must be rejected for this reason also.

SEEC\49824\902454.5

1

IV. THE PROPOSED ACTION WILL HAVE UNNECESSARY IMPACTS UPON PRIVATE PROPERTY; PRACTICABLE ALTERNATIVES REMAIN THAT WSAFCA HAS FAILED TO PROPOSE.

A. The proposed Southport EIP will result in the unnecessary taking of private property; the Corps should consider this impact in weighing the benefits of the project against injuries to the public interest.

The Southport EIP, no matter how it is finally designed and implemented, will have significant adverse impacts upon private property. The Corps must account for harm to the public interest in considering a permit application, and the unnecessary constitutional taking that would occur under WSAFCA's proposal should compel the Corps to reject the agency's Application.

Seecon's property is not idle land, but has been designed and planned for substantial residential development. The hatched area of Seecon's property, as indicated on Figure 1 attached to the Notice as an "potential borrow parcel," is one in which vesting tentative maps have been approved; final maps have been filed and are being processed for residential development; some residential structures have been and are continuing to be built; extensive subdivision infrastructure with capacity to allow full build-out has been constructed; and the entitlements for development are covered by an existing and valid Development Agreement. Substantial development is in progress, worth millions of dollars.

WSAFCA's proposal for development on the Seecon property, which consists of a Setback Levee with a seepage berm, is an alternative selected by WSAFCA that is the most destructive of private property, and constitutes an unnecessarily large take of private property. (*Compare* Application, p. 9 [adjacent levee graded with 3:1 landside slopes and 20' crown] *with* pp. 8 [setback levee with similar dimensions] and 11 [seepage berm as wide as 300'].) As explained in the Introduction to this letter, the proposal did not always look this way. WSAFCA consultants originally advocated for an Adjacent Levee as the preferred alternative, which would greatly reduce the amount of private property that was required for acquisition. Such an alternative is economically and technically feasible, and statements made in WSAFCA's Application for the DA Permits confirm its practicability. For instance:

- On Figure 2, attached to the Corps' public notice, adjacent levees are contemplated along Segment B and Segment F of the Southport EIP.
- In the "Project Description" segment of WSAFCA's Application, the agency lists as appropriate "flood risk-reduction measures" the following: setback levees, strengthening in place, seepage berms, slurry cutoffwalls, riprap bank stabilization, and *adjacent levees*. (Application, p. 6.) Accordingly, approximately 2,050 linear feet of adjacent levees are proposed in

1

Segment B, and approximately 2,000 feet of adjacent levees are proposed in Segment G.

- Setback and adjacent levees are both identified as having the capability to address the following flood control deficiencies: through-seepage, slope stability and geometry; erosion; noncompliant vegetation; and encroachments. (*Compare* Application pages 7 and 8-9.) That is, their efficacy is described in equal terms.

Despite the feasibility of this less intrusive alternative, it appears WSAFCA rejected use of the Adjacent Levee because it would frustrate the agency's plans to create a Mitigation Bank Enterprise on property belonging to Seecon and others — an activity that, again, is neither necessary to the achievement of 200 year flood protection, nor within the authority of WSAFCA to implement.

The Corps should reject the Application on account of these private property considerations, which the Corps must consider as it balances the merits of the project against reasonably foreseeable detriment to the "public interest," pursuant to 33 CFR § 320.4. Criteria that influence the Corps' decisions include "property ownership" and the "needs and welfare of people." (33 CFR § 320.4(a)(1).)

B. WSAFCA has failed to propose an alternative that is both practicable and least damaging to private property interests and the natural environment.

The above considerations about feasibility also bear on the section 404 process and its contemplation of project alternatives. That is, the Corps may not issue a permit if there is a "practicable alternative" to the proposed discharge action. (40 CFR § 230.10(a).) This test prohibits discharge into waters of the United States if there is a practicable alternative to the proposed discharge that would have less adverse impact on the environment. (40 CFR § 230.10(a).)

First, as explained above, an Adjacent Levee with seepage berm (as opposed to the proposed Setback Levee with seepage berm) is feasible under the Clean Water Act, meaning it is "available and capable of being done after taking into consideration costs, existing technology, and logistics in light of overall project purposes." (40 CFR §§ 230.3(q), 230.10(a)(2).)

Second, the implementation of the Adjacent Levee with seepage berm alternative would significantly lessen the amount of environmental damage because (1) the footprint of an adjacent levee is smaller, and thus would entail the filling of less waters of the United States; (2) this smaller footprint would vastly reduce the amount of borrow materials required, resulting in less environmental impacts associated with the excavation and movement of earth; and (3) will greatly reduce the unnecessary taking of private property through eminent domain.

1

Another consideration that is absent from WSAFCA's Application is that creation of a Mitigation Bank Enterprise would involve breach of the existing levee, which would flood that area between the existing levee and the proposed setback levee. This activity has great potential to erode both the new levee and the inland side of the existing levee, increasing the potential for turgidity and other adverse impacts to water quality, wildlife, and other natural resources. The Southport EIP, as proposed, contemplates protective sill rock extending only 100 feet up and down river from the breach, and 100 feet into the setback area. (*See* Application, p. 21.) Meanwhile, construction of the habitat would involve extensive grading and degrading of the area (*see* Application, pp. 22, 36), and this disruption of soils in close proximity of the Sacramento River in itself poses a serious risk to the aquatic environment. By contrast, use of an Adjacent Levee that does not involve the creation of a Mitigation Bank Enterprise would prove less damaging to the existing environment or the degradation or breach of the existing levee.

While WSAFCA has represented that the Southport EIP "has been designed to avoid and minimize impacts to waters of the United States to the maximum extent practicable" (Application, pp. 2 [Box 23], 27, 34), its insistence on use of Setback Levees for the majority of segments of the levee alignment, including Segment F, as well as inclusion of a Mitigation Bank Enterprise, speak to the contrary. A practicable alternative to the proposed levee restoration exists, and the Corps cannot issue the DA Permits for the proposed action.

V. THE SOUTHPORT EIP POTENTIALLY WOULD HARM THE AQUATIC ENVIRONMENT IN SIGNIFICANT AND IRREVERSIBLE WAYS.

Under Section 404 of the Clean Water Act, a discharge of fill material into waters of the United States is prohibited where the discharge would violate water quality of toxic effluent standards; where the discharge would jeopardize the continued existence of a species; or where the discharge would cause or contribute to significant degradation of the waters of the United States. (40 CFR § 230.10.) Seecon describes below a number of probable impacts that speak to the above considerations, and constitute grounds for rejection of the Application by the Corps.

A. The construction of the Southport EIP would affect water quality and other hydrological resources in significant and irreversible ways.

The Southport EIP construction area would extend along the west bank of the Sacramento River for approximately six miles. Given the footprint of the Setback Levee and the associated setback area, the Southport EIP will involve a momentous amount of earthwork in the immediate proximity of the Sacramento River. Various borrow sites are sited within proximity of the Sacramento River Deep Water Ship Channel. Soil erosion and sedimentation can be anticipated at significant levels,

1

especially given the anticipated breach of the levee to allow creation of the Mitigation Bank Enterprise. Moreover, though the Application inexplicably indicates that the excavation of borrow material would not occur in waters of the United States (*see* Application, p. 23), any excavation occurring near area ditches has the potential to affect such waters, and indeed the Application contemplates the erection of temporary ditch crossings over area ditches and the potential for discharge of fill therein (*see* Application, pp. 22-23.)

Additionally, much of the construction will occur in locations where the groundwater sits very close to the ground surface. That excavation will result in exposure of such waters to airborne contamination and hazardous materials associated with construction equipment. Aside from the fact that equipment lists in Table 2 of the Application is incomplete, as none of the listed equipment is capable of excavating beneath water or in ponding situations, the application and Project Description fail to disclose the potential for the aforementioned impacts.

The Southport EIP has the potential to negatively affect drainage patterns and wetlands. Attachments to the Corps' public notice delineate drainage ditches within, and in the vicinity of, the Southport EIP, some of which will be completely filled and "permanently impacted." (*See, e.g.,* Application, p. 8.) Without any identifiable support, the Corps has indicated the Southport EIP would not affect any wetlands, constituting an implicit determination that none of the affected drainage ditches meet the criteria for qualification as a wetland. A full assessment of each of the delineated ditches must be undertaken by a qualified expert prior to the issuance of any DA Permits. Moreover, the westernmost borrow areas on Figure 1 attached to the Notice, including one borrow area west of the Sacramento River Deep Water Ship Channel, sits in close proximity to the Vic Fazio Yolo Wildlife Area, which contains 3,700 acres of wetlands.

B. The construction of the Southport EIP with the proposed degradation and breaching of the existing levee would significantly and irreversibly impact fish and aquatic resources, as well as vegetation and habitat.

The Sacramento River comprises a sensitive habitat for a number of aquatic species, including more than 30 species of fish. (*See* City of West Sacramento General Plan Background Document, VIII-31 to -32.) Some of these species are endangered or a species of special concern, including without limitation the Chinook salmon and Sacramento perch. (*See, e.g.,* California Natural Diversity Database, Sacramento West Quad [3812155].) In general, water bodies within and bordering West Sacramento support a wide variety of fish and intensive fishing activity. Major water bodies include not only the Sacramento River, but the Sacramento River Deep Water Ship Channel, Lake Washington, the Yolo Bypass toe drain, and perennial water in the Sacramento Bypass north of West Sacramento. The Sacramento River provides a migration path for adult fish making their way to

SEEC\49924\902454.5

1

spawning grounds and a transitory rearing habitat for juvenile fish migrating to the Delta and the ocean, and more than 50 percent of California's harvests of chinook salmon, striped bass, and American shad are taken from this section of the Sacramento River during migration. The Southport EIP, if it includes the use of a Set Back Levee and degradation and breaching of the existing levee, has the potential to significantly increase sedimentation, turbidity, and pollution, thereby significantly, adversely, and potentially irreversibly affecting each of these species, and in each of the aforementioned waterways. A secondary impact also exists insofar as affected species could carry and distribute pollutants to other habitats, either through their consumption or dispersal of biological byproduct.

Each of the aforementioned potential impacts supports the Corps' rejection of the Application. The Southport EIP with its proposed Set Back Levee and degradation and breaching of the existing levee has the potential to significantly and irreversibly affect biological resources in the vicinity of proposed activities, and the Corps should account for these potential impacts insofar as they would violate water quality of toxic effluent standards, jeopardize the continued existence of a species, or cause or contributed to significant degradation of the waters of the United States. (40 CFR § 230.10.) The Southport EIP, in particular, has the potential to significantly degrade waters of the United States, where such degradation describes, in part, adverse effects on: human health, municipal water supplies, fish and wildlife species, and wetlands; the spread of pollutants outside disposal sites through biological, physical, and chemical processes; and the loss of fish and wildlife habitat. (*Id.*)

VI. THE CORPS' PUBLIC NOTICE IS DEFICIENT IN SEVERAL RESPECTS.

The failures of WSAFCA notwithstanding, there exist deficiencies in the Corps' Notice that would compel its reissuance. Per federal regulation (33 CFR § 325.3), a public notice of a proposed Corps approval/action must include "sufficient information to give a clear understanding of the nature and magnitude of the activity to generate meaningful comment." Here, the Corps' Notice of WSAFCA's Application is deficient in the following respects:

- A notice must identify the "type of structures … to be erected on fills or pile or float-supported platforms, and a description of the type, composition, and quantity of materials to be discharged …." 33 CFR § 325.3(a)(5). While the Notice attaches drawings showing the project footprint and levee types being proposed, it does not indicate the composition of proposed levees; the materials and construction method for the stabilization of banks; nor the quantity of any material expected to be discharged into waters of the United States. Further, though the Notice contemplates that activities will occur within or would affect navigable waterways, it is not clear exactly what Corps activities trigger the need for a Section 10 permit. For instance, on page 24

1

of the Application for the DA Permits, the document discusses the temporary discharge of fill into various ditches, but the permit Application does not seek permission to perform such work, and the Corps does not identify that any of the DA Permits being considered would encompass this activity. The Notice must clearly specify what activities warrant a specific federal permit.

- The Notice indicates the Application is being evaluated under Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act, However, the notice also mentions Section 14 of the Rivers and Harbors Act, which contemplates permission to temporarily occupy a levee or other work built by the United States. The Southport EIP is never adequately defined but will doubtless require a Section 14 permit, given the project entails substantial work on and near existing levees, and indeed WSAFCA requested such a permit in its Application. (*See* Application, p.5.) However, the Notice never identifies that the Corps is considering issuance of such a permit, much less what activities would require this entitlement.

- The Notice must include "a plan and elevation drawing showing the general and specific site location and character of all proposed activities, including the size relationship of the proposed structures to the size of the impacted waterway and depth of water in the area." While the Notice does attach an overhead footprint drawing of the project, it does not include an elevation drawing. 33 CFR § 325.3(a)(6). Second, while the Notice graphically depicts various ditches that exist near and connect to the Sacramento River, it does not map any ditches near the Sacramento River Deep Water Channel or the canal running parallel to the South Cross Levee – such information would be necessary because the Project proposes to excavate large amounts of soil from borrow areas in those vicinities. Finally, Figure 2 does indicate depth of the center of the Sacramento River, but does not disclose the depth of waters directly being impacted along the shore, and it is unclear whether the depth of impacted ditches has been identified (each ditch appears to have a "D" and "W" value, which could refer to Depth and Width, but some of the depths are greater than 20 feet, which does not appear likely).

- A notice must include a "statement of the district engineer's current knowledge of historic properties and endangered species." (33 CFR § 325.3(a)(10)(11).) The Notice indicates that the Corps will engage in consultation with appropriate parties, but does not indicate the district engineer's "current knowledge" or what resources exist.

- The Notice states the applicant "has not indicated they have applied for certification" under Section 401 of the Clean Water Act. In fact, WSAFCA has indicated they *will not* apply for such certification. This fact must be

1
2

correctly represented in a public notice, and the public must be afforded an opportunity to comment on it.

- The Corps' Notice, as explained above, is inconsistent with the description included in the actual application. That is, the notice indicates the Southport EIP will impact 37.6 acres of waters of the United States, whereas the application indicates 25.659 acres would be impacted. (*See* Application, Table 11, p. 27.) An explanation for this difference must be provided.

For the above reasons, the Corps must re-issue a notice of the proposed action and provide the public with further time to comment on the Application.

VII. REQUEST FOR A HEARING.

If the Corps does not reject the Application, Seecon requests a hearing pursuant to federal law. Requests for a hearing "shall state, with particularity, the reasons for holding a public hearing." (33 CFR § 325.3(A)(15).) The Notice itself indicates that if "the Corps determines that the information received in response to this notice is inadequate for thorough evaluation, a public hearing may be warranted."

Seecon respectfully submits that a public hearing must be held with respect to WSAFCA's application for DA Permits for all the reasons listed in this letter, including without limitation: (1) the discrepancies and deficiencies in the scope of the proposed activity make it difficult to understand exactly what WSAFCA is proposing (e.g., the scope of use of bentonite), what federal permits are necessary, and what federal permits are being sought; (2) the creation of a Mitigation Bank Enterprise raises questions about the validity of the Application and any associated entitlements, because WSAFCA does not have the authority to undertake this activity (in addition to the others listed in Section III of this letter); (3) issuance of the permits would facilitate a project that would result in the unnecessary take of private property; (4) a practicable alternative exists that WSAFCA and the Corps must consider that is less destructive of both private property interests and the natural environment; and (5) the proximity of the proposed activities to waters of the United States, and the potential for impact to special status species and habitats, warrants a full evaluation and discussion in a public forum.

VIII. CONCLUSION

Seecon has attempted to set out in this letter the deficiencies and discrepancies in the Application. We appreciate the opportunity to express our heartfelt concerns and we urge the Corps to refuse to approve the DA permits, revise the Corps notice to make it sufficient and consistent with applicable law, and to take no further action on the Application for the following reasons, explained in detail above and summarized below.

SEEC\49924\902454.5

1

1. There is no "project" before the Corps. The project description is ever changing and incomplete and, when adequately finalized, will indicate required different elements and impacts far beyond those described in the Application.

2. The Application is rife with inconsistencies, conflicts, incomplete statements and a lack of essential information. WSAFCA should be required to redo the application to address the deficiencies we have pointed out above.

3. "Avoidance and Minimization" are the keystone of Corps permitting, and are not only disregarded in the current preliminary design of the Southport EIP, but also are made ludicrous when viewed in the context of the illegal, unnecessary, and impermissible Mitigation Bank Enterprise.

4. The Southport EIP will have unnecessarily extreme impacts upon private property even though practicable alternatives exist that would dramatically lessen those impacts which WSAFCA has failed to propose. WSAFCA has been made aware of these alternatives but has refused to consider them.

5. WSAFCA has no legal authority to propose a Mitigation Bank Enterprise for use by third party developers on the back of Southport property owners. The Joint Exercise of Powers Act pursuant to which it was created does not allow the creation or operation of such a bank. Implementation of the Mitigation Bank Enterprise will result in an illegal take of private property, prompted by a secretive desire of WSAFCA, never made public during the selection of the preferred alternatives, to implement the Bank.

6. The Southport EIP, as currently proposed, will harm the aquatic environment in significant and irreversible ways well beyond what is necessary.

7. The Corps notice is insufficient for the reasons set forth above and must be modified and recirculated.

8. By failing to include in this Application a request for permits for the Mitigation Bank Enterprise, WSAFCA has attempted to "piece-meal" the permit consideration and environmental review, in violation of NEPA and CEQA.

9. The implementation of the Southport EIP on the Seecon property will require Eminent Domain litigation and it is unlikely the findings required in the Resolution of Necessity can be upheld, since the Adjacent Levee with seepage berm would produce equal flood protection and result in much less severe damage to private property.

10. My clients, property owners in the Southport area, will take an active role in the public review of the EIS/EIR and seek protection through litigation if their rights

SEEC\49924\902454.5

1

are not protected, in which case, if they are successful, you will have expended tax payer dollars in your processing of the Application as submitted for naught.

We urge the Corps to deny the Application for DA Permits because of the defects pointed out in this letter; and, if you continue with the processing we reserve the right to submit additional comments and evidence at the Public Hearing.

Very truly yours,

MILLER STARR REGALIA

Wilson F. Wendt

WFW:elt
cc: Kenneth Ruzich, WSAFCA
Ralph Nevis, WSAFCA Counsel
WSAFCA Board Members
Alicia E. Kirchner, USACE
Thomas D. Karvonen, USACE
Tanis Toland, USACE
Al Faustino, District Counsel, USACE
Michael Fris, Assistant Regional Director, USFWS Region 8
Doug Weinrich, Contract Manager, USFWS
District Counsel, USFWS
Cathy Crothers, Chief Legal Counsel, DWR
Mark Cowin, Director, DWR
Clients

SEEC\49924\902454.5

1

MILLER STARR REGALIA

1331 N. California Blvd.
Fifth Floor
Walnut Creek, CA 94596

T 925 935 9400
F 925 933 4126
www.msrlegal.com

Wilson F. Wendt
wilson.wendt@msrlegal.com

April 11, 2013

VIA U.S. MAIL AND EMAIL

President William Denton and
Members of the Board
Board of Directors
West Sacramento Area Flood Control Agency
1110 West Capitol Avenue, 2nd Floor
West Sacramento, CA 95691

Re: Objections to Creation of the West Sacramento Flood Plain Mitigation Bank; Southport Early Implementation Plan

Honorable President Denton and Members of the Board:

As you are aware, our office represents Seecon Financial and Construction Co., Inc. ("Seecon"), the owners of real property in Segment F of the Southport Early Implementation Project ("Southport EIP"). For over a year we have been involved in reviewing and commenting upon actions of WSAFCA in designing and implementing the Southport EIP. Our comments are voluminous and have touched on a number of issues in the processing including our perceived lack of transparency in the process. We are surprised and shocked that after literally tens of thousands of words of reports and commentary presented to the Board and the public by WSAFCA staff and consultants, to our knowledge, the words "Flood Plain Mitigation Bank" have never appeared in any public discussion or in response to the Public Records Act requests we have filed on behalf of our client with WSAFCA until the Flood Protection Progress Report for April 1, 2013 attached to your agenda for your meeting of April 11, 2013, as Item No. 9, just posted. That innocuous statement appears on page 3 of the Flood Protection Progress Report and reads as follows:

> "DWR released its preliminary funding recommendations to direct Proposition 1(e) funding to flood management projects and activities in support of the Central Valley Flood Protection Plan (CVFPP) in Conservation Strategy. WSAFCA's titled 'State of California West Sacramento Flood Plain Mitigation Bank' has been initially recommended for approximately five million dollars in funding."

1

The original consultant's recommendation to the Board for the preferred alternative for flood control improvements in Segment F was an Adjacent Levee. In May, 2012, WSAFCA staff and consultants cited a "Value Engineering Report" as the reason that the setback levee should be selected as the preferred alternative in Segment F to proceed to 65% design completion, despite failing to report back to the Board on the advantages and disadvantages of a Setback Levee in Segment F, an analysis that was supposed to look at "technical feasibility, regulatory acceptability, constructability, long term maintenance issues (and) impacts to the community. . .". This recommendation was adopted by the Board despite the fact that the Setback Levee is several million dollars more expensive than the Adjacent Levee and the alternative requiring the most borrow material and the one which is the most injurious to private property. One of the reasons advanced for the Board's choice was that WSAFCA could extract millions of dollars more from the State if the Setback Levee were selected, thus making the ultimate cost to WSAFCA lower than their share if the Adjacent Levee alternative were selected.

We have pointed out on many occasions that under principles of Eminent Domain law, WSAFCA is limited to taking only that amount of private property necessary to effect the purpose of the take; that being the construction of flood protection improvements. Nowhere in all the materials prepared and presented to the Board was there an explanation that WSAFCA proposed to create a "Flood Plain Mitigation Bank", an enterprise that would be imposed upon private property owned by West Sacramento businesses and residents and would produce extra mitigation credits that would be sold for use by the State of California to offset environmental impacts of other projects in other locations throughout the State of California totally unrelated to the Southport E.I.P. This creation of a Mitigation Bank enterprise on the back of West Sacramento property owners for the benefit of other governmental and, perhaps, private interests, is inequitable, improper and beyond the legal authority of WSAFCA. We urge the Board to direct staff to immediately begin an investigation of how this Application for funding of a Mitigation Bank was developed and the unauthorized Application filed with the Department of Water Resources (see Exhibit B). That investigation should focus, among other things, upon why no public discussion was held at any time as to the creation of such a Mitigation Bank enterprise.

Applications Filed With the State of California Department of Water Resources: We just became aware of the proposed creation of a Mitigation Bank when our research was triggered by the Flood Protection Progress Report posted with today's agenda.

On December 13, 2012 the Board adopted Resolution 12-12-01, a copy of which is attached as Exhibit A, which, in part, "approved the filing of an application to the Department of Water Resources for grant funding under the Central Valley Flood System Conservation Framework and Strategy Program to fund the construction of habitat in the Southport Sacramento River Early Implementation Project Setback

1

Area". Nothing in the resolution referenced the creation of a "Flood Plain Mitigation Bank" enterprise with "for sale" mitigation credits created, to be sold to mitigate impacts of other projects of other agencies or private persons outside of the Southport area and totally unrelated to the Southport Early Implementation Plan. The public was not made aware that a "Mitigation Bank" would be created involving the setback area on private property for mitigation of impacts caused by projects in remote areas of the state.

On January 7, 2013, WSAFCA staff submitted on Application to DWR for the West Sacramento Flood Plain Mitigation Bank Work Plan, Schedule and Budget, a copy of which is attached as Exhibit B, seeking funding from the $25,000,000 available. That application was clearly for an unauthorized "Flood Plain Mitigation Bank Proposal". Again, nothing in any of the discussion before the Board or the documentation leading up to this submittal had ever referenced the creation of a Mitigation Bank. It is our opinion that Resolution No. 12-12-01 did not authorize the filing by staff of an Application for the creation of a Mitigation Bank and the action of WSAFCA to create and implement such a Mitigation Bank would be beyond the powers of the staff member filing the application and the Agency under their Joint Powers Agreement. These unauthorized actions should be immediately and thoroughly investigated. We are enclosing a legal memorandum setting out the legal reasoning supporting our opinion as Exhibit C.

The Application filed by staff on behalf of the Board with DWR acknowledges that creation of the Mitigation Bank by WSAFCA would be at the periphery of the Agency's powers and subject to "some uncertainties and constraints". The Application states as follows:

> "As a flood risk reduction agency, WSAFCA has limited financial and political ability for habitat restoration beyond that required for project mitigation associated with the Southport EIP. WSAFCA will partner with the state to identify responsible parties for land ownership, bank ownership and operations and maintenance, given that the majority of the mitigation credits will be utilized by the state. Further, WSAFCA and the state will need to work closely together on the financial details of the project to ensure that the interests of both agencies are met."

The creation of a Mitigation Bank by WSAFCA is beyond the scope of the Agency's powers. The resolution adopted by the Board authorizing the filing of the Application with DWR does not authorize the filing of an application for a Mitigation Bank with "for sale" mitigation credits. We have obtained a copy of the Department of the Army Corps of Engineers' permit application dated January, 2013, filed by WSAFCA. In that application there is a general description of the flood control

1

improvements and the fact that certain of the setback areas would be used for fish and wildlife habitat restoration. Nowhere in the application is it stated that a Mitigation Bank enterprise will be created with mitigation credits to be sold for projects outside of the Southport area.

Conclusion: The creation of a Mitigation Bank enterprise by WSAFCA and its continuing maintenance into the future is well beyond its authority under the Joint Powers Agreement or applicable law. The mitigation of impacts for just the Southport EIP on site are more clearly within the Agency's powers and authority. We urge the Agency to commence an investigation of why the concept of the Mitigation Bank enterprise was not clearly and transparently disclosed to the public and why the Application was submitted without proper Board authorization. We urge the Board to withdraw the Application to DWR to avoid further complications to the already difficult process of building needed levees in the Southport area, which complications may delay the approval of the environmental documents and cause the Agency to miss applicable Federal and State funding windows.

It is shameful that WSAFCA would attempt to create this Mitigation Bank enterprise by unnecessarily displacing families from their homes and taking exorbitant and unnecessary amounts of private property for a commercial enterprise which could generate millions of dollars of profit from sale of credits for projects totally unrelated to Southport. At least we now understand why WSAFCA switched positions leading to the 65% design stage, abandoned the Adjacent Levee alternative, while advancing the more lucrative Setback Levee alternative.

Very truly yours,

MILLER STARR REGALIA

Wilson F. Wendt

WFW:jj
cc: Mr. Kenneth Ruzich
Mr. Ralph Nevis
Ms. Alicia E. Kirchner, USACE
Mr. Thomas D. Karvonen, USACE
Mr. Marc A. Fugler, USACE
Ms. Tanis Toland, USACE
Ms. Megan Smith, ICF
Mr. Mark Cowin, Director, DWR
Ms. Cathy Crothers, Chief Legal Counsel, DWR
Ms. Lori Clamurro Chew, DWR
Clients

SEEC\49924\899023.3

1

Resolution 12-12-01

RESOLUTION OF BOARD OF DIRECTORS OF THE WEST SACRAMENTO AREA FLOOD CONTROL AGENCY APPROVING THE APPLICATION FOR GRANT FUNDS FROM THE CENTRAL VALLEY FLOOD SYSTEM CONSERVATION FRAMEWORK AND STRATEGY PROGRAM UNDER THE DISASTER PREPAREDNESS AND FLOOD PREVENTION BOND ACT OF 2006 (Proposition 1E)

WHEREAS, the Legislature and Governor of the State of California have provided funds for the program shown above; and

WHEREAS, the Department of Water Resources has been delegated the responsibility for the administration of this grant program, establishing necessary procedures; and

WHEREAS, said procedures established by the Department of Water Resources require a resolution certifying the approval of application(s) by the Applicants governing board before submission of application(s) to the State; and

WHEREAS, the Applicant, if selected, will enter into an agreement with the State of California to carry out the project.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the West Sacramento Area Flood Control Agency.

1. Approves the filing of an application to the Department of Water Resources for grant funding under the Central Valley Flood System Conservation Framework and Strategy Program to fund the construction of habitat in the Southport Sacramento River Early Implementation Project setback area,

2. Certifies that Applicant understands the assurances and certification in the application; and,

3. Certifies that Applicant or title holder will have sufficient funds to operate and maintain the project(s)consistent with the land tenure requirements; or will secure the resources to do so: and.

4. Certifies that it will comply with all provisions of Section 1771.5 of the California Labor Code, and,

5. If applicable, certifies that the project will comply with any laws and regulations including, but not limited to, the *California Environmental Quality Act* (CEQA), legal requirements for building codes, health and safety codes, disabled access laws, and, that prior to commencement of construction all applicable permits will have been obtained; and,

6. Appoints the General Manager, or designee, as agent to conduct all negotiations, execute and submit all documents including, but not limited to applications, agreements, payment requests and so on, which may be necessary for the completion of the aforementioned project(s).

PASSED AND ADOPTED by the West Sacramento Area Flood Control Agency on this 13th day of December, 2012, by the following vote.

EXHIBIT A

1

Flood Conservation and Strategy Program Grant Application Resolution
December 13, 2012
Page 2

AYES: Denton, Kristoff, Ramas
NOES: none
ABSTAIN: none
ABSENT: none

William E. Denton, President

ATTEST:

Kenneth A. Ruzich, General Manager

APPROVED AS TO FORM:

James M. Day, Jr., WSAFCA Attorney

1

Print Preview Proposal

Proposal Full View

Print

Applicant Information

Organization Name	West Sacramento Area Flood Control Agency *
Tax ID	942362970
Proposal Name	State of California West Sacramento Floodplain Mitigation Bank Proposal *
Proposal Objective	The State of California West Sacramento Floodplain Restoration Bank (Bank) project would create a mitigation and conservation bank that would yield approximately 120 riparian floodplain and endangered species conservation credits, and has the potential to create approximately 21,000 linear feet of restored and enhanced shaded riverine aquatic (SRA)/channel margin habitat available as mitigation credits on a per-linear foot basis. Specifically, the proposed Bank project would create riparian floodplain and off-channel refugia habitat for native fish, including Chinook salmon and Sacramento splittail, and to a limited extent, Central Valley steelhead. The West Sacramento Area Flood Control Agency (WSAFCA) would partially utilize the Bank to fulfill mitigation that will be obligated to the Southport Early Implementation Project (Southport EIP), but substantial credits will remain for use by the State to mitigate for future project impacts resulting from implementation of the Central Valley Flood Protection Plan (CVFPP). *

Budget

Other Contribution	$0.00
Local Contribution	$0.00
Federal Contribution	$0.00
Inkind Contribution	$0.00
Amount Requested	$4,996,957.00 *
Total Project Cost	$4,996,957.00 *

Geographic Information

Latitude *	DD(+/-)	38	MM	31	SS 52
Longitude *	DD(+/-)	121	MM	31	SS 54
Longitude/Latitude Clarification	Location				
County	Yolo *				

EXHIBIT B

https://www.bms.water.ca.gov/BMS/Agency/ProposalFullView.aspx 1/11/2013

1

Print Preview Proposal

Ground Water Basin	Sacramento Valley-Yolo
Hydrologic Region	Sacramento River
Watershed	

Legislative Information

Assembly District	4th Assembly District *
Senate District	3rd Senate District *
US Congressional District	District 5 (CA) *

Project Information

Project Name State of California West Sacram

Implementing Organization	West Sacramento Area Flood Control Agency
Secondary Implementing Organization	MBK Engineers
Proposed Start Date	2/28/2013
Proposed End Date	7/6/2018
Project Scope	The scope of work for the project will be to design, entitle, implement, maintain, and monitor the proposed Bank project
Project Description	The Bank project would create a mitigation and conservation bank that would yield approximately 120 riparian floodplain and endangered species conservation credits, and has the potential to create approximately 21,000 linear feet of restored and enhanced shaded riverine aquatic (SRA)/channel margin habitat available as mitigation credits on a per-linear foot basis. The Bank would be partially utilized by WSAFCA to fulfill mitigation that will be obligated to the Southport EIP project, but will have substantial remaining credits for use by the State for future project impacts resulting from implementation of the Central Valley Flood Protection Plan (CVFPP). The Southport EIP project reach extends approximately 5.6 miles from the termination of the USACE Sacramento River Bank Protection Project at River Mile 57.2R south to the South Cross Levee (Figure 1). The Southport EIP project will be constructed using a combination of methods to create a system of new levees or reinforced existing levees. Portions of the new levee segments will be constructed 400' to 1000' away from the Sacramento River channel to create a setback area. The Bank will be

https://www.bms.water.ca.gov/BMS/Agency/ProposalFullView.aspx 1/11/2013

1

	developed in the setback area for approximately four miles along the Sacramento River (Figures 2 and 3). The setback area will be excavated down to an elevation of between +7.0' and +10.0' NAVD88 and the excavated material will be utilized in constructing portions of the new flood control features. A low-flow swale will be excavated within the restored floodplain at approximately +7.0' NAVD88 to provide access to the vegetated floodplain terrace and a drainage point back to the main river channel to minimize the potential for fish stranding during flood water recession. The existing Sacramento River levee will be degraded and breached in places in order to create full hydrologic connectivity between the setback area and the main river channel.
Project Objective	

Project Benefits Information

Project **Objective**

Budget

Other Contribution	0
Local Contribution	0
Federal Contribution	0
Inkind Contribution	0
Amount Requested	5000000
Total Project Cost	5000000

Geographic Information

Latitude DD(+/-)	38	MM 31	SS 52
Longitude DD(+/-)	121	MM 31	SS 54
Longitude/Latitude Clarification	Location		

County Yolo Ground Water Basin Sacramento Valley-Yolo Hydrologic Region Sacramento River WaterShed

Legislative Information

1

Assembly District	4th Assembly District
Senate District	3rd Senate District
US Congressional District	District 5 (CA)

Section : General Project Information

This section contains seventeen general questions about the proposal that all applicants are required to answer.

G1 - Applicant Contact Information

Provide contact information (name, organization, address, phone number, and e-mail address) for the individual who would be the primary contact regarding the grant proposal.

If the Project Lead organization is a local government, nonprofit, or consortium, attach a resolution from the appropriate applicant organization authorizing the Applicant to sign a funding agreement on its behalf.

West Sacramento Area Flood Control Agency 1110 West Capital Avenue, West Sacramento, CA 95691 Attn: Kenneth Ruzich Title: General Manager Telephone: 916-606-6435 email address: wsrd@pacbell.net

G2 - Key Cooperators

Provide contact information (name, organization, address, phone number, and e-mail address) for any (sub)contractors, advisors, or other technical personnel identified as being necessary for successful completion of the project ("Key Cooperators").

Attach a resume for each person identified as a "Key Cooperator".

Carl Jensen ICF International 630 K Street Suite 400 Sacramento, CA 95814 Telephone: 916-231-7668 email address: carl.jensen@icfi.com Derek Larsen MBK Engineers 1771 Tribute Way, Suite A Sacramento, CA 95815 Telephone: 916-456-4400 email address: larsen@mbkengineers.com Chris Bowles cbec ecoengineering 2544 Industrial Blvd West Sacramento, CA 95691 Telephone: 916-231-6052 email address: c.bowles@cbecoeng.com

G3 - Project Title

Give your project a short title.

State of California West Sacramento Floodplain Mitigation Bank

G4 - Project Location

List all the counties and/or cities in which project activities would occur under this proposal.

In addition, list all river systems, and approximate locations (in river miles, if applicable), on which project activities would occur under this proposal.

City of West Sacramento, Yolo County Sacramento River Miles 52.8 to 57.2

G5 - Current Zoning and Land Use

1

Describe the current zoning and land use for the parcel(s) that are the subject of this proposal.

If there is a likelihood of zoning or general plan changes for the property in the next year (e.g., a General Plan update is in process, or a zoning code amendment is or will soon be proposed), provide a brief explanation of the expected changes.

The land use in the proposed mitigation reserve is currently identified for future urban development in the City of West Sacramento General Plan. The zoning varies depending on location from low, medium, and high density residential, water front development, public open space, and recreation.

G6 - Description of Parcel(s)

Give the size of the property (in acres) that is the subject of this proposal, and briefly describe the natural resources on the property currently.

In addition, identify the approximate size (in acres and/or linear feet) of the project's footprint on the property.

Provide information about any surveys that have been conducted on the property, including biological, archaeological, pipeline/transmission, topographical, etc.

The project footprint is approximately 120 acres. The following surveys and studies have been completed to date: 1. Baseline topographic surveys; existing utility surveys and mapping; bathymetric surveys; hydraulic data development including Acoustic Doppler Current Profile (ADCP flow and velocity) measurements and river stages for model calibration purposes; geomorphic data development including suspended and bedload sediment transport measurements; and erosion assessments along the river bank of the Sacramento River through the project reach. 2. Extensive geotechnical investigations, including numerous boreholes and soils tests in the setback area and existing levee, to characterize geologic conditions including underseepage issues. 3. Assessment of biological and ecological conditions along the riverbank and setback area, including identification of sensitive species. 4. Hydrodynamic and sediment transport modeling to identify system-wide and localized impacts of levee setback alternatives, and potential mitigation options. 5. Property surveys and investigations. 6. Optimization of setback grading to provide material for levee construction and identification of additional borrow material sites. 7. Development of preliminary erosion control measures for the setback area, the new Southport EIP levee, and the remnant riverbank of the Sacramento River, including biotechnical bank stabilization measures. 8. Development of 65% design level plans, specifications and cost opinions for the Southport EIP. 9. Preparation of the Southport EIP draft EIS/EIR for public review and preliminary regulatory permitting applications.

G7 - Landowner(s)

Identify all recorded legal rights on the property, including but not limited to ownership titles, easements, liens or other encumbrances for the property that is the subject of this proposal.

Land will be purchased as part of the Early Implementation Project being advanced by WSAFCA in partnership with the State of California. For purposes of this project it can be assumed that the property for the mitigation bank will be held by WSAFCA of the Sacramento-San Joaquin Drainage District prior to initiation of the project.

G8 - Holder(s) of Water and Mineral Rights, and Rights of Way

1

Rights of Way (ROWs) and possible implications for land management.

To verify that any water rights necessary to implement the project have been obtained, indicate the basis and source of those rights.

Not applicable

G9 - Landowner(s) Willingness to Participate

If the property is in private ownership, is there a legally binding agreement with the landowner that would allow habitat to be developed and sustained into perpetuity on the parcel? If so, attach a copy of the agreement.

Also, if the property is in private ownership, is there an agreement with or written authorization from the owner that DWR or its multi-agency group can visit the site for reconnaissance level visits? If so, attach a copy of the agreement/authorization.

Not applicable

G10 - Project Description

Describe your project and explain how it will advance the goals of ecological enhancement while providing mitigation for future work at State Plan of Flood Control (SPFC) facilities.

Attach a detailed description of the project and clearly indicate which portions are proposed for DWR's bond funding. The project description should include, at a minimum:

- **the goals and objectives of the project;**
- **the activities that will be undertaken under this proposal to achieve the project objectives;**
- **relationships to other projects or activities that may benefit from implementation of this project, as well as any existing mitigation obligations of these projects or activities, if known;**
- **the approximate timelines for deliverables associated with this proposal; and**
- **a brief description, including approximate timelines and expected deliverables, of any future phases that would result in full implementation of the project, if applicable.**

Refer to the Work Plan, Budget, & Schedule: Grantee Guidance document.

Attach a Scope of Work – Task Outline describing the work to be performed for each task, as well as the deliverables (see Table 1).

Attach a Schedule (see Table 4).

Attach location maps, designs, color photographs, or other information that describes the project.

The State of California West Sacramento Floodplain Restoration Bank (Bank) is the final phase of the Southport Early Implementation Project (EIP) (Southport EIP), which is a proposed multi-objective flood control project for the City of West Sacramento that advances the primary goals of achieving a minimum level of 200-year flood protection, providing flood-compatible recreational opportunities, and habitat restoration when economically feasible. The Bank project would create a mitigation and conservation bank that would yield approximately 120 riparian floodplain and endangered species conservation credits, and has the potential to create approximately 21,000 linear feet of restored and enhanced shaded riverine aquatic (SRA)/channel margin habitat available as mitigation credits on a per-linear foot basis. The Bank would be partially utilized by WSAFCA to fulfill mitigation that will be obligated to the Southport EIP project, but will have substantial remaining credits for use by the State for future project impacts resulting from implementation of the Central Valley Flood Protection Plan (CVFPP). The Southport EIP project reach extends approximately 5.6 miles from the termination of the USACE Sacramento River Bank Protection

1

Project at River Mile 57.2R south to the South Cross Levee (Figure 1). The Southport EIP project will be constructed using a combination of construction techniques to create a system of new levees or reinforced existing levees. Portions of the new levee segments will be constructed 400? to 1000? away from the Sacramento River channel to create a setback area. The Bank will be developed in the setback area for approximately four miles along the Sacramento River (Figures 2 and 3). The setback area will be excavated down to an elevation of between +7.0? and +10.0? NAVD88 and the excavated material will be utilized in constructing portions of the new flood control features. A low-flow swale will be excavated within the restored floodplain at approximately +7.0? NAVD88 to provide access to the vegetated floodplain terrace and a drainage point back to the main river channel to minimize the potential for fish stranding during flood water recession. The existing Sacramento River levee will be degraded to a lower elevation or completely breached in places in order to create full hydrologic connectivity between the setback area and the main river channel. The restoration objectives developed for the Bank include provide compensatory mitigation credits for impacts to protected land cover types and to special-status species and potential habitat for these species; restoring portions of the historic Sacramento River floodplain (i.e., waters of the United States); restoring riparian and oak woodland habitat on the restored floodplain that will create continuous habitat corridors for wildlife movement; designing habitat features to minimize future maintenance obligations (e.g., reduce opportunities for sediment and debris accumulation); and designing floodplain planting and vegetation management schemes to avoid undesirable hydraulic and sediment transport impacts to the setback levee and offset area.

G11 - Habitat Connectivity

If the property is located near any protected habitat areas or high-quality habitat types, describe these areas/habitat types and indicate their proximity (in linear miles) to the project site.

Attach map(s) showing the location of nearby habitat and conserved areas.

The project site is surrounded by developed areas of single-family residences, active and fallow agricultural lands, and the Sacramento River. The proximity of the project site to the Sacramento River and length of frontage along the river channel provides an excellent opportunity to restore a portion of the historic Sacramento River floodplain and recreate some of the historic functions and values that were lost when the river was channelized. Existing riparian habitat in the project area and immediate vicinity consists of a narrow, discontinuous band on the water side of the Sacramento River levee. This riparian strip provides limited shaded riverine aquatic (SRA) habitat. Large areas of cultivated and fallow agricultural land occur directly adjacent to the project area. These areas could provide foraging habitat for raptors including Swainson's hawk.

G12 - Benefits to Sensitive Habitats and/or Species

Describe any benefits that are expected to accrue to fish, wildlife, or plant species listed as threatened, endangered, of special concern, or otherwise protected by law, as well as any benefits to sensitive habitats on which these species depend, as a result of this project.

Indicate the specific amounts of mitigation/compensation areas (if known) that would result from implementation of this project and could be applied to future work at State Plan of Flood Control facilities.

The proposed project will create riparian floodplain and off-channel refugia habitat for native fish, including Chinook salmon (Oncorhynchus tshawytscha) and Sacramento splittail (Pogonichthys macrolepidotus), and to a limited extent Central Valley steelhead (Oncorhyncus mykiss). Floodplains are now recognized as major contributors to aquatic production and species diversity in large river systems where native fish species have evolved specific adaptations to exploit these

1

variable but highly productive habitats. Floodplains can greatly expand the quantity and quality of habitat available to juvenile salmon, splittail and other fishes during seasonal inundation periods. After young salmon have dispersed from spawning areas, the distribution and abundance of young salmon is determined largely by their preferences for shallow water and low water velocities, which in large rivers are found mostly along channel margins, floodplains, and other off-channel habitats. Floodplain habitat is extremely limited along the Lower Sacramento River. It is generally assumed that the number or biomass of fish and other organisms that can be supported by a habitat is directly proportional to the area of suitable habitat. Larger floodplains may also enhance growth and survival of rearing juveniles by increasing the amount of living space, reducing competition for food, and reducing potential encounters with predators. Floodplain area may also affect the productivity of river-floodplain systems by affecting hydraulic residence time, water temperature, and inputs of organic matter, plankton, and invertebrates from the floodplain into river channels (Ahearn et al. 2006). Floodplains can greatly expand the quantity and quality of habitat available to juvenile salmon, splittail and other fishes during seasonal inundation periods. After young salmon have dispersed from spawning areas, the distribution and abundance of young salmon is determined largely by their preferences for shallow water and low water velocities, which in large rivers are found mostly along channel margins, floodplains, and other off-channel habitats (Beechie et al. 2005, Lestelle et al. 2005). The Swainson?s hawk is a state-listed threatened species. Swainson?s hawks are summer residents in the study area. The nesting season extends from approximately early March through August. In the Central Valley, Swainson?s hawks nest occur primarily in riparian areas adjacent to agricultural fields or pastures, although isolated trees or roadside trees are sometimes used (California Department of Fish and Game 1994). Swainson?s hawks nest in mature trees; the preferred tree species are valley oak, cottonwood, willows, sycamores, and walnuts. Nest sites typically are located in the vicinity of suitable foraging areas. The primary foraging areas for Swainson?s hawk are open agricultural and pasture lands (California Department of Fish and Game 1994).

G13 - Project Support and/or Opposition

Describe the outreach that has been conducted to date for this project.

Characterize the level of support for this project among nearby landowners and local interests, entities, and organizations.

Describe any known opposition to the project.

WSAFCA has taken a proactive, transparent approach throughout all stages of the Southport Sacramento River Early Implementation Project. WSAFCA has kept the West Sacramento community informed about their role to ensure the community at large is safe from flooding. The agency simultaneously stresses their commitment to ensure the least damage to private property owners as possible as part of the levee improvement project. Private property owners and at-large residents alike have received updates throughout the process and at key project milestones through public meetings, small group meetings, one-on-one meetings, media relations, mailers, utility bill inserts, community presentations and additional outreach channels. Many community members have expressed their support of the project as a result of the outreach to nearby property owners, stakeholders, community members and the public. Organizations including the West Sacramento Chamber of Commerce, community leaders and business owners have endorsed and supported the project, citing the need for levee improvements in the south area of the city and city-wide. While the most impacted property owners expressed their desire for a different project alternative, many have also expressed appreciation for the transparent process WSAFCA has employed since the beginning. By the end of preliminary design, the property owner representative?s attorney said she had ?never worked with a public agency more committed to working with residents than West

1

Sacramento.? Her comments were a result of the significant number of public meetings, community meetings and one-on-one meetings. Several homes slated to be removed have been saved due to property owner outreach and continual dialog between the owners, WSAFCA and the project?s design team. Some of the property owners who formerly opposed the project are now working with WSAFCA on new transportation alternatives and seem to be working productively with staff on solutions. Formal public comment will be secured and considered through the NEPA/CEQA process and some affected property owners will likely oppose the extent of setback levee currently identified in the preferred project alternative. WSAFCA has received letters of opposition from some of the affected property owners related to the extent of setback currently identified in the preferred project alternative. Overall WSAFCA believes that there is general support from the community for the project.

G14 - Status of Permits and Documents

Briefly describe the permits and environmental document that will be applicable to your project, and the status of obtaining those permits and preparing those documents.

Include information about possible permitting obstacles for getting the project implemented such that it provides advancem itigation for future work at SPFC facilities (this could include conflict with an existing easement or revocability of existing permits).

Implementing the Bank project will require compliance with several local, state, and federal regulatory processes. The following is a list of the anticipated approvals that will be needed: CEQA/NEPA Compliance Clean Water Act Section 404 Compliance (Section 404) Federal Endangered Species Act (Section 7) National Historic Preservation Act Section 106 Documentation Fish and Wildlife Coordination Act Support California Endangered Species Act (Section 2081) California State Fish and Game Code (Section 1602) Clean Water Act Section 402 Compliance Clean Water Act Section 401 Compliance Central Valley Flood Protection Board (CVFPB) Encroachment Permit (Title 23) Yolo County Grading Permit For the purposes of this submittal it has been assumed that all regulatory approvals would be obtained seperate from those required for the Southport EIP. If bond funding could be secured in early 2013, many efficiecies in the permitting process could be realized by including the Bank project in the Southport EIP regualtory permit applications.

G15 - Funding Requested

Refer to the Work Plan, Budget, & Schedule: Grantee Guidance document.

Attach a Task Budget (see Table 2). Indicate within the budget sheet how much bond money is being requested from DWR, and how much money or in-kind service is being provided by the Applicant, Key Cooperators, and other partnering entities. (If in-kind services or resources are being provided, estimate their monetary value.)

Last Uploaded Attachments: FESSRO Budget.pdf

G16 - Estimates of Costs for Future Phases

1

Refer to the Work Plan, Budget, & Schedule: Grantee Guidance document.

If this project is anticipated to have subsequent phases, attach a Task Budget (see Table 2) and indicate within the table the needs (activities and deliverables) and approximate costs of the future phases needed for the project to be fully implemented in the future.

(If this project does not include future phases, indicate this as your response and proceed to Question G17.)

Last Uploaded Attachments: NA.pdf

G17 - Management and Maintenance Responsibilities

Identify who will be responsible for management and maintenance of the constructed project during the establishment phase, and identify who will be responsible for long-term management and maintenance.

Identify the amount of endowment that will be used to fund the long-term management of the project, and the source of those funds.

If the proposal is for a mitigation bank for which the applicant entity will be responsible for all management and maintenance, as well as the endowment, indicate that in your response and identify the amount of the endowment.

As a flood risk reduction agency, WSAFCA has limited financial and political ability for habitat restoration beyond that required for project mitigation associated with the Southport EIP. WSAFCA will partner with the State to identify responsible parties for land ownership, bank ownership, and operations and maintenance, given that the majority of the mitigation credits will be utilized by the State. Further, WSAFCA and the State will need to work closely together on the financial details of the project to ensure that the interests of both agencies are met.

Section : Advance Mitigation ("IRT" and/or "Other Mechanisms")

DWR is interested in creating mitigation banks with regulatory agencies participating on the Interagency Review Team (IRT) as the signatories, and to provide advance mitigation credits for sensitive habitats and species that are expected to be impacted by future SPFC projects, including but not limited to:

- Riparian forest and shrub-scrub (e.g., mitigation for implementation of Life Cycle Management)
- Shaded riverine aquatic (SRA) areas
- Channel margin and floodplain areas
- Salmon and steelhead; green sturgeon (mitigation for impacts to habitat from alterations to SPFC facilities)

Please refer to Table 1 of the PSP for the list of species and natural communities targeted by this PSP.

1

If your proposal is to create a mitigation bank in accordance with the existing Interagency Review Team (IRT) mitigation banking process, answer questions AM1 through AM4. If your proposal is to formulate "umbrella" banking instruments or other mechanisms, answer questions AM5 through AM7.

AM1 - Land Control (privately-owned lands)

Describe whether acquisition from willing sellers of private lands will be through fee title or conservation easement.

- **If acquisition will be through fee title, note that and proceed to the next question (AM2).**
- **If acquisition will be through conservation easement, provide an answer (Yes/No) to the following three questions:**
  - **Is there a legally binding agreement with the landowner that would allow habitat to be developed on the parcel?**
  - **Is the conservation easement already recorded?**
  - **Is the conservation easement under development? (If Yes, explain the status of the recording of the conservation easement and provide an expected timeline.)**

Acquisition of land for the Southport EIP and Bank projects will be done through fee title.

AM2 - IRT Mitigation Banking Enabling Instrument Checklist

Completion of specific activities (refer to the Mitigation Banking Enabling Instrument checklist currently utilized by the Interagency Review Team (IRT), provided as Attachment B1 to the PSP on the website) is currently required by regulatory agencies for the establishment of a mitigation or conservation bank.

For this PSP, DWR is soliciting proposals that will serve as 'advance mitigation' for SPFC facilities' evaluation, repair, reconstruction, or replacement projects; therefore, habitat and/or species credits at the bank site may be determined at a later date in light of future permit needs of the individual facilities (a situation sometimes referred to as a "turn-key" or "single-user" mitigation bank.)

Describe which specific component(s) of these IRT requirements are being proposed as part of this project.

All componenets of the IRT bank enabling instrument checklist will be prepared or secured as part of this project. This will include: 1. BEI 2. Location maps 3. Service area maps and description 4. Development plan 5. Bank management and operation documents 6. Real estate records and assurances 7. Bank crediting and credit transfers 8. Phase 1 Environmental Site Assessment 9. Biological resources survey 10. Wetland delienation verification letter 11. Cultural, historical, archaeological and Native American resources information 12. Other documents and permits

AM3 - Land Improvement (State or federal lands)

If the proposal is to establish a bank site on real property that is already under the control of a State or federal agency, describe which specific component(s) of the IRT requirements are being proposed as part of this project (refer to the Mitigation Banking Enabling Instrument checklist provided as Attachment B1 to the PSP on the website).

not applicable

AM4 - DFG Mitigation Policy on Publicly Owned and Conserved Lands

If the proposal is to establish a bank site on real property that is already under the control of a State or federal agency and/or was acquired for conservation purposes, and if the California Department of Fish and Game (DFG) is one of the regulatory agencies that would be a signatory for the development and use of mitigation credits, please check the box to indicate that you have read and understand DFG's new policy for mitigation on publicly owned and conserved lands (included as Attachment B2 to the PSP on the website).

1

AM5 - Umbrella Bank Development

Indicate whether you would like your proposal to be considered for inclusion under one or more umbrella mitigation banking instruments by listing any and all species (refer to Table 1) or vegetation communities (riparian forest and shrub scrub, shaded riverine aquatic, and/or channel margin and floodplain) that would benefit from your project. ***Note that funding for such a project or activity will be contingent upon approval by the relevant regulatory agencies that the project meets the mitigation requirements for inclusion in an umbrella mitigation bank in the future, including but not limited to long-term management and funding assurances.***

not applicable

AM6 - DFG Mitigation Policy on Publicly Owned and Conserved Lands

If you answered Question AM5 (Umbrella Bank Development) and your proposal is to establish an umbrella bank site on real property that is already under the control of a State or federal agency and/or was acquired for conservation purposes, and if the California Department of Fish and Game (DFG) is one of the regulatory agencies that would be a signatory for the development and use of mitigation credits, please check the box to indicate that you have read and understand DFG's new policy for mitigation on publicly owned and conserved lands (included as Attachment B2 to the PSP on the website).

a) ☑ I have read and understand the DFG policy.

AM7 - Other Proposed Mitigation Mechanisms

If Applicants feel they cannot or may not need to meet IRT requirements described in Attachment B1, they are encouraged to identify potential alternatives that can provide equivalent information for consideration by applicable regulatory agencies outside of the IRT process. Describe those alternatives here. ***Note that funding for such a project or activity will be contingent upon the relevant regulatory agencies' approval of these alternatives as functionally equivalent to the information required by the IRT, such that they can formally become a signatory for the development and use of mitigation credits in permit negotiations on SPFC projects.***

not applicable

Section : Additional Application Questions

This tab includes additional questions that the PET will use to evaluate your proposal.

Q1 - Significant Impacts under CEQA

List any potentially significant impacts the proposed project could result in. If available, list mitigation measures that have been incorporated into the proposal.

There may be significant impacts regarding air quality and sensitive biological resources. For air quality impacts, mitigation measures to reduce emissions from construction equipment and a fugitive dust control plan may be required. For impacts to sensitive biological resources, construction work windows, pre-construction clearance surveys, exclusion devices, and biological monitoring during project implementation may be required.

Q2 - List of required permits

List the required permits and provide an implementation plan for their procurement.

1

The following is a list of the anticipated regulatory permits and approvals needed for implementation of the Bank project: CEQA/NEPA Compliance Clean Water Act Section 404 Compliance (Section 404) Federal Endangered Species Act (Section 7) National Historic Preservation Act Section 106 Documentation Fish and Wildlife Coordination Act Support California Endangered Species Act (Section 2081) California State Fish and Game Code (Section 1602) Clean Water Act Section 402 Compliance Clean Water Act Section 401 Compliance Central Valley Flood Protection Board (CVFPB) Encroachment Permit (Title 23) Yolo County Grading Permit WSAFCA will establish communication, in coordination with DWR or its designee, with the resource and regulatory entities. The purpose of communication at this stage is to ensure that regulatory triggers and approval pathways are identified early, a spirit of cooperation is established, and agency feedback is integrated into the project design to facilitate a smooth process and fair outcome for WSAFCA relative to permit conditions. It is intended that communication at this stage will be informal and preparatory for formal pre-application meetings. The communication will focus on agency preferences for analytical methods and documentation standards, with the overall intent of establishing constructive rapport for the project and WSAFCA, as well as determining pathways among variable permit parameters (such as for Clean Water Act [CWA] Section 404). WSAFCA will apply the information and agency communication to develop a permitting strategy, detailed workplan, and schedule. The workplan and schedule will prioritize the permits as individual tasks based on duration of document preparation time, elements common and essential to multiple permit applications, agency processing time, design milestones, and additional data needs, reflecting the dependencies between permits. This task will also include coordination with the design and modeling consultant as well as the lead for the CEQA document. WSAFCA will provide feedback on the design and CEQA document relative to likely permit conditions and to ensure avoidance and minimization of environmental effects or permitting challenges. Finally, this task will include a cultural resources record search from the county information center and a search of the California Native Diversity Database for special-status species.

Q3 - Property Acquired or Restored used for Mitigation

Will any of the property acquired or restored with this grant funding be used to meet mitigation requirements for another project? (Yes or No)

If yes, please indicate the number of acres and the specific project(s) for which the property to be acquired or restored would provide mitigation.

Yes, it is anticipated that between 20 and 30 of the credits from the Bank project will be assigned to the Southport EIP as project mitigation.

Q4 - Project Acquisition and Easement Description

Provide a description of how the property improvements or acquired property interests funded by the grant will be conserved in perpetuity, either by a recorded conservation easement, deed restriction or similar limitation to fee title held and enforced by an unidentified third party, or other mechanism acceptable to the State. Upon project implementation, it must be in first position ahead of any recorded mortgage or lien on the property unless this requirement is waived by the State.

The Bank project site will be located in a California state designated floodway which will restrict future activities on the site. As a flood risk reduction agency, WSAFCA has limited financial and political ability for habitat restoration beyond that required for project mitigation associated with the Southport EIP. WSAFCA will partner with the State to identify responsible parties for land ownership, bank ownership, and operations and maintenance, given that the majority of the mitigation credits will be utilized by the State. Further, WSAFCA and the State will need to work closely together on the financial details of the project to ensure that the interests of both agencies are met.

1

Section : Attachments

The following items will be uploaded onto the application as attachments. All attachments must be kept under the 50MB maximum allowed on the BMS/GRanTS, so it may be necessary for applicants to submit the attachments as separate files (up to five files may be uploaded per question, or to zip them. prior to uploading. Also, BMS/GRanTS requires the file name to be less than 50 characters in length.

Attachment 1 - Signature Page

Download the Signature Page from DWR's CVFS Conservation Framework and Strategy website. Upload a scanned version onto the BMS/GRanTS and send by mail, delivery service, or hand carry an original (wet signature) signed form with hard copy of the proposal to the physical address noted in your invitation letter.

Last Uploaded Attachments: Signature Page.pdf

Attachment 2 (see Question G1) - Resolution

Download the resolution from DWR's CVFS Conservation Framework and Strategy website. Attach a resolution from the applicant organization's governing board authorizing submittal of a grant application, indicating their intent to accept the grant if awarded, and authorizing specific individuals to sign the funding agreement on behalf of each applicant organization.

Last Uploaded Attachments: Signed Res. 12-12-01.pdf

Attachment 3 (see Question G2) - Resumes for Key Cooperators

Provide a resume (up to 2 pages) for each identified Key Cooperator.

Last Uploaded Attachments: Carl Jensen resume.pdf,Derek Larsen resume.pdf,Chris Bowles resume.pdf

Attachment 4 (see Question G9) - Landowner Agreements

If applicable, attach (1) a copy of any agreement authorizing creation of habitat on a private parcel; and (2) written authorization to access the project site for reconnaissance purposes.

Last Uploaded Attachments: NA.pdf

Attachment 5 (see Question G10) - Project Description; Scope of Work; Schedule

1

Attach a detailed description of the project and clearly indicate which portions are proposed for DWR's bond funding. The project description should include, at a minimum:

- the goals and objectives of the project;
- the activities that will be undertaken under this proposal to achieve the project objectives;
- relationships to other projects or activities that may benefit from implementation of this project, as well as any existing mitigation obligations of these projects or activities, if known;
- the approximate timelines for deliverables associated with this proposal; and
- a brief description, including approximate timelines and expected deliverables, of any future phases that would result in full implementation of the project, if applicable.

Scope of Work-Task Outline - Refer to the document *Work Plan, Budget, & Schedule: Grantee Guidance* from DWR's CVFS Conservation Framework and Strategy website. Use the example provided (Table 1) to create a Scope of Work – Task Outline, and upload it to BMS.

Schedule – Refer to the document *Work Plan, Budget, & Schedule: Grantee Guidance* from DWR's CVFS Conservation Framework and Strategy website. Use the example provided (Table 4) to create a Schedule, and upload it to BMS.

Last Uploaded Attachments: Southport FESSRO Final Proposal Scope.pdf

Attachment 6 (see Questions G10 and G11) - Project Drawings and Sketches; Maps

Project Drawings and Sketches – Provide location maps, designs, drawings, color photographs, or other information that describes the project features.

Project Location/Site/Vicinity Map – Provide a map and/or diagrams depicting locations of nearby conservation properties and projects in relation to the project site.

Last Uploaded Attachments: Figures 1-3.pdf

Attachment 7 (see Question G15) - Task Budget

Refer to the document *Work Plan, Budget, & Schedule: Grantee Guidance* from DWR's CVFS Conservation Framework and Strategy website. Use the example provided (Table 2) to create a Task Budget that reflects the contents of the Scope of Work-Task Outline submitted in Attachment 5, and upload it to BMS. Make sure the task budget includes all costs for developing agreements with regulatory agencies, and long-term maintenance costs for the site as well as flood maintenance costs.

Last Uploaded Attachments: FESSRO Budget.pdf

Attachment 8 (see Question G16) - Task Budget for Potential Future Phases

Refer to the document *Work Plan, Budget, & Schedule: Grantee Guidance* from DWR's CVFS Conservation Framework and Strategy website. If applicable to your project, use the example provided (Table 2) to create a Task Budget reflecting expected costs of future phases that will need to occur to bring this project to completion.

Last Uploaded Attachments: NA.pdf

1

West Sacramento Area Flood Control Agency (WSAFCA)
1110 West Capitol Avenue
West Sacramento, CA 95691
Authorized Representative: Kenneth A. Ruzich
WSAFCA General Manager
Phone: (916) 371-1483
Fax: (916) 371-1494
wsrd@pacbell.net

Primary Contacts
Paul Dirksen
City of West Sacramento
Phone: (916) 617-4560
Fax: (916) 371-0845
pauld@citvofwestsacramento.org

January 7, 2013

Submittal to:
Lori Clamurro Chew
Department of Water Resources
FloodSAFE Environmental Stewardship and Statewide Resources Office
901 P Street, Room 411A
Sacramento, California 95814

Submittal includes:

- 2 copies of the West Sacramento Area Flood Control Agency's State of California West Sacramento Floodplain Mitigation Bank Work Plan, Schedule, and Budget

1

California Department of Water Resources
Central Valley Flood System Conservation Framework and Strategy
Grant Application Form
November 2012

Applicant Signature Page

Applicant: West Sacramento Area Flood Control Agency

Project Title: State of California West Sacramento Floodplain Mitigation Bank

By signing below, the official declares the following:

The truthfulness of all representations in the proposal;

The individual signing the form has the legal authority to submit the proposal on behalf of the applicant, and the applicant has the legal authority to enter into a contract with the State;

There is no pending litigation that may impact the financial condition of the applicant or its ability to complete the proposed project;

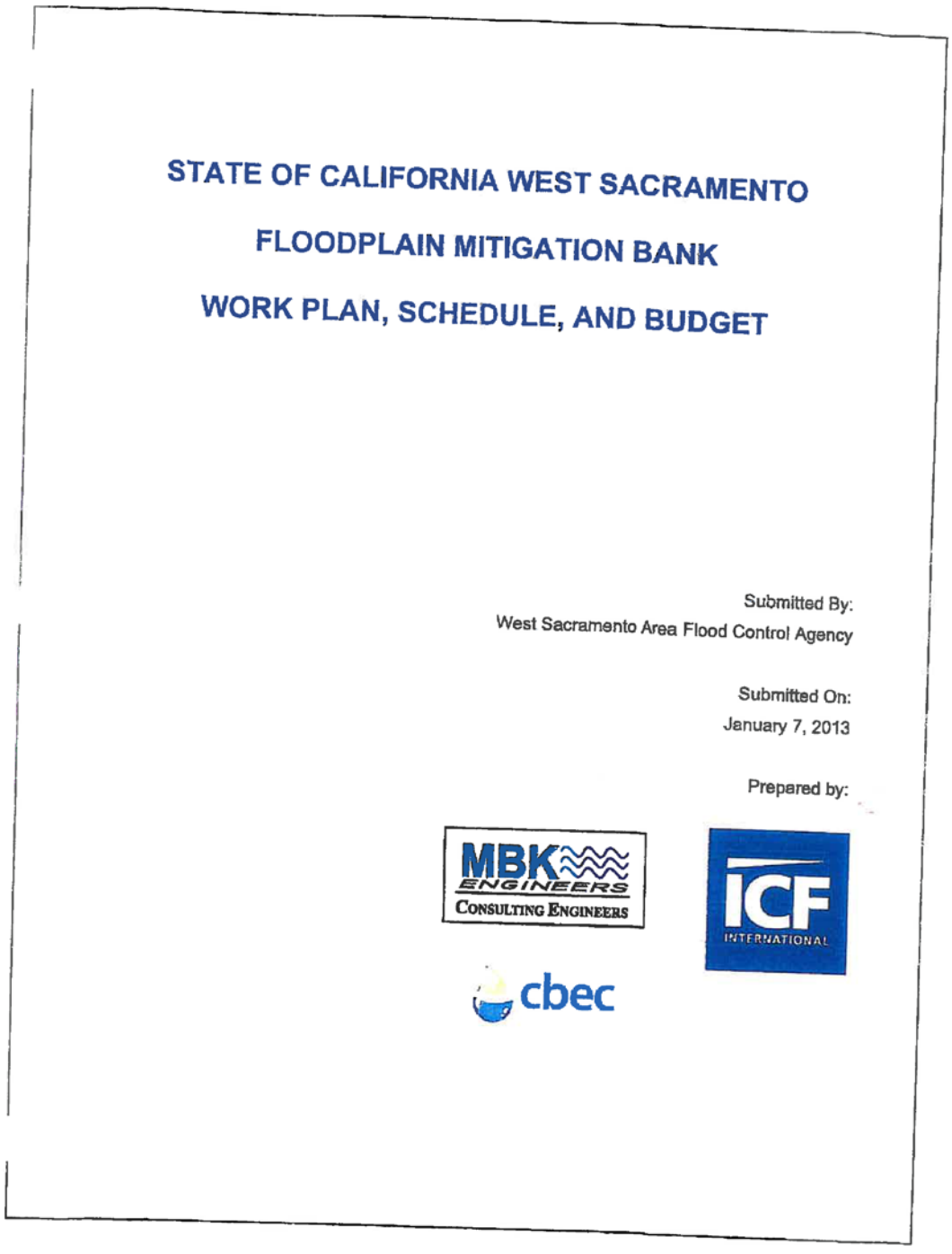
The individual signing the form waives any and all rights to privacy and confidentiality of the proposal; [Note: DWR will keep confidential sensitive information related to property negotiations or legal proceedings to the extent allowed under public information disclosure laws.]

The applicant will comply with all terms and conditions identified in the Central Valley Flood System Conservation Framework and Strategy Guidelines, PSP, and future Funding Agreement if selected for funding.

Kenneth A. Ruzich, General Manager
West Sacramento Area Flood Control Agency

1/7/13
Date

1



STATE OF CALIFORNIA WEST SACRAMENTO

FLOODPLAIN MITIGATION BANK

WORK PLAN, SCHEDULE, AND BUDGET

Submitted By:
West Sacramento Area Flood Control Agency

Submitted On:
January 7, 2013

Prepared by:

MBK ENGINEERS
CONSULTING ENGINEERS

ICF INTERNATIONAL

cbec

1

TABLE OF CONTENTS

1

PROJECT INFORMATION

The State of California West Sacramento Floodplain Restoration Bank (Bank) project would create a mitigation and conservation bank that would yield approximately 120 riparian floodplain and endangered species conservation credits, and has the potential to create approximately 21,000 linear feet of restored and enhanced shaded riverine aquatic (SRA)/channel margin habitat available as mitigation credits on a per-linear foot basis. Specifically, the proposed Bank project would create riparian floodplain and off-channel refugia habitat for native fish, including Chinook salmon and Sacramento splittail, and to a limited extent, Central Valley steelhead. The West Sacramento Area Flood Control Agency (WSAFCA) would partially utilize the Bank to fulfill mitigation that will be obligated to the Southport Early Implementation Project (Southport EIP), but substantial credits will remain for use by the State to mitigate for future project impacts resulting from implementation of the Central Valley Flood Protection Plan (CVFPP).

Southport Early Implementation Project (Southport EIP)

The Bank project represents the final phase of the Southport EIP, which is a proposed multi-objective flood control project for the City of West Sacramento that advances the primary goal of achieving a minimum level of 200-year flood protection and when compatible providing recreational opportunities, and restoring habitat and floodplain values when economically feasible. The Southport EIP reach extends approximately 5.6 miles from the termination of the U.S. Army Corps of Engineers' (USACE's) Sacramento River Bank Protection Project at River Mile 57.2 south to the South Cross Levee (Figure 1). While the Southport EIP is still undergoing environmental and public review pursuant to NEPA and CEQA, the currently identified preferred alternative would create a new setback levee and reinforce existing levees. The new levee segment would be constructed between 400 and 1,000 feet away from the Sacramento River channel to create a new setback floodplain area.

A setback levee has a number of extended floodplain management benefits, including a reduction in operations and maintenance (O&M) for levees and capital costs to mitigate for erosion. Additionally, a fully engineered levee section will better withstand seismic events, further reducing O&M and future capital investments. An important threshold criterion for all flood risk reduction projects is ensuring that no significant adverse system-wide hydraulic impacts result from a project. WSAFCA has performed extensive hydraulic and geomorphic modeling of the proposed setback levee and the results to date indicate that the levee improvements, including restoration of the setback area, would not result in significant adverse hydraulic impacts. Accordingly, WSAFCA is proposing the Bank project to improve floodplain values and recreation opportunities while maintaining a sustainable flood risk reduction system.

West Sacramento Floodplain Mitigation Bank (Bank Project)

The Bank project would be developed in the setback area of the Southport EIP. It would extend approximately four miles along the Sacramento River and vary in width between 400 and 1,000 feet (Figures 2 and 3). Design of the Bank project in the setback area would be initiated once the Southport EIP 65% design and the public review period for the EIS/EIR are underway, which is expected in early 2013. Based on designs for the Southport EIP, which are currently being finalized, it is anticipated that much of the setback area would be excavated down to a floodplain elevation of approximately 10.0' NAVD88 and the excavated material would be

1

utilized in constructing portions of the new flood control features. A low-flow swale would be excavated within the restored floodplain with an invert elevation at approximately +7.0' NAVD88 to provide access to the vegetated floodplain terrace and a drainage point back to the main river channel, which would minimize the potential for fish stranding during flood water recession. The existing Sacramento River levee would be excavated to a lower elevation or completely breached in places to create effective hydrologic connectivity between the restored floodplain and the main river channel.

Seasonal inundation of the floodplain, including restored riparian, woodland, and grassland habitats, would provide seasonal rearing habitat for juvenile salmonids. After young salmon have dispersed from spawning areas, their distribution and abundance is determined largely by their preferences for shallow water and low water velocities, which in large rivers are found mostly along channel margins, floodplains, and other off-channel habitats. Based on a habitat suitability index (HSI) developed for juvenile salmonids by ICF International, the restored floodplain is likely to provide optimal or near-optimal rearing habitat for juvenile salmonids. Floodplain and riparian habitat inundation may also benefit other native fishes, including Sacramento splittail and steelhead trout.

Existing SRA habitat/channel margin in the Southport EIP project area is limited to a narrow, discontinuous band of riparian vegetation on the Sacramento River levee and at isolated locations in the levee setback area. The primary area for restoring SRA/channel margin habitat would be focused along the existing riverbank of the Sacramento River. The existing levee is positioned along the top of the riverbank. Implementation of the Southport EIP would set back the new levee and the existing levee would be partially or entirely degraded along the riverbank. Removing the existing levee from the riverbank will allow substantial lengths of channel margin to be enhanced with riparian vegetation, slope flattening, and in-stream habitat structures. Riparian scrub and cottonwood forest habitat may be established on portions of the restored and/or lowered floodplain relatively close to the Sacramento River and would be subject to recurrent inundation. Riparian shrub habitat would include several willow species, buttonbush, and seedlings of other native riparian species. Cottonwood forest habitat would be subject to recurrent flooding and would include an overstory of cottonwood, sycamore, willow, box elder and Oregon ash. Understory riparian species such as California grape and California blackberry would be included in both planting palettes to provide diversity in vegetative structure. Elderberry shrubs may be included in the restoration design if they would not conflict with managing the flood control features. Current project designs call for sections of the existing levee to be stabilized with biotechnical treatments to minimize bank erosion in critical areas. These erosion treatments be modified with additional plantings and habitat structures such as root wads or engineered log jams to maximize benefits to aquatic species.

Between the riverbank and the new setback levee alignment, a system of swales will be designed that will form the primary riparian and aquatic habitat corridors and provide floodplain drainage of the setback area. Substantial aquatic-to-terrestrial transition "edge" habitat would be created along these swales. In addition, topographic heterogeneity will be incorporated into the project design grading plans that will allow for a mosaic of seasonal wetland, riparian wetland, and riparian upland habitats. Seasonal wetland areas will be enhanced with wetland vegetation, while riparian upland habitats will include a variety of willow-scrub, cottonwood forest, and oak woodland plantings.

1

Finally, other enhancements may be incorporated, such as the inclusion of large woody material (root wads/engineered log jams) to provide for additional flow diversity and habitat refugia valuable for aquatic habitats in the setback area.

Ultimately, its anticipated that implementation of the Bank Project could yield up to approximately 120 riparian floodplain and endangered species conservation credits and approximately 21,000 linear feet of restored and enhanced SRA/channel margin habitat available as mitigation credits on a per-linear foot basis. WSAFCA would partially utilize these credits to fulfill mitigation obligations resulting from the Southport EIP, but substantial credits would remain available.

A Bank Enabling Agreement (BEI) will be prepared for the Bank project and will serve as the agreement between the bank sponsor and the appropriate natural resource agencies "regarding the establishment, use, operation, and maintenance of the Bank" to compensate for unavoidable impacts on, and conserve and protect, waters of the U.S., endangered species, and other protected habitat.

Commercially available riparian habitat credits sell for approximately $100,000 to $150,000 per credit acre, and native fish conservation credits sell for between $75,000 and $180,000 per credit acre. The pricing of each credit type is dependent on location, availability, and entitlement and construction costs.

Technical Approach for the Bank Project

During planning and design of the Southport EIP, WSAFCA analyzed several project alternatives including multiple setback levee lengths and setback widths (i.e., distance the levee was setback from the existing levee). Through this process, WSAFCA has identified an alignment that best meets the flood risk and recreation objectives while also providing for floodplain and habitat restoration opportunities. This alignment is presented in the 65% design that is scheduled for release in January 2013.

Design of the Bank project in the setback area would be initiated once the Southport EIP 65% design and the public review period for the EIS/EIR are underway, which is expected in early 2013. WSAFCA has assembled a multidisciplinary team of experts in levee design, hydraulic modeling, mitigation bank design, and geomorphology. This multidisciplinary team's approach is to integrate hydraulic modeling with geomorphic interpretation to maximize restoration benefits while balancing flood objectives. The approach utilizes the two-dimensional, hydrodynamic and morphological model MIKE21C to develop a geomorphically-based analytical tool for assessing the timing, duration, location, depth, and flow direction of floodplain inundation under existing and setback conditions for a 12-mile reach of the Sacramento River. An improved understanding of the timing, extent, frequency, depth; and duration of floodplain inundation is achieved using this approach and this information is extremely valuable in developing restoration designs that will maximize seasonal benefits to aquatic species.

The technical approach for the Bank project will consider eco-hydrologic criteria presented in Table 1.

1

Central Valley Flood System Conservation Framework and Strategy
Work Plan for the State of California West Sacramento Floodplain Mitigation Bank

Table 1. Summary of Eco-hydrologic Criteria and Flows for State of California West Sacramento Floodplain Mitigation Bank

Species	Season	Duration	Interannual Frequency	Flow (cfs)	Approximate Recurrence Interval (years)	Approximate Water Surface Elevation (NAVD 88 – ft) within Offset
Sacramento Splittail[1]	Mar-Apr	>3 weeks	1 out of 3 years[2]	33,500	1.05	10.5
Sacramento Splittail[1]	criteria as above		2 out of 3 years[2]	18,100	0.6	7
Juvenile Chinook Salmon[3]	Dec-May	>2 weeks[4]	1 out of 3 years[5]	70,100	1.9	20
Juvenile Chinook Salmon	criteria as above		2 out of 3 years[5]	32,100	1.05	10.4

Notes:

[1] Unless noted otherwise, the evaluation/design criteria for Sacramento splittail are based on Moyle et al. (2004).
[2] Sacramento splittail populations are expected to benefit from increasing frequency of appropriate habitat conditions on floodplains.
[3] Unless noted otherwise, the evaluation/design criteria for Chinook salmon are based on Moyle (2002).
[4] Floodplain benefits for juvenile Chinook salmon increase with increasing duration of floodplain inundation in winter and spring (Sommer et al. 2001); inundation periods of two weeks are considered a minimum duration for juveniles to establish residency and experience enhanced growth on floodplain.
[5] Chinook salmon populations are expected to benefit from increasing frequency of appropriate habitat conditions on floodplains.

To date, the following elements leading to 65% design (currently under internal review) have been completed.

- Baseline topographic surveys; existing utility surveys and mapping; bathymetric surveys; hydraulic data development including Acoustic Doppler Current Profile (ADCP – flow and velocity) measurements and river stages for model calibration purposes; geomorphic data development including suspended and bedload sediment transport measurements; and erosion assessments along the river bank of the Sacramento River through the project reach.
- Extensive geotechnical investigations, including numerous boreholes and soils tests in the setback area and existing levee, to characterize geologic conditions including underseepage issues.
- Assessment of biological and ecological conditions along the riverbank and setback area, including identification of sensitive species.
- Hydrodynamic and sediment transport modeling to identify system-wide and localized impacts of levee setback alternatives, and potential mitigation options.

Page 4 ICF

State of California West Sacramento Floodplain Mitigation Bank Work Plan, Schedule, and Budget

1

- Property surveys and investigations.
- Optimization of setback grading to provide material for levee construction and identification of additional borrow material sites.
- Development of geotechnical designs for the new levee, including seepage berms and cutoff walls.
- Development of preliminary erosion control measures for the setback area, the new levee, and the remnant riverbank of the Sacramento River, including biotechnical bank stabilization measures.
- Development of 65% design level plans, specifications and cost opinions, including the Design Documentation Report (DDR).
- Preparation of the Southport EIP draft EIS/EIR for public review and preliminary regulatory permitting applications.

Integration of the Southport EIP and Bank Project

Given the integrated nature of the Southport EIP and Bank project, opportunities exist to achieve efficiencies during both design and construction of the projects if conducted concurrently. These could include, for example, design of the floodplain terrace in the setback area, demonstration of the hydraulic feasibility, permitting, and equipment mobilization, among other activities. If the efforts are conducted in parallel, the FESSRO-funded portions of the Bank project would focus on fine grading, plans and specifications, construction of habitat related features, and post-construction monitoring and establishment. An addendum to the Southport EIP would likely be required to secure NEPA/CEQA compliance.

Costs for flood risk reduction components with no nexus to development of the mitigation bank or that solely benefit the flood risk reduction project will be funded through the EIP. WSAFCA will perform all land acquisition required for the Bank project under the State EIP program.

Project Objectives

The Bank project would be developed in the Southport EIP setback area for approximately four miles along the Sacramento River. The Bank would bank would yield approximately 120 riparian floodplain and endangered species conservation credits, and has the potential to create up to approximately 21,000 linear feet of restored and enhanced shaded riverine aquatic (SRA)/channel margin habitat available as mitigation credits on a per-linear foot basis. The objectives listed below are based on maximizing the value of the habitat area. The restoration objectives developed for the Bank include:

- Provide compensatory mitigation credits for impacts on protected land cover types and on special-status species and potential habitat for these species.
- Conduct channel margin habitat/SRA enhancement and preservation activitiesusing biotechnical methods.
- Enhance setback ecological values using topographic and vegetation/habitat heterogeneity.

1

- Restore portions of the historic Sacramento River floodplain (i.e., waters of the United States).
- Restore riparian and oak woodland habitat on the exposed floodplain that will create continuous habitat corridors for wildlife movement.
- Design habitat features to minimize future maintenance obligations (e.g., reduce opportunities for sediment and debris accumulation).
- Design floodplain planting and vegetation management schemes to avoid undesirable hydraulic and sediment transport impacts on the setback levee and setback area.

The preliminary target habitats to be restored were identified based on an evaluation of the current extent and condition of riparian and upland habitat, the historical conditions of the Sacramento River floodplain and its associated habitat values, the post-project floodplain conditions, and a review of similar projects in the region.

Enhancement and preservation of existing channel margin habitat/SRA will be done on a limited basis in order to work within the budget framework of the FESSRO grant solicitation and create marketable credits comparable to what exists in the commercial market. There is opportunity to carry out more extensive channel margin habitat restoration actions for specific clients or restoration plans (e.g., the proposed Bay Delta Conservation Plan's Biological Goals and Objectives), but implementation of those actions would be subject to unique partnerships with the appropriate public entities and are beyond the scope of the grant solicitation and this proposal.

Project Constraints

Because this project is associated with the Southport EIP and would be implemented by the WSAFCA, the project is being proposed in a context of some uncertainties and constraints. WSAFCA's primary mission is to reduce flood risk for the City of West Sacramento while seeking to maximize recreation opportunities for its residents. The Southport EIP presents an opportunity to achieve this mission and improve environmental floodplain values. Mandatory to the success of the Southport EIP is a hydraulically neutral and sustainable flood project. To the extent that this is achieved, WSAFCA is open to participating in the Bank project. WSAFCA believes the goals of the Southport EIP and Bank project can be balanced for an overall improvement to the flood system and the environment for the benefit of the State, WSAFCA, and the City of West Sacramento. Specific constraints, such as setback area resilience to Sacramento River channel migration caused by failure of erosion control measures, operation and maintenance agreements, and perhaps others, will need to be fully identified and considered during design and implementation of the Bank project.

As a flood risk reduction agency, WSAFCA has limited financial and political ability for habitat restoration beyond that required for project mitigation associated with the Southport EIP. WSAFCA will partner with the State to identify responsible parties for land ownership, bank ownership, and operations and maintenance, given that the majority of the mitigation credits will be utilized by the State. Further, WSAFCA and the State will need to work closely together on the financial details of the project to ensure that the interests of both agencies are met.

1

Figures

The pages below present figures of the following:

Figure 1 – State of California West Sacramento Flood Mitigation Bank Location Map

Figure 2 – State of California West Sacramento Flood Mitigation Bank Concept Plan

Figure 3 – State of California West Sacramento Flood Mitigation Bank Typical Section

TASKS – SCOPE OF WORK

Task 1.0 Project Management

WSAFCA and team will carry out project management duties including management of the scope, schedule, and budget and communication with agencies and stakeholders. Lastly, WSAFCA will work with the State on administration of the FESSRO grant.

Task 1.1 Project Management

Perform project management duties to ensure the project operates within approved scopes, schedule, and budget and in accordance with all applicable rules, regulations, and laws. Typical duties associated with project management include regular communication with the team, subcontractors, agencies, and stakeholders; preparing for and attending meetings; schedule monitoring and maintenance; scope and budget monitoring; and various written correspondence and product development.

Because this project is dependent upon the Southport EIP, which is already underway, solicitation of additional contractors would not be necessary for the planning and design. However, scopes of work for contractors already under contract would require modification. Scopes of work would be prepared by the contractors and submitted to WSAFCA for review. New scopes of work will be awarded if fair and reasonable. Construction contracts for preparation of the site would likely be included in the Southport EIP construction contract and would be obtained in accordance with EIP guidelines. For construction, a separate contractor specializing in environmental restoration would be hired for installation of vegetation and associated light infrastructure.

Meetings would occur frequently during design development and would continue during construction, although the participants would change from design to construction phases. Frequent conference calls also would be part of the management process.

Deliverables

- Meeting agendas and minutes
- Schedule updates
- Written correspondence
- Memoranda and other written documentation

1

Figure 1
State of California West Sacramento Floodplain Mitigation Bank Location Map

1

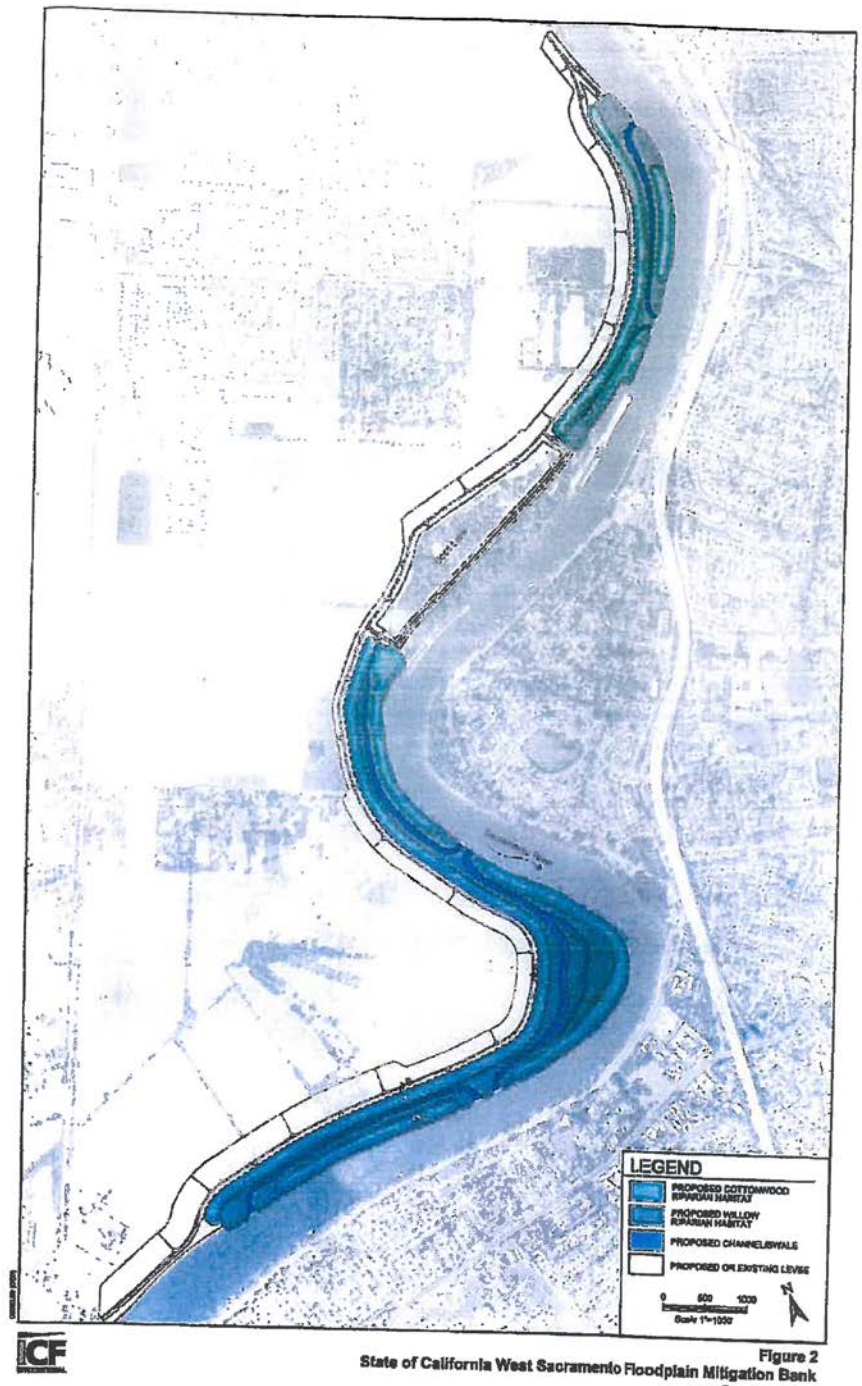
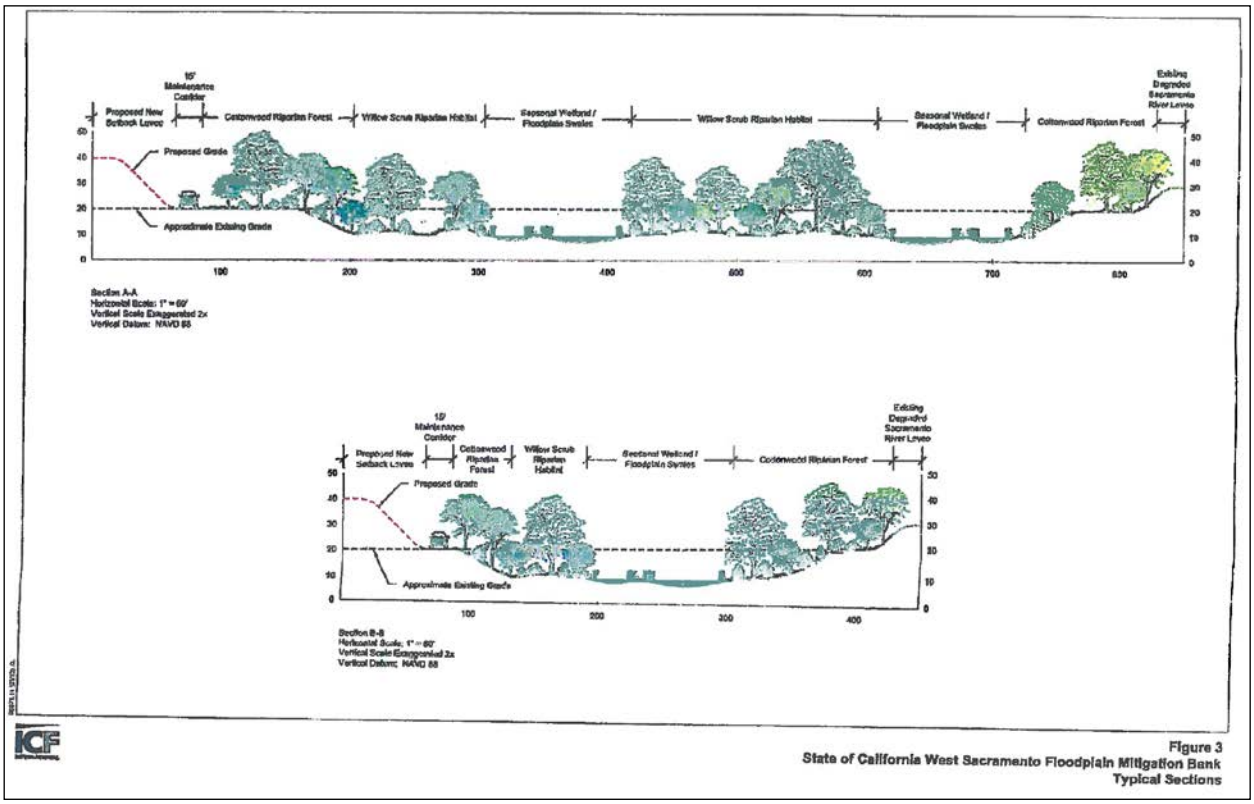


Figure 2
State of California West Sacramento Floodplain Mitigation Bank
Concept Plan

1



1

Figure 3
State of California West Sacramento Floodplain Mitigation Bank
Typical Sections

Task 1.2 Grant Administration

Beyond typical project management duties, grant administration services would be required for this grant to ensure it is administered appropriately and within applicable rules, regulations, and laws. This task would include communicating with DWR related to the grant itself (as opposed to the project); preparation of quarterly reports and deliverables; preparation of electronic reports, email and phone correspondence related to the grant; and other necessary tasks.

Deliverables

- Quarterly reports
- Electronic reports
- Invoices, written correspondence
- Memoranda and other written documentation

Task 2.0 Right of Way and Lands

Land and easement acquisitions will be carried out under the Southport EIP, as specified in the Southport EIP funding agreement with DWR. The lands, easements, and rights-of-way necessary for construction, operations and maintenance, including those rights required for the flood management structures, temporary construction areas, mitigation sites, borrow sites, spoil sites, access/haul routes, staging areas, private utility relocations; and providing relocation assistance for qualified occupants of acquired property, as required by state and federal statutes, rules and regulations, will be determined as part of the Southport EIP. This will be accomplished with a Project Real Estate Plan that includes such details as a narrative description of the real estate requirements with a breakdown of the estimate of total acreage to be acquired; type of real property interests to be acquired; and cost projections of eligible real estate project costs, including crop damages and loss of good will. The Project Real Estate Plan will be prepared and submitted to DWR for review and approval as part of the Southport EIP.

Task 2.1 Appraisal Activities

Right of way appraisals will be carried out under the Southport EIP and meet the standards set forth in the EIP program. Activities will include surveys, map development for existing lands, easements, and utilities, plat and legal descriptions, site assessments, right of entry, appraisal services, independent appraisal reviews, and coordination with landowners and agencies.

Deliverables

- Draft and final appraisals
- Independent review certifications

Task 2.2 Acquisition Activities

Acquisition will be carried out under the Southport EIP and meet the standards set forth in the EIP program. Activities will include development of contracts, conveyance documents and escrow instructions; meeting with property owners to explain appraisal, contracts, maps,

1

exhibits or other acquisition-related documents and convey documents until acceptance or impasse is reached; and land acquisition (purchase).

WSAFCA will also provide relocation assistance to affected residential and commercial property owners. Relocation assistance will consist of property owner interviews, site visits, and developing a relocation package specific to each displace. WSAFCA will develop a relocation plan that will conform to the Uniform Relocation Act and that meets DWR requirements.

Deliverables

- Settlements
- Parcel diaries
- Contracts
- Deeds
- Other correspondence including impasse memoranda
- Relocation plan

Task 3.0 Preparation of Mitigation Bank Documents

A BEI will be prepared for the Bank project and will provide all the necessary legal agreements, project background, and operations, monitoring, and maintenance protocols for the project.

Task 3.1 Preparation of Mitigation Bank Prospectus

As part of the mitigation bank approval process, a detailed prospectus for the Bank project will be prepared for review and approval by the appropriate Interagency Review Team (IRT). This prospectus will be used to quantify and assess the merits of the mitigation bank concept at the project site. The prospectus will contain the following information.

- General description of the Bank site.
- Design methodology and rationale.
- Proposed service area.
- Proposed crediting and release schedule.
- Monitoring and contingency plans.
- Site-specific conservation and management agreement outlining financial assurances and proposed long-term management of the site.
- Long term conservation mechanism.

The completed prospectus will be reviewed by the IRT and will serve as the basis for assigning credit value to the restoration actions in the setback area and for preparation of the BEI.

Deliverable

- Mitigation Bank Prospectus

1

Task 3.2 Preparation of Bank Enabling Instrument

The BEI will serve as the legal agreement between the bank sponsor and resource agencies for operation and management of the mitigation bank. The BEI will contain all of the contents of the prospectus but in greater detail, plus the following:

- Recitals and legal agreement
- Bank operation information
- Reporting requirements
- Responsibilities of the bank owner and IRT
- Other provisions
- Appendices, including:
  - Interim and Long-term management plans
  - Real estate records and assurances
  - Credit table, credit purchase agreement, and credit transfer template
  - Phase I Environmental Site Assessment
  - Appropriate resource surveys

Deliverable

- Bank Enabling Instrument

Task 4.0 Environmental Permitting and Compliance

Implementing the Bank project will require compliance with several local, state, and federal regulatory processes. The following sub-tasks outline the regulatory permitting and environmental review processes that will be completed as part of the project development.

Task 4.1 Initial Site Assessment

WSAFCA will perform an initial site assessment of the Bank site to document existing physical and ecological conditions and collect information that will support the planning, permitting and design tasks. The project team will conduct an initial site assessment to characterize the general site features; existing vegetation and habitat; existing hydrology, hydrodynamics, and geomorphology; and presence of special-status species.

In addition to in-the-field assessments, the site assessment will be supported by existing data, models, studies, and reports developed during the Southport EIP or other relevant efforts.

Deliverable

- Initial Site Assessment Report

Task 4.2 CEQA/NEPA Compliance

WSAFCA and USACE are currently developing an environmental document for the Southport EIP but, due to scheduling constraints, the document may not include all relevant information for

1

adequate environmental analysis of the Bank project. To achieve the necessary CEQA/NEPA compliance, WSAFCA will prepare a supplemental environmental document to accompany the existing Southport EIP EIS/EIR. The purpose of this supplemental document will be to provide additional information and analysis on project features and actions that may not have been covered in the original Southport EIP environmental document.

Activities for CEQA/NEPA compliance will require significant coordination with several State and Federal agencies, as well as with the public and stakeholders. Public noticing and meetings will be required and will require support activities.

Deliverable

- Administrative drafts and final CEQA/NEPA documents.
- Supporting documents such as public notices and response to comments

Task 4.3 Clean Water Act Section 404 Compliance (Section 404)

WSAFCA will work with USACE and other appropriate agencies to obtain the necessary Section 404 approvals. Under Section 404 of the CWA, a permit or Letter of Permission (LOP) is required from USACE for the placement of dredged or fill material into waters of the United States, including wetlands. Most of the Bank site is located within the ordinary high water mark of the Sacramento River and thus falls under Section 404 jurisdiction, necessitating this permit from USACE. Coordination with USACE will determine whether a Nationwide 27, LOP, or Individual Permit is the most advantageous pathway.

WSAFCA will coordinate with USACE throughout the process to seek appropriate compliance documentation. Documentation will include, at a minimum, a wetland delineation, report, and map; preparation of habitat mitigation plan; and preparation of draft and final permit applications. In addition to product-driven activities, WSAFCA will attend meetings and participate in conference calls as necessary.

Because implementation of the Bank project will likely affect sensitive resources or habitats, WSAFCA will need to prepare a Mitigation and Monitoring Proposal (MMP) detailing impacts and the proposed compensatory mitigation. The MMP will be prepared according to Corps Guidelines and the Final Mitigation Rule and will include, but not be limited to, the following:

- List of responsible parties.
- WSAFCA project description (i.e. the project requiring mitigation).
- Discussion of site characteristics including existing wetlands and other waters, and other sensitive resources occurring in the Bank project area.
- Discussion of functions of existing resources.
- Description of the proposed compensatory mitigation (most likely self-mitigating with credits from the Bank project).

Deliverables

- Draft and final wetland delineations
- Draft and permit applications

1

- Draft and final MMP
- USACE Section 404 approval

Task 4.4 Federal Endangered Species Act (Section 7)

The project is proposed in an area known to have the potential for species and their habitat protected under the Federal Endangered Species Act (ESA), Migratory Bird Treaty Act, and Magnuson-Stevens Act, as administered by USFWS for terrestrial and certain aquatic species and NMFS for aquatic species. ESA compliance is required for USACE authorization.

WSAFCA will conduct a search of existing records and will conduct field surveys (e.g., botanical and elderberry survey, giant garter snake survey, Swainson's hawk and other raptor survey, bat survey) of the project area to assess potentially affected biological resources, supported by information on file from the prior programmatic document and other projects.

WSAFCA will coordinate with the USACE, USFWS, NMFS, and DFG throughout the process to seek a biological opinion (BO) from each Federal agency and the corresponding state agency. WSAFCA will prepare a biological assessment (BA) that will include descriptions of the proposed action, suitable or occupied habitat that may be directly and indirectly affected, the manner in which the action may affect listed species or critical habitat, and proposed measures to minimize or avoid adverse effects. The BA for NMFS will also include an Essential Fish Habitat assessment pursuant to the Magnuson-Stevens Fishery Conservation and Management Act. The BAs are intended to provide incidental take coverage.

WSAFCA will work with the USACE and other appropriate agencies to facilitate and conduct ESA consultation including attendance at and preparation for meetings, preparation of BAs and other documents as necessary, and other activities needed to support ESA consultation.

Deliverables

- Survey reports and technical documents
- Draft and final BAs
- BO/Letter of Concurrence

Task 4.5 National Historic Preservation Act Section 106 Documentation

The project is proposed in areas known to have the potential for cultural resources that are listed or are potentially eligible for listing on the National Register of Historic Places, and are therefore protected under the federal National Historic Preservation Act (NHPA), Section 106. NHPA compliance is required prior to the issuance of a Section 404 permit. The project areas are also known to have the potential for resources that are of interest to Native Americans.

WSAFCA will conduct a records search and reconnaissance-level cultural resources surveys at each site in addition to conducting a field inventory and consulting with interested parties.

Deliverables

- Draft and final NHPA letter of concurrence request and supporting documents
- Letter from SHPO

1

Task 4.6 Fish and Wildlife Coordination Act Support

This task entails support to USACE and USFWS to prepare the Fish and Wildlife Coordination Act Report (CAR). WSAFCA will prepare and provide necessary information to USFWS and NMFS, via USACE, in support of those agencies' preparation of a CAR. WSAFCA will attend field and office meetings and conference calls, as necessary.

Deliverables

- Supporting documentation as requested
- CAR

Task 4.7 California Endangered Species Act (Section 2081)

The project area potentially contains species and their habitat that are protected under the California Endangered Species Act (CESA), as administered by DFG, and an incidental take permit (ITP) will be necessary. WSAFCA will work with DFG and other appropriate agencies to facilitate and conduct ESA consultation, including attendance at and preparation for meetings, preparation of documents as necessary, and any other activities needed to support consultation.

Deliverable

- Incidental take permit

Task 4.8 California State Fish and Game Code (Section 1602)

A streambed alteration agreement, in compliance with Section 1602 of the California Fish and Game Code, is required when projects will substantially divert, obstruct, or change the natural flow of a river, stream or lake; substantially change the bed, channel, bank of a river, stream, or lake; or use material from a streambed. The planting activities within the Bank site and any improvements to the Sacramento River channel margin will require this agreement. WSAFCA will work with DFG and other appropriate agencies to facilitate a streambed alteration agreement, including attendance at and preparation for meetings, preparation of documents as necessary to support an agreement, and other activities as necessary.

WSAFCA will prepare and submit the application package, describing the project features; construction period; construction methods; impacts on vegetation, fish, and wildlife; and the proposed monitoring plan. WSAFCA will coordinate with DFG throughout the process to seek appropriate compliance documentation. To support the application, WSAFCA will conduct an arborist survey.

Deliverables

- Draft and final permit applications
- Section 1602 permit

Task 4.9 Clean Water Act Section 402 Compliance

Under Section 402 of the CWA, a Storm Water Pollution Prevention Plan (SWPPP) is required to obtain coverage under the state General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ) (General Permit),

1

issued by the State Water Resources Control Board (SWRCB). For reference, the General Permit represents a substantial expansion of the previous general permit and entails a more detailed SWPPP and rigorous site monitoring and reporting to the SWRCB.

WSAFCA will work with the SWRCB and other appropriate agencies to prepare a SWPPP and obtain a Section 402 permit. Activities would include attendance at and preparation for meetings, preparation of documents as necessary to support the SWPPP and permit, field visits and records searches, and other activities as necessary.

Deliverables

- SWPPP
- Section 401 permit coverage

Task 4.10 Clean Water Act Section 401 Compliance

CWA, Section 401, requires that the discharge of dredged or fill material into waters of the United States, including wetlands, does not violate state water quality standards. As required by Section 404 of the CWA, water quality certification from the Regional Water Quality Control Board (RWQCB) must be obtained for permit compliance. WSAFCA will compile the necessary information and submit a complete certification package to RWQCB. WSAFCA will coordinate with the RWQCB throughout the process to seek appropriate compliance documentation.

Deliverables

- Draft and final request for certification
- Certification by RWQCB.

Task 4.11 Central Valley Flood Protection Board (CVFPB) Encroachment Permit (Title 23)

The Bank site is within the Sacramento River floodplain, a California state-designated floodway, and has the potential to affect flood flow conveyance; therefore, a floodway encroachment permit from the CVFPB will be necessary. WSAFCA will work with staff at the CVFPB to develop and process and encroachment permit application. Activities would include attendance at and preparation for meetings; preparation of permit application backed up by hydraulic modeling of the proposed habitat enhancements and other documents necessary to support hearing and approval of the permit; and other activities as necessary.

Deliverables

- Encroachment permit application
- Encroachment permit

Task 4.12 Yolo County Grading Permit

A Yolo County grading permit will be required for the project because it is anticipated that more than 1 acre of ground will be disturbed during fine grading of the Bank site, plant installation, and enhancement of the Sacramento River channel margin. WSAFCA will work with staff at Yolo County to develop and process the necessary documents in support of the permit.

1

Activities would include attendance and preparation for meetings, preparation of permit application and other documents necessary to support the permit, and other activities as necessary.

Deliverable

- Yolo County grading permit

Task 5.0 Conceptual Designs

The team will update existing preliminary sketches of the Bank site to reflect current site conditions and the initial site assessment, and develop detailed conceptual designs for restoration site features. The concept design will focus on two primary areas: SRA, or channel margin habitat, and floodplain habitat. This will include preparing plan view concepts and illustrative cross-sections, along with supporting descriptions, approximate acreages, and typical restoration costs.

Task 5.1 Physical Concept Design

Using information from the Southport EIP and the initial site assessment, WSAFCA will develop a physical concept design for ecological enhancement. Using data and models described above under *Technical Approach for the Bank Project*, the preliminary design will be enhanced to incorporate substantial topographic heterogeneity and other features that will support a diverse mosaic of natural habitats. Enhancements for the transitional "edge" habitat will be analyzed using hydrodynamic and sediment transport models to ascertain design parameters such as water surface elevation, velocity, and shear stress over a range of flows. These parameters will inform planting design such that appropriate vegetation is installed at different elevations. Velocity and shear stress will inform the vegetation design so that vegetation is resistant to shearing forces, and maximize the designs' longevity through resistance to erosive forces. Modeling will also be used to indicate potential areas of sediment accretion and scour.

Similarly, modeling tools will be utilized to predict floodplain inundation area, depth, frequency, timing and duration for a variety of floodplain setback elevations. This analysis combined with habitat evaluation criteria will help inform the selection of vegetation, whether riparian, wetland or upland, for proposed planting palettes. Construction elevation grades will be established that create topographic heterogeneity in order to establish a mosaic of habitats. Potential impacts on flood conveyance will be ascertained by modeling the vegetative roughness of the proposed planting palettes developed through other tasks.

Deliverables

- Concept sketches, including typical sections, profiles, and plans for incorporation into final design.
- Technical memorandum providing details of modeling analysis, as support documentation.

1

Task 5.2 Ecological Concept Design

In combination with the physical design elements described in the previous task, WSAFCA will develop an ecological concept design to support habitat enhancements that will benefit an extensive, successful mitigation bank. The main elements of the ecological concept design will include development of habitat evaluation criteria that relate physical modeling predictions to the ecological requirements of a variety of target species, and planting palettes for a mosaic of habitats.

Deliverables

- Habitat evaluation criteria and planting palettes for incorporation into the concept designs.

Task 6.0 Detailed Design

Based on plan view concepts, illustrative cross-sections, supporting descriptions, approximate acreages, and typical restoration costs developed during conceptual design, the team will develop 65%, 90%, and 100% designs and cost estimates, and conduct appropriate reviews of these documents.

Task 6.1 65% Plans, Specifications, Design Memoranda, and Cost Estimates

This task entails preparing construction drawings and specifications for revegetation, habitat enhancement, and fine grading of the setback area at a 65% level. WSAFCA will develop detailed construction drawings and specifications that are based on concept drawings for enhancement described under Task 5, and the full Southport EIP construction drawing package. The 65% setback construction drawings will include site preparation plans, planting plans for the setback area habitats, irrigation plans, erosion control plans, and construction detail sheets. If needed, implementation phasing will be included on the plans. Written specifications will be prepared to accompany the construction drawings in a format consistent with the larger Southport EIP.

The conceptual plans will be modified to incorporate updated topographic data, if available. The drawings will be updated to conform to local agency drafting standards.

Coordination with existing utility owners will be required and utility locations will be identified and marked on the plans; however, it is not anticipated that utility relocation or replacement will be required.

Grading plans, including base bid items only, and additive bid items if required, will be produced for the 65% submittal. Following preparation of the 65% grading plans, earthwork volume estimates will be produced based on the grading plans and other construction quantities will be estimated. Cost estimates will be prepared based on these quantities.

Based on the estimated volume of excess material, if any, grading plans will be developed for local placement of excess excavated material, preferably onsite. Coordination will be undertaken with the stakeholder groups to determine the requirements and constraints to onsite soil placement. The plans will include haul roads and stockpile layouts. The grading plans will balance multiple project objectives, including preservation of land proposed for other habitats and flood conveyance.

1

A third party constructability review will take place once the 65% construction drawings are complete.

Deliverables

- 65% setback construction drawing set.
- Written specifications.
- Cost estimates.

Task 6.2 Partial 90% Plans, Specifications, Design Memoranda, and Cost Estimates

Upon receipt of comments on the 65% design documents and following team meetings and regulatory agency review, WSAFCA will prepare a partial 90% design document set allowing for several iterations for review and development of certain project features without preparation of an entire construction document iteration. Stand-alone exhibits and construction drawing sheets will be accompanied by written memoranda describing design rationale and background. Updated construction quantity estimates will also be submitted to the client for use in preparing the cost estimate.

A third party constructability review will take place once the 90% complete plan sheets and exhibits are complete.

Deliverables

- 90% setback construction drawing set
- Written specifications
- Cost estimates.

Task 6.3 100% Plans, Specifications, Design Memoranda, and Cost Estimates

Final signed and stamped plans and specifications will be submitted to the client for use as bidding documents. All drawings and specifications will be stamped by a California-licensed landscape architect and civil engineer.

In addition, construction documents will be completed and compiled (including preparation of Division 0 documents) to produce a complete bid package with the preparation of the construction schedule.

Deliverables

- Stamped and signed plans
- Specifications
- Cost estimate
- Bid package
- Construction schedule

1

Task 7.0 Construction

Task 7.1 Bidding

Upon completion of the design documentation, the bidding process will begin. The following elements will be involved with the bidding process.

- Prepare bid documents
- Advertise project
- Award project construction

A bid document package will be prepared for distribution during the construction bidding process. Once the bid package is prepared, the project will be advertised to solicit restoration contractors to submit proposals on the project. The advertisement will include general information about the project and the bidding schedule.

A mandatory pre-bid meeting will be held at which the bid package will be distributed to prospective contractors. The bid package will include a specific date by which contractors will be required to submit their proposals. During the bidding process, bidders' questions will be answered or addenda distributed to clarify information in the bid package.

Once project bids have been submitted, contractor submittals will be reviewed and a summary will be prepared to compare the submittals. WSAFCA and DWR will review this summary and select a contractor.

Deliverables

- Bid notice
- Award notices

Task 7.2 Construction Management

Construction management will occur daily during construction. This will involve the following elements.

- Construction contract administration, including review of work plans, schedules, budgets, and cash flow projections; evaluation of value engineering proposals; evaluation of change orders; and review of invoices for progress payment.
- Preparation of a daily log of construction activities.
- Take photographs to document site conditions, construction progress.
- Conduct weekly progress meetings with the contractor and prepare progress reports.
- Manage the construction schedule.
- Conduct preconstruction biological surveys, special-status species worker awareness training, and construction monitoring for sensitive biological resources during construction.

1

- Conduct cultural resource surveys, training, and construction monitoring near known cultural resources.
- Coordinate approval of and oversee implementation of design changes.
- Cost management associated with construction of the approved plans and specifications.
- Coordinate construction activities with DWR and USACE staff to communicate issues of concern, provide required information, and respond to questions.
- Review and processing of contractor submittals and requests for information (RFIs).
- Construction inspections to ensure that contractors' work is performed in accordance with construction plans and specifications, and is consistent with the intent of the design.
- Quality assurance (QA) testing to ensure compliance with the requirements of contract documents, and review of the effectiveness and adequacy of the contractor's quality control (QC) program.
- Implement start-up, closeout and acceptance procedures for the systematic, orderly and timely completion, acceptance, and transfer of facilities constructed, as well as contract closeout.
- Prepare a construction summary report that will include a summary of the project history, problems encountered and resolutions made, summary of major changes, summary of bid and final project costs, QA and QC testing results, photographs depicting construction work, and project record drawings.

Deliverables

- Meeting agendas and minutes.
- Memoranda; construction schedules.
- Change orders, logs, reports, and other documentation.

Task 7.3 Project Construction

Project construction includes preconstruction and construction activities. Preconstruction activities include preconstruction surveys for special status species, mobilization, and site preparation. Preconstruction surveys will document the presence or absence of special-status species. Once the surveys are complete, appropriate mitigation measures will be taken to protect the resources present, and the methods and findings of the surveys will be documented and submitted to the appropriate resource agencies.

Once preconstruction surveys have been completed, the contractor will mobilize equipment and do the following.

- Establish construction access.
- Installation of erosion crontrol measures.
- Set up the equipment and material staging area(s).

1

- Establish a construction water source (if needed).
- Install of exclusion fencing.
- Demolition and/or clearing and grubbing.

Construction of the Bank project will begin with fine grading of the setback area (major grading will be conducted as part of the Southport EIP) in compliance with the construction documents and any earthworks measures associated with the SRA/channel margin elements. This will involve grading the channel margin slope to a create inset terraces at a flatter profile, installation of instream woody material, and placement of vegetated rock reinforcement as required. Following this, the irrigation system for the restoration plantings will be installed. Once the irrigation system is installed and confirmed to be working per the construction drawings, the plantings will be installed, including container plants or pole cuttings.

Once all planting and irrigation installation activities are complete, the site will be stabilized with the application of an appropriate restoration seed mix and/or other erosion control measures.

As-built record drawings of the completed project will be prepared once all construction activities have been completed and the completed project has been accepted by DWR or its designee.

Deliverables

- Documentation of SWPPP implementation
- As-built records
- Construction completion report
- Photographs

Task 7.4 Environmental Compliance

During construction, WSAFCA and team will conduct environmental compliance activities associated with permits obtained. Examples include special-status species surveys and monitoring, preparation of monitoring reports to resource agencies, and worker awareness training. These activities will be ongoing and subject to the requirements of the appropriate resource agencies. Progress reports (weekly, post construction) will be prepared as needed.

Deliverables

- Status and monitoring reports

Task 7.5 Labor Compliance

Labor compliance is planned to be completed by the Department of Industrial Relations under Labor Code section 1771.3. If Proposition 84 funding is utilized, then WSAFCA will adopt and enforce a certified Labor Compliance Program by soliciting quotes from a labor compliance monitoring company, executing an agreement with the most competitive company, and registering with the Depart of Industrial Relations Compliance Monitoring Unit. The budget will assume the cost to be 0.25% of the total construction cost.

1

Deliverable

- Payment or service agreement

Task 8.0 Habitat Performance Monitoring and Adaptive Management

Annual performance monitoring for adaptive management will be conducted for the restored floodplain and SRA/channel margin habitat.

Task 8.1 Riparian Habitat Monitoring

Per the requirements of an accepted BEI and resource agency approvals, performance of the riparian plantings will be monitored annually for the first 10 years following construction and will consist of the following.

- Vegetation monitoring conducted in accordance with the methodology developed by the California Native Plant Society, which includes collection of data along transects or within quadrats, as appropriate to the habitat type.
- Documentation of hydrological conditions, animal species observed or detected, integrity of signage and other general conditions, and corrective measures that may be appropriate to ensure relevant success criteria.
- Initial establishment of photo documentation locations and collection of photographic data.

An annual monitoring report documenting the annual performance-monitoring effort will be prepared for submittal to the appropriate resource agencies. The annual report will contain the maintenance activities conducted the previous year, monitoring methods, results from the annual vegetation monitoring, photos from the designated photo stations, wildlife observations/detections, and detailed information on efforts to remove exotic vegetation. In addition, each annual report will include qualitative field information and a summary of the documentation of the planting area conditions.

Deliverables

- Ten annual monitoring reports

Task 8.2 Shaded Riverine Habitat/Channel Margin Habitat Monitoring

Per the requirements of the BEI and resource agency approvals, performance of the SRA/channel margin habitat will be monitored annually for the first 10 years following construction and will consist of the following.

- Vegetation monitoring conducted in accordance with the methodology developed by the California Native Plant Society, which includes collection of data along transects or within quadrats, as appropriate to the habitat type.

1

- Qualitative and quantitative monitoring of the physical structure of the channel margin habitat, including persistence of instream woody material installation, recruitment of additional woody material, and performance of rock reinforcement.
- Documentation of hydrological conditions, animal species observed or detected, integrity of signage, and other general conditions, and corrective measures that may be appropriate to ensure relevant success criteria.
- Initial establishment of photo documentation locations and collection of photographic data.

An annual monitoring report documenting the annual performance-monitoring effort will be prepared for submittal to the appropriate resource agencies. The annual report will contain the maintenance activities conducted the previous year, monitoring methods, results from the annual vegetation and instream material monitoring, photos from the designated photo stations, wildlife observations/detections, and detailed information on the efforts to remove exotic vegetation. In addition, each annual report will include qualitative field information and the summary of the documentation of the planting area conditions.

Deliverables

- Ten annual monitoring reports

Task 8.3 Riparian Habitat Establishment

Riparian habitat within the setback area will be maintained for three years following construction. Maintenance activities will include replacing dead plants, removing flood debris and trash, maintaining the irrigation system, and repairing areas of erosion. Site inspections of the plants and irrigation system will take place weekly during the spring and summer months. During the fall and winter, site inspections will take place every two weeks or after the recession of floodwaters following storm events. An annual maintenance report will be prepared and submitted to DWR or its designee at the end of each year.

Deliverables

- Three annual maintenance reports

Task 8.4 Shaded Riverine Habitat/Channel Margin Habitat Monitoring

SRA/channel margin habitat along the Sacramento River will be maintained for three years following construction. Maintenance activities will include replacing dead plants, removing flood debris and trash, maintaining the irrigation system, and repairing areas of erosion. Site inspections of the plants and irrigation system will take place weekly during the spring and summer months. During the fall and winter, site inspections will take place every two weeks or after the recession of floodwaters following storm events. An annual maintenance report will be prepared in conjunction with the activities in Task 8.3 and submitted to DWR or its designee at the end of each year.

Deliverables

- Three annual maintenance reports

1

Task 8.5 Geomorphology/Sedimentation Monitoring

Setback area habitats will be monitored for sedimentation. This will consist of installing sediment plates within the setback area and establishing monitoring transects at key locations, such as through swales. These will be monitored yearly after inundation of the setback area. The purpose of this monitoring is to establish the spatial and vertical extents of sediment accretion. It will also establish if drainage swales are becoming blocked or excessive sedimentation of vegetation plantings is occurring.

Deliverables

- An annual monitoring report will be produced and submitted to appropriate resource agencies for the first three years after construction.

Task 8.6 Long-term Operations and Maintenance

Once short-term establishment of the Bank has taken place, all habitat performance objectives have been met, and all of the credits assigned, the Bank closure plan will be implemented and long-term operations and maintenance of the Bank site will commence. This will consist of annual site inspections and qualitative observations of the habitat. Vegetation coverage will be measures every 10 years via aerial photograph interpretation of canopy coverage. Annual monitoring inspection reports will be prepared and submitted to the appropriate resource agencies.

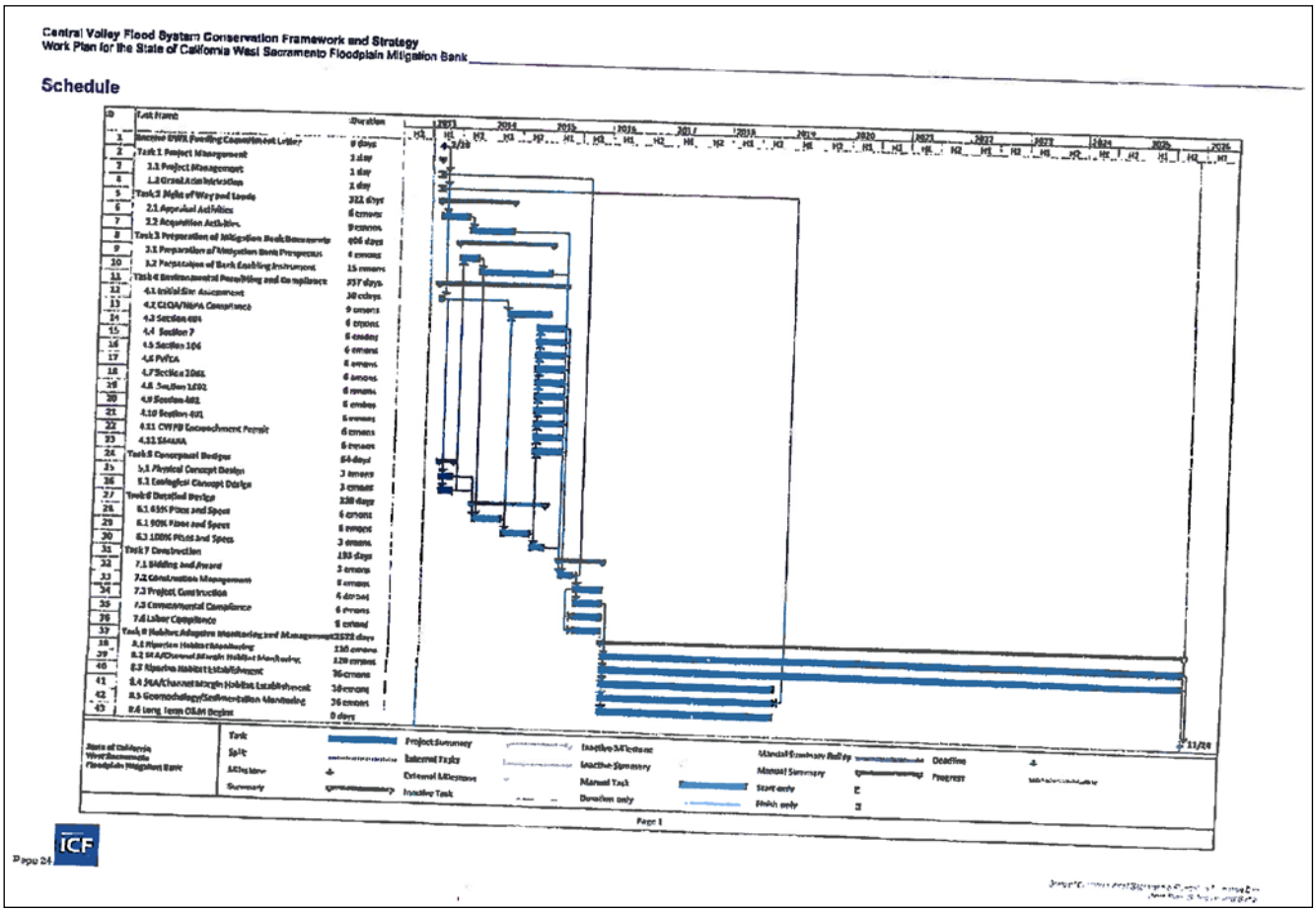
Deliverables

- Annual monitoring reports

SCHEDULE AND BUDGET

The scope of work submitted with this Work Plan assumes that the Bank Project is a stand-alone project, and depicts the costs if it were implemented independently of (i.e., after) the Southport EIP. For schedule purposes however, it has been assumed that the projects are implemented in tandem, and that construction of the Bank project would follow completion of the levee.

1


Central Valley Flood System Conservation Framework and Strategy
Work Plan for the State of California West Sacramento Floodplain Mitigation Bank
Schedule
Page 1
ICF

1

Budget

The budget below assumes that land acquisition will be completed as part of the Southport EIP. Table 8.1 shows a detailed breakdown of the projected investment required to complete the Bank project. The table also provides an estimate of the total investment required from WSAFCA, DWR EIP, and FESSRO.

Table 8.1: High Level Budget

Project Role	MBK Cost Subtotal	ICF Cost Subtotal	dbec Cost Subtotal	Local Agency Cost Subtotal	Contractor	Project Total TOTAL	State EIP	State FESSRO	WSAFCA
Task 1: Project Management									
Subtotal Task 1	50,890	$ 22,200	$ 14,720	$ 16,500	$ -	$ 104,310		$ 104,310	
Task 2: Right of Way Acquisition									
Subtotal Task 2	-	$ -	$ -	$ 11,866,000	$ -	$ 11,866,000	$ 8,306,200		$ 3,559,800
Task 3: Preparation of Mitigation Bank Documents									
Subtotal Task 3	-	$ 212,650	$ 2,560	$ -	$ -	$ 215,210		$ 215,210	
Task 4: Environmental Permitting and Compliance									
Subtotal Task 4	-	$ 218,240	$ 20,800	$ -	$ -	$ 239,040		$ 239,040	
Task 5: Conceptual Design									
Subtotal Task 5	-	$ 40,840	$ 87,600	$ -	$ -	$ 128,440		$ 128,440	
Task 6: Detailed Design									
Subtotal Task 6	-	$ 108,500	$ 157,360	$ -	$ -	$ 265,860		$ 265,860	
Task 7: Construction									
Subtotal Task 7	-	$ 68,820	$ 56,160	$ -	$ 2,414,646	$ 2,539,626		$ 2,539,626	
Task 8: Habitat Establishment and Monitoring									
Subtotal Task 8	-	$ 162,300	$ 93,040	$ 350,000	$ 600,000	$ 1,205,340		$ 855,340	$ 350,000
SUBTOTAL COSTS	$ 50,890	$ 833,550	$ 432,240	$ 12,232,500	$ 3,014,646	$ 16,562,826	$ 8,306,200	$ 4,347,826	$ 3,909,800
15% Contingency	$ 7,634	$ 125,033	$ 64,836	$ 1,834,875	$ 452,197	$ 2,484,574	$ 1,245,930	$ 652,174	$ 586,470
Total	$ 58,524	$ 958,583	$ 497,076	$ 14,067,375	$ 3,466,843	$ 19,047,400	$ 9,552,130	$ 5,000,000	$ 4,496,270

1 ...e of California West Sacramento Floodplain Mitigation Bank
Plan Schedule and Budget

ICF

25

Benefit Cost Ratio

Given the integrated nature of this multi-objective flood protection and mitigation bank project many assumptions were required in determining the Benefit Cost Ratio (BCR). Determining the benefit cost ratio for the Bank project is dependent on the assumed market value of the future habitat. Complicating the determination of the BCR for the Bank project is allocation of Southport EIP investments. Many of the investments required to complete the Southport EIP have a strong nexus to the Bank project. For purposes of this analysis land costs it the setback area are included part of the total Bank project. Determining the value of the SRA habitat in this location is difficult given that limited opportunities exist along the Sacramento River main channel to perform the quality of channel margin habitat improvements that can be achieved at this site. Commercially available riparian habitat credits sell for approximately $100,000 to $150,000 per credit acre, and native fish conservation credits sell for between $75,000 and $180,000 per credit acre. Lower quality SRA habitat can be purchased for about $250/LF but given the high quality habitat that would be achievable at this site it was assumed that the credit value could be as high as $500 per linear. The value of the SRA habitat may be low if it is assumed that in order to achieve the same habitat value that an equivalent project would need to construct an expensive adjacent or setback levee along the Sacramento River. Table 8.2 shows a range of BCR's between 1.2 to 1.7 given the assumptions described above. If the land costs associated with the Bank project were fully allocated to the Southport EIP flood project the BCR could be as high as 6.4 assuming the upper habitat credit values.

Table 8.2: Benefit Cost Ratio Range

Habitat Value Created	Quantity	Middle Credit Value		Upper Credit Value	
		Per Credit	Total	Per Credit	Total
Riparian Habitat (acres)	120	$150,000	$18,000,000	$180,000	$21,600,000
SRA/Channel Margin Habitat (linear feet)	21,000	$250	$5,250,000	$500	$10,500,000
Total Benefits	-	-	$23,250,000	-	$32,100,000
Projected Cost including ROW	-	-	$19,048,400	-	$19,048,400
Approximate Benefit Cost Ratio	-	-	1.2	-	1.7

1

California Department of Water Resources
Central Valley Flood System Conservation Framework and Strategy
Grant Application Form
November 2012

Applicant Signature Page

Applicant: West Sacramento Area Flood Control Agency

Project Title: State of California West Sacramento Floodplain Mitigation Bank

By signing below, the official declares the following:

The truthfulness of all representations in the proposal;

The individual signing the form has the legal authority to submit the proposal on behalf of the applicant, and the applicant has the legal authority to enter into a contract with the State;

There is no pending litigation that may impact the financial condition of the applicant or its ability to complete the proposed project;

The individual signing the form waives any and all rights to privacy and confidentiality of the proposal; [Note: DWR will keep confidential sensitive information related to property negotiations or legal proceedings to the extent allowed under public information disclosure laws.]

The applicant will comply with all terms and conditions identified in the Central Valley Flood System Conservation Framework and Strategy Guidelines, PSP, and future Funding Agreement if selected for funding.

Kenneth A. Ruzich, General Manager
West Sacramento Area Flood Control Agency

1/7/13
Date

1

Resolution 12-12-01

RESOLUTION OF BOARD OF DIRECTORS OF THE
WEST SACRAMENTO AREA FLOOD CONTROL AGENCY
APPROVING THE APPLICATION FOR GRANT FUNDS FROM THE CENTRAL VALLEY FLOOD SYSTEM CONSERVATION FRAMEWORK AND STRATEGY PROGRAM UNDER THE DISASTER PREPAREDNESS AND FLOOD PREVENTION BOND ACT OF 2006 (Proposition 1E)

WHEREAS, the Legislature and Governor of the State of California have provided funds for the program shown above, and

WHEREAS, the Department of Water Resources has been delegated the responsibility for the administration of this grant program, establishing necessary procedures; and

WHEREAS, said procedures established by the Department of Water Resources require a resolution certifying the approval of application(s) by the Applicants governing board before submission of application(s) to the State; and

WHEREAS, the Applicant, if selected, will enter into an agreement with the State of California to carry out the project.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the West Sacramento Area Flood Control Agency.

1. Approves the filing of an application to the Department of Water Resources for grant funding under the Central Valley Flood System Conservation Framework and Strategy Program to fund the construction of habitat in the Southport Sacramento River Early Implementation Project setback area;

2. Certifies that Applicant understands the assurances and certification in the application; and,

3. Certifies that Applicant or title holder will have sufficient funds to operate and maintain the project(s)consistent with the land tenure requirements; or will secure the resources to do so: and,

4. Certifies that it will comply with all provisions of Section 1771.5 of the California Labor Code, and,

5. If applicable, certifies that the project will comply with any laws and regulations including, but not limited to, the *California Environmental Quality Act* (CEQA), legal requirements for building codes, health and safety codes, disabled access laws, and, that prior to commencement of construction all applicable permits will have been obtained; and,

6. Appoints the General Manager, or designee, as agent to conduct all negotiations, execute and submit all documents including, but not limited to applications, agreements, payment requests and so on, which may be necessary for the completion of the aforementioned project(s).

PASSED AND ADOPTED by the West Sacramento Area Flood Control Agency on this 13th day of December, 2012, by the following vote:

1

Flood Conservation and Strategy Program Grant Application Resolution
December 13, 2012
Page 2

AYES: Denton, Kristoff, Ramos
NOES: none
ABSTAIN: none
ABSENT: none

William E. Denton, President

ATTEST:

Kenneth A. Ruzich, General Manager

APPROVED AS TO FORM:

James M. Day, Jr., WSAFCA Attorney

1

MILLER STARR REGALIA

MEMORANDUM

TO: Wilson Wendt

FROM: Sean Marciniak

RE: Legal Authority of West Sacramento Area Flood Control Agency to Apply for and Construct and Implement a Mitigation Bank

DATE: April 10, 2013

West Sacramento Area Flood Control Agency ("WSAFCA") does not have the authority to apply for or to construct and operate a Mitigation Bank. There exist three separate grounds that preclude the agency's pursuit of such a project: (1) state law that specifically enumerates the powers and authorities of WSAFCA do not permit such an activity; (2) the Joint Exercise of Powers Agreement forming the WSAFCA does not authorize the agency to create or operate a Mitigation Bank; and (3) WSAFCA's constituent members are not authorized to create or operate a Mitigation Bank, precluding WSAFCA from doing so.

A. The Joint Exercise of Powers Act, insofar as it specifically addresses the authorities of WSAFCA, do not permit the creation or operation of a Mitigation Bank. The authority of WSAFCA is set forth in Government Code section 6523, a provision of the Joint Exercise of Powers Act (Government Code section 6500 et seq.) Section 6523 grants the agency (1) the "authority to accomplish the purposes and projects necessary to achieve and maintain at least a 200-year level of flood protection" on the Sacramento River for the City of West Sacramento; (2) the ability to "exercise the authority granted to reclamation districts under Part 7 ... and Part 8 ... of Division 15 of the Water Code for the purposes of Sections 12670.2, 12670.3, and 12760.4 of the Water Code," which essentially involves the financing of a certain federal project using assessments and bonds; and (3) the power to create indebtedness and levy assessments to repay that indebtedness in order to finance the same federal project. In essence, three authorities are enumerated under section 6523, none of which authorize the construction or authorization of a Mitigation Bank.

First, section 6523 empowers WSAFCA to "accomplish the purposes and projects *necessary* to achieve and maintain at least a 200-year level of flood protection" for the benefit of the City of West Sacramento. (Emph. added.) Such an authorization should be construed narrowly. In *Beckwith v. County of Stanislaus* (1959) 175 Cal.App.2d 40, 49, the third district court of appeal — the appellate court setting precedential law over the jurisdictions within which WSAFCA operates — held that, in exercising functions under the Joint Exercise of Powers Act, an agency "must be directly concerned with the work to be performed." (*See also* 83 Ops.Cal.Atty.Gen. 82.) Neither the construction nor operation of a Mitigation Bank is "directly concerned" with the provision of 200-year flood

SEEC\4992\\899133.1

EXHIBIT C

1

protections, much less "necessary" for the achievement and maintenance of such protection. After all, the creation and maintenance of a Mitigation Bank easily can, and usually does, function independently of the construction and operation of levees and other methods of flood control.

The second power conferred by section 6523, which contemplates certain activities performed by reclamation districts, is more specific. Specifically, this statute empowers WSAFCA to levy assessments and issue bonds for purposes of implementing a flood protection project specifically contemplated under section 101(4) of the Water Resources Development Act of 1992. (Water Code §§ 12670.2, 12670.3, 12670.4, 51200 et seq., 52100 et seq.; *see* Pub. Law 102-580) Aside from the fact that the construction and operation of a Mitigation Bank qualifies as neither the levy of an assessment nor the issuance of a bond, we have reviewed engineering reports prepared for the aforementioned federal flood protection project, and these documents do not contemplate a Mitigation Bank component.

The third authority conferred by section 6523 involves the right of WSAFCA to "create indebtedness and thereafter continue to levy special assessments to repay that indebtedness" in order to finance the aforementioned federal flood protection project, pursuant to the Improvement Act of 1911 and the Municipal Improvement Act of 1913. This authority, insofar as it contemplates the implementation of a federal project that does not include a Mitigation Bank, and insofar as it contemplates the accrual of debt to finance this project, is irrelevant.

WSAFCA does not possess the authority to create habitat and sell mitigation credits pursuant to section 6523. In fact, given the statute specifically enumerates certain financing mechanisms for implementing specific flood control projects, section 6523 would appear to expressly preclude WSAFCA from engaging in other financing schemes.

B. Joint Exercise of Powers Agreement forming the WSAFCA does not authorize it to create or operate a Mitigation Bank. Even assuming that the authorities of section 6523 are not inclusive, and that WSAFCA has authorities in addition to those enumerated in that statute, the law would prohibit WSAFCA from undertaking a Mitigation Bank project.

With regard to joint power authorities in general, such an agency "shall possess the common power specified in the agreement [forming it] and may exercise it in the manner or according to the method provided in the agreement." (Government Code section 6508.) The agreement creating WSAFCA, the "West Sacramento Flood Control Agency Joint Exercise of Powers Agreement" dated July 20, 1994 ("JPA"), recognizes only that the parties to the WSAFCA have the power to "acquire and construct Works for the purpose of controlling and conserving waters for the protection of life and property that would or could be damaged by being inundated by still or flowing water." (JPA, p. 1.) The term "Works" specifically is defined to mean "dams, water courses, drainage channels, conduits, ditches, canals, pumping plants, levees, buildings, and other structures" used to control floodwaters. (JPA, p.3) In discussing the power of WSAFCA to implement projects, the agreement specifies the "Agency's Projects are intended to consist of developing, designing, acquiring, and constructing Works and Facilities[1] as well as

[1] Per the JPA, "Facilities" means "any Works financed, acquired, or constructed by the Agency." (JPA, p.3.)

SEEC\49924\899133.1

-2-

1

funding (including local cost shares of federal projects) of the same, required to attain interim 100-year and at least 200-year ultimate flood protection." (JPA, p. 9.)

In summary, the JPA only authorizes WSAFCA to develop flood protection projects that are "required" to attain "at least 200-year ultimate food protection," reflecting the narrow scope of section 6523. A Mitigation Bank is by no means a prerequisite to implementing a flood protection project, and thus its development lies outside the jurisdiction of WSAFCA.

C. WSAFCA's constituent members are not authorized to create or operate a Mitigation Bank, precluding WSAFCA from doing so. Regardless of what the JPA says, WSAFCA could not create or operate a Mitigation Bank because at least some of its constituent members, Reclamation District No. 900 and Reclamation District No. 537, do not have the authority to undertake such a project.

Pursuant to the Joint Exercise of Powers Act, if "authorized by their legislative or other government bodies, two or more public agencies by agreement may jointly exercise *any power common to the contracting parties* ...." (Gov. Code § 6508 [emph. added].) Essentially, a joint power authority may not exercise a power that all constituent members do not share.

Here, (at least) the two reclamation districts that form WSAFCA have limited authorities, where such authorities do not include the power to create or operate a Mitigation Bank. Reclamation districts may be formed "for the reclamation of any land within any city" that is subject to overflow or incursions from the tide of inland waters. (Water Code § 50110.) In implementing any "reclamation works," state law defines this term to mean "such public works and equipment as are necessary for the unwatering, watering, or irrigation of district lands and other district operations." (Water Code § 50013.) Because the establishment and operation of a Mitigation Bank is not "necessary" for the unwatering, watering, or irrigation of district land, a reclamation district does not have the authority to undertake that type of development project.

* * *

In summary, WSAFCA is operating outside its legal authorities insofar as it may apply for monies to create or operate a Mitigation Bank. The statute that specifically speaks to WSAFCA's authorities in the Joint Exercise of Powers Act authorizes only those activities "necessary" to achieve certain standards of flood control. Moreover, the agreement forming WSAFCA, no doubt contemplating this legality, authorizes only those flood control projects "required" to attain certain standards of flood protection. Finally, at least two of WSAFCA's constituent members do not have the power to develop a Mitigation Bank, since these reclamation districts are empowered only to pursue those projects "necessary" to the reclamation of land, where the concept of reclamation is limited to the watering, unwatering, or irrigation of land, and does not include the creation of habitat, much less the sale of mitigation credits.

WSAFCA has overstepped its authorities, and must withdraw any application it has submitted for monies that would finance the design, creation, or operation of a Mitigation Bank.

SEEC\49924\899133.1

-3-

1

MILLER STARR REGALIA

1331 N. California Blvd.
Fifth Floor
Walnut Creek, CA 94596

T 925 935 9400
F 925 933 4126
www.msrlegal.com

Wilson F. Wendt

April 8, 2013

VIA EMAIL AND FEDERAL EXPRESS

Megan Smith, Project Manager (megan.smith@icfi.com)
ICF International
630 K Street, Suite 400
Sacramento, CA 95814

Tanis Toland (tanis.j.toland@usace.army.mil)
U. S. Army Corps of Engineers, Sacramento District
Delta Programs Integration and Ecosystem Restoration
1325 J Street
Sacramento, CA 95814

Re: Seecon Financial and Construction Co., Inc.; Comments on Supplemental Notice of Preparation and Scope of Environmental Review for Southport Sacramento Early Implementation Project

Dear Ms. Smith and Ms. Toland:

Miller Starr Regalia represents Seecon Financial and Construction Co., Inc. ("Seecon") in its ownership and operation of property that would be affected by the Southport Sacramento River Early Implementation Project ("Southport Project"). We are in receipt of the Supplemental Notice of Preparation ("Supplemental NOP") of an Environmental Impact Statement/Environmental Impact Report ("EIR/EIS") for the Southport Project, dated March 7, 2013, whereby the U.S. Army Corps of Engineers ("Corps") and West Sacramento Area Flood Control Agency ("WSAFCA") have requested input on the scope and content of the EIR/EIS. This letter is a response to that request and is submitted in accord with the California Environmental Quality Act ("CEQA") and the National Environmental Policy Act ("NEPA").

Seecon has numerous concerns about the Southport Project, as it threatens to upset longstanding land use policies and goals adopted by the City of West Sacramento ("City"), and has the potential to cause numerous impacts to the local environment, including health risks to local residents and other sensitive receptors. Accordingly, Seecon urges the Corps and WSAFCA to consider each of the issues identified in this letter as these agencies undertake preparation of the EIR/EIS.

1

Seecon has developed this list of issues based on publicly available details about the Southport Project, and reserves its right to submit further public comment as the CEQA and NEPA processes develop.

I. PROJECT DESCRIPTION AND ENVIRONMENTAL SETTING.

The Southport Project, at first blush, may not appear to have many constituent components, consisting predominantly of the construction of levees and the excavation of borrow sites. However, the fragility of the surrounding environment and presence of unique resources within and nearby the project footprint will require that the EIR/EIS's project description and environmental setting sections be very detailed.

II. REQUEST TO REMOVE SEECON PROPERTY FROM ADDITIONAL STUDY AREA.

We have indicated the extent of the Seecon Property on the enclosed copy of Figure 1 that was attached to the Supplemental NOP. As you can see, it constitutes a significant amount of property within Segment F of the Southport Project. Seecon has informed WSAFCA on numerous occasions that they will not consent to the taking of their property for what we consider unnecessary and excessive flood control improvements and further informed them that they will not consent to sell WSAFCA any borrow material from the Seecon Property. WSAFCA officials have advised Seecon that they will acquire borrow materials only from willing sellers. Given that context, we are amazed that the Supplemental NOP includes approximately a third of the Seecon Property (designated by hatching in Figure 1) as a part of the Additional Study Area, the announced purpose of which is mainly to analyze the impacts generated by additional soil borrow sites that may be employed to provide borrow material needed to construct the Southport Project. The hatched area indicated on Figure 1 on the Seecon Property as an "additional soil borrow site" is one in which vesting tentative maps have been approved; final maps have been filed and are being processed for residential development; some residential structures have been and are continuing to be built; extensive subdivision infrastructure has been constructed; and the entitlements for development are covered by an existing and valid development agreement.

If WSAFCA's statements are valid, there is absolutely no potential that borrow material will be taken from the hatched area shown on the Seecon Property. For that reason, we request that you amend and revise Figure 1 to delete that portion of the Seecon Property indicated by hatching from the property defined as Additional Study Area. Any continued attempt to assess and analyze impacts upon this portion of the Seecon Property, as outlined in the Supplemental NOP, will provide no useful or meaningful information (since Seecon has said on many prior occasions and reiterates their determination not to sell any borrow material to WSAFCA or any other agency) and will simply guarantee continued strong

1

opposition throughout the EIS/EIR process. We urge you to acknowledge that the portion of the Seecon Property affected by the Supplemental NOP will not be the subject of further analysis and is being deleted from the Additional Study Area.

III. ANALYSIS OF DRASTIC AND UNNECESSARY IMPACTS UPON PRIVATE PROPERTY.

The Southport Project, no matter how it is finally designed and implemented, will have significant adverse impacts upon private property. The currently designated preferred alternative for flood control improvements on the Seecon Property is a setback levee with seepage berm. This alternative is the most destructive of private property and the one with the most unnecessarily large take of private property.

WSAFCA consultants originally advocated an adjacent levee as the preferred alternative. On behalf of our clients, we have submitted to WSAFCA and its Board literally thousands of words of materials advocating the use of the adjacent levee alternative on the Seecon Property. This would greatly reduce the amount of private property that was required for acquisition and would vastly reduce the amount of borrow materials required. The implementation of the adjacent levee alternative would also significantly lessen the amount of environmental damage. All of the environmental impacts upon private property need to be carefully analyzed and mitigation measures must be set out.

While the EIS/EIR is not concerned with the legality of a proposed take of private property, you are charged with conducting an accurate and complete analysis of environmental impacts upon private property as well as the Sacramento River. Seecon has advocated the adjacent levee alternative as a means of reducing impacts and will challenge judicially any attempt to take the excessive and unnecessary amounts of private property that will be required for the setback levee alternative, if that alternative is ultimately selected.

IV. ANALYSIS REGARDING IMPACTS ON AGRICULTURAL RESOURCES.

Maps published by the State of California Department of Conservation demonstrate the Southport Project study area, as depicted in Figure 1 of the Supplemental NOP (including both the "Original Study Area" and the "Supplemental Study Area," collectively referred to herein as the "Project site"), encompasses lands designated as Prime Farmland and Farmland of Local Importance. At least some of the Project site is designated for agricultural production in the City's General Plan and Zoning Ordinance, and aerial satellite maps show such areas and additional lands that comprise the Project site may be operated as farms. Accordingly, the EIS/EIR must quantify the acreage of agricultural lands that will be impacted and lost by the Southport Project, and

1

analyze the effects on such lands of constructing levees, excavating borrow sites, and disposing of soil on disposal sites. You must set out appropriate mitigation measures to address these impacts upon agricultural lands to address these impacts, including the requirement to purchase additional agriculturally committed land to replace the lost agricultural land.

V. ANALYSIS REGARDING VISUAL RESOURCES.

The Southport Project would appear to entail the excavation of significant amounts of open space/agricultural lands, if not the great majority of such lands within the Southport area of the City. Additional lands appear to serve as the site of borrow and disposal of soils. In light of these activities, impacts to visual resources would occur on a temporary basis during construction and, depending on whether and how the restoration of land comprises part of the project, permanent impacts could occur.

VI. ANALYSIS REGARDING IMPACTS ON HYDROLOGY, WATER QUALITY, AND GROUNDWATER RESOURCES.

The Supplemental NOP provided that the Southport Project construction area would extend along the west bank of the Sacramento River for approximately six miles. Given the width of the levee along this alignment, which potentially could extend hundreds of feet inland, it can be anticipated the Southport Project will involve a momentous amount of earthwork in the immediate proximity of the Sacramento River. Moreover, it appears various borrow sites are sited within proximity of the Sacramento River Deep Water Ship Channel. Soil erosion and sedimentation can be anticipated at significant levels, especially given it is anticipated the project would involve the removal of riverfront vegetation and placement of riprap or other rock slope protection along the shoreline. Additionally, impacts upon drainage patterns, hydrology, water quality and groundwater must be analyzed. Of particular concern are the impacts caused by the implementation of the setback levee alternative which will require enormous amounts of borrow material (as evidenced by the need for this Supplemental NOP). One of the primary sources of borrow material will be extensive excavation of property on the river side of the setback levee. The groundwater is very high in these locations and this can only result in ponding and the creation of corresponding ongoing environmental problems including vector control and other impacts injurious to public health and safety.

VII. ANALYSIS REGARDING IMPACTS ON FISH AND AQUATIC RESOURCES; VEGETATION AND WETLANDS; AND WILDLIFE.

The Southport Project has the potential to significantly impact fish and aquatic resources; vegetation and wetlands; and wildlife, wildlife habitats, and

SEEC\49924\898244.5

1

migration corridors. Accordingly, analysis in the EIR/EIS of these various impacts is required.

VIII. ANALYSIS REGARDING GEOLOGY, SEISMICITY, AND FLOOD MANAGEMENT.

The Southport Project would involve the deconstruction and construction of a levee during what potentially may be an extended duration. During this timeframe, it is possible that a significant seismic event may occur, or a significant flooding event may occur. The EIR/EIS should contemplate and address whether lands within the City will be adequately protected during the period of project construction.

It also appears that the Southport Project may entail the excavation of fields and other open space area that may have been subject to subsidence in the past, and which lies near an area waterway. The EIS/EIR should evaluate the wisdom of extracting substantial materials in such areas, including dangers posed to nearby, newly constructed levees, and whether such excavation will leave borrow sites undevelopable in the future.

IX. ANALYSIS REGARDING IMPACTS ON TRANSPORTATION AND NAVIGATION.

The Southport Project potentially would affect traffic and circulation in a number of ways, all of which impacts must be fully analyzed.

X. ANALYSIS REGARDING NOISE IMPACTS.

The Southport Project potentially would affect the local noise environment in a number of ways: To adequately analyze noise impacts, the EIR/EIS must identify all appropriate sensitive receptors in the Southport Area, the City at large, Yolo County, Solano County, Sacramento County, and the City of Sacramento. The EIR/EIS also must identify sources of noise by specifying both their location and magnitude, such as by providing expected equipment lists and studies demonstrating average and maximum noise levels associated with the operation of said equipment. Finally, the EIR/EIS must, using the above information, evaluate each of the above impacts under appropriate temporal scenarios, such as under existing, short-term, and long-term scenarios. If the analysis discloses there is an existing, substandard condition to which the project will contribute, a special threshold of significance must be developed for such impacts. (*See Gray, supra,* 167 Cal.App.4th at 1122-1123.)

SEEC\49924\898244.5

1

XI. ANALYSIS REGARDING AIR QUALITY IMPACTS.

The Southport Project entails an extensive amount of earthwork, which will cause the emission of significant amounts of air pollutants. Such sources will include, without limitation: excavators, graders, bulldozers, and other on-site construction equipment; portable auxiliary equipment; diesel trucks associated with the delivery of materials and soils; diesel trucks associated with the removal of solid waste; trips associated with construction workers and other off-site trips; paving activities; and dust associated with on- and off-site vehicle trips and activities.

In addition to direct impacts of the Southport Project's excavation and levee construction activities, the project would displace planned uses (e.g., residential and commercial uses). The construction and operation of these displaced uses also have the potential to result in air quality impacts that necessitate evaluation.

XII. ANALYSIS REGARDING CULTURAL RESOURCES.

The Southport Project would disrupt substantial amounts of soil that could contain prehistoric, historic, and archaeological artifacts, as well as Native American human remains. In addition, the Project site appears to contain numerous City landmarks, including without limitation the Heritage Oak Park Site, Redwood Park, Linden South/Paik North Site, the Clarksburg Branch Line Trail, Eagle Point Park, Lake View Park, Bridgeway Lakes, Bridgeway Lakes Community Park, and Valley Oak Grove. (*See, e.g.,* City of West Sacramento Landmarks; *see* General Plan Background Document, p. VII-16.) The impacts of excavation, construction, and other project activities on each affected resource must be disclosed in the EIR/EIS.

XIII. ANALYSIS REGARDING UTILITIES AND PUBLIC SERVICES.

The EIR/EIS should evaluate all issues regarding utilities and public services.

XIV. ANALYSIS REGARDING LAND USE/PLANNING; POPULATION/HOUSING; RECREATION; AND SOCIOECONOMICS, ENVIRONMENTAL JUSTICE, AND COMMUNITY EFFECTS.

The Southport Project has the potential to upset a number of longstanding land use policies, and the EIR/EIS should take careful account of the project's consistency with the City's General Plan and other applicable land use documents.

SEEC\4992\698244.5

1

XV. SCOPE OF ALTERNATIVES ANALYSIS

The EIR/EIS must identify a reasonable range of project alternatives, focusing on alternatives to the proposed Southport Project that eliminate or reduce significant environmental impacts. The EIR/EIS need not discuss alternatives that are infeasible but, if an alternative is determined to be infeasible, the EIR/EIS should identify the reasons for this determination and provide evidence supporting it. For instance, if an alternative is determined to not be economically feasible, detailed financial data should be provided evidencing this conclusion.

Here, the EIR/EIS should discuss, in detail, various construction alternatives to the proposed Southport Project, which appears to contemplate construction of setback levees within most, if not all, of the Project site. Alternative construction methods to be studied in detail should include the use of adjacent levees with cutoff walls and/or a seepage berm in each of the Project site segments.

In section III of this letter we have discussed the enormous difference in severity of impacts upon private property caused by the setback levee alternative as opposed to the adjacent levee alternative, which we have and continue to advocate. The EIR/EIS needs to examine the difference in environmental impacts caused to private property by each alternative and contrast needed mitigation measures to allow an informed decision as to the ultimately determined preferred alternative for flood protection improvements.

* * *

Seecon appreciates the opportunity to provide input on the scope of the Southport Project EIS/EIR, and participating in future review and comment of the document ultimately prepared by the Corps and WSAFCA. If you have any questions or concerns, please do not hesitate to contact me at 925.935.9400.

Very truly yours,

MILLER STARR REGALIA

Wilson F. Wendt

WFW:SRM/kli
cc: Kenneth Ruzich
Ralph Nevis
WSAFCA Board Members
Lori Clamurro Chew - DWR
Clients

SEEC\49924\898244.5

1

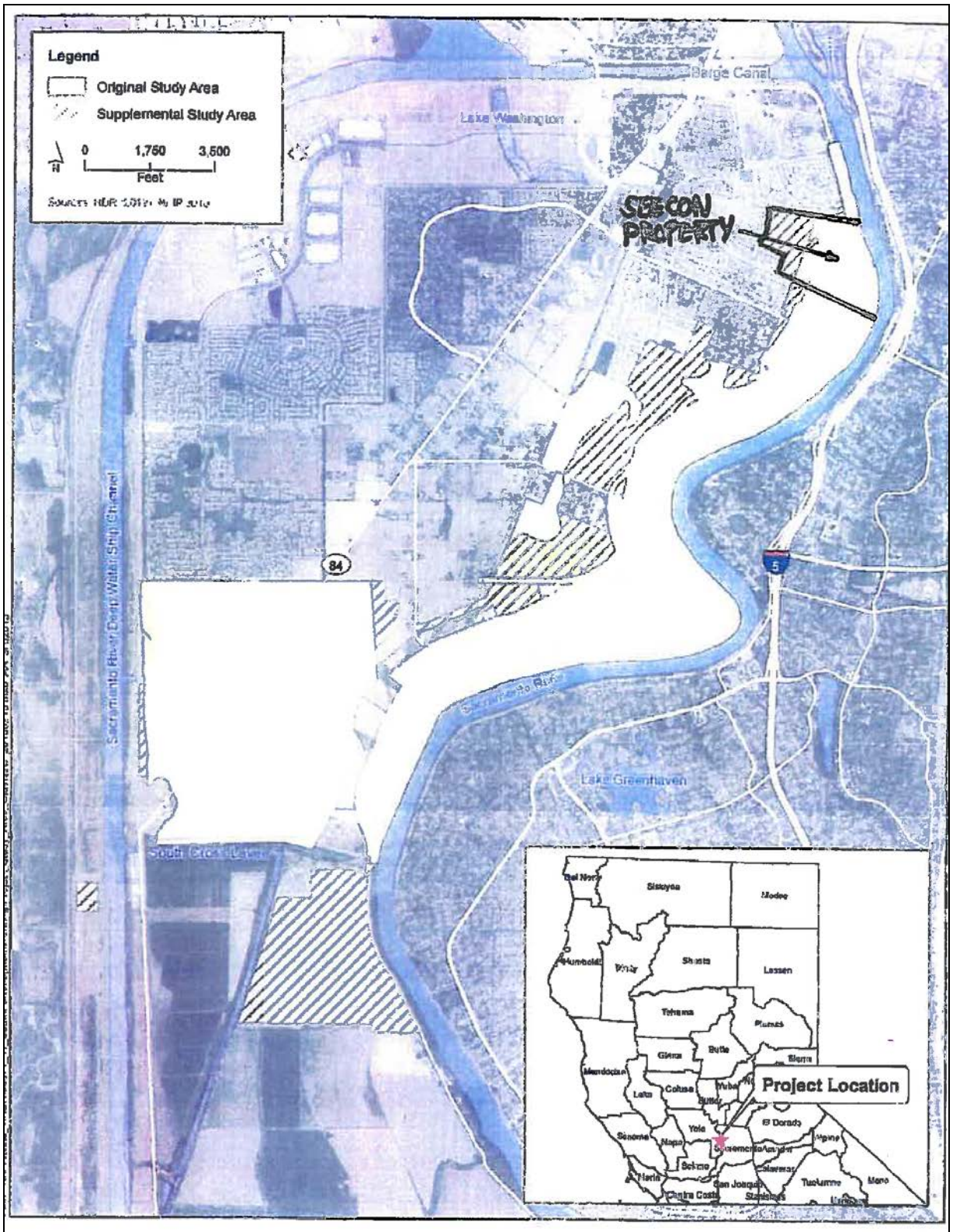


Figure 1
EIP Study Area

1

1

MILLER STARR REGALIA

1331 N. California Blvd.
Fifth Floor
Walnut Creek, CA 94596

T 925 935 9400
F 925 933 4126
www.msrlegal.com

Wilson F. Wendt
wilson.wendt@msrlegal.com

March 22, 2013

VIA EMAIL AND U.S. MAIL

Alicia E. Kirchner
Thomas D. Karvonen
Marc A. Fugler
United States Army Corps of Engineers
Sacramento District
1325 J Street
Sacramento, CA 95814

Re: West Sacramento Area Flood Control Agency Southport Early Implementation Project (EIP) – Application for Section 404 Permit

Gentlemen and Ms. Kirchner:

We have communicated with you before by our letter of January 18, 2013 and have sent you copies of our correspondence to the West Sacramento Area Flood Control Agency ("WSAFCA") relating to what we feel to be a lack of transparency and an inordinate haste in processing the design and permitting of the Southport Early Implementation Project Flood Control Improvements ("Southport EIP"). Our office represents Seecon Financial and Construction Co., Inc. ("Seecon") and owns the majority of the property located in Segment F of the Southport EIP reach, immediately adjacent to the Sacramento River. The Seecon property will be significantly damaged beyond what is necessary by the implementation of the Southport EIP as currently being discussed.

The purpose of this letter is to ask that you suspend processing of the WSAFCA 404 Application until the EIR/EIS for the Southport EIP has been completed and approved. Then the WSAFCA Board will be in a position to make a decision on the preferred project alternative that will be advanced to final design and construction. There are enormous environmental impacts that will flow from this project in addition to the extensive and overwhelming damage that will occur to private property. From the start of the processing, WSAFCA has attempted to "fast track" the entitlement process and has attempted to push all of the regulatory agencies, including the USACE, to accommodate a schedule which is reckless, inflexible and in violation of law. We became aware of the Southport EIP process only in February of 2012 and, since that time, have worked assiduously to try to understand what is proposed and why certain alternatives are recommended or adopted, instead of others. We have found WSAFCA opaque, less than cooperative and moving quickly to accomplish an

2

already decided upon goal and objective even before the EIR/EIS has been circulated to the public or approved.

From the start, it has been apparent to us that WSAFCA is moving the project with inappropriate haste at the expense of a full and complete evaluation and mitigation of all environmental impacts and without regard to the unnecessary effect and impacts on private property. The agenda for each monthly WSAFCA Board meeting contains a Flood Protection Progress Report which is updated each month. The report for March 8, 2012 commented upon the status of design completion for the flood control improvement and stated that while this design work was being done before the completion of the EIS/EIR for the project, the draft EIS/EIR was to be released to the various agencies and the public for review in the fall of 2012. The June 8, 2012 Flood Protection Progress Report stated that the second administrative draft EIS/EIR was slated for release to the USACE by the end of June 2012. The July 6, 2012 Flood Protection Progress Report stated that the second administrative draft EIS/EIR had encountered an "unexpected hurdle" posed by USACE in that the Corps wanted the wetland delineation and wetland impacts included in the draft EIS/EIR prior to its submittal to the USACE. It is difficult to understand how the EIS/EIR document could have been legally sufficient or served its purpose had it not included this information but this "hurdle" was described to the Board as something unusual in USACE/Agency processing.

The August 3, 2012 Flood Protection Progress Report stated that the second administrative draft EIS/EIR (previously scheduled for delivery to USACE in June, 2012) was now scheduled for release in September, 2012. The wetland delineation was being prepared and WSAFCA was working with USACE to determine the Area of Potential Effect for the project. The Flood Protection Progress Report also raised, for the first time, an issue which we feel has become extremely important and problematic in Southport EIP processing. That is that the source of and impacts of obtaining and delivering sufficient "borrow material" had become a "primary critical path item" due to the large volume of material needed. We have commented on a number of occasions that the WSAFCA engineering documents woefully underestimate the amount of borrow material that will be required. The impacts of obtaining this material, transporting it to the site and applying it will be enormous and must be carefully and completely analyzed in the EIS/EIR.

The August 31, 2012 Flood Protection Progress Report raised, for the first time, a qualification as to the completion and availability of the 65% design of the flood control improvements, the preferred alternative for which had been approved by the Board earlier in 2012. That statement is as follows:

> "Sixty-five percent design development is contingent upon the early concurrence of USACE, DWR and CVFPB regulators on several technical approaches to solve problems associated with the particular

1

> circumstances of the Southport EIP. The project design team consultation with regulators will continue as design progresses."

This statement clearly indicates that USACE evidenced concern about methods of implementing a number of important technical aspects of the Southport EIP project. We can only assume that some of these concerns centered upon the unexamined environmental impacts.

The January 4, 2013 Flood Protection Progress Report indicates that the third administrative draft EIS/EIR is being revised to include a fifth alternative and is scheduled for release to USACE in January, 2013. The final 65% design is scheduled for public release in January, 2013, and that design was to be reviewed by the Board of Senior Consultants by the end of February, 2013. At this time, the 65% design has not yet been completed nor has the Board of Senior Consultants met in over a year. The Report also states that staff is asking for authority from the Board for the general manager to execute option agreements for borrow material sites even though the location of all of the borrow sites is not at this time known and the impacts of implementing the borrow activities has not been analyzed in the EIS/EIR. We appeared at the Board meeting and opposed the execution of any option agreements until the EIS/EIR was completed, released, commented upon and adopted.

The Flood Protection Progress Report for this month, dated March 1, 2013, notified the Board that the application for the 404 permit had been filed with the USACE on January 25, 2013, but that its submittal had been met with a "policy shift" by USACE:

> "USACE SPK has reviewed the permit application and requested that the application conform to the EIS/EIR. This is a policy shift; staff had been drafting the EIS/EIR to conform to the 404 permit provided that the impacts were consistent with and lesser than the impacts disclosed in the EIS/EIR. This approach allowed some flexibility and permit scheduling and design development. A new policy ties the permitting and design process much closer to the EIS/EIR."

Conclusion: We applaud the USACE for requiring that the permitting and design process be tied to the EIS/EIR. It is mystifying to a CEQA/NEPA practitioner as to how WSAFCA can blithely proceed with design of a project without full and complete consideration afforded by the EIS/EIR process, including the analysis of alternatives. This project has been kaleidoscopic in its never ending shifts and modifications. On March 13, 2013, WSAFCA issued a supplemental notice of preparation for EIS/EIR. The original notice of preparation was issued on

1

August 26, 2011 and this supplemental notice made it clear that the inclusion of additional soil borrow sites necessitated by the setback levee alternative required the expansion of the study area and the completion of a supplemental analysis in the EIS/EIR.

We urge the USACE **to suspend any further work** on the WSAFCA 404 application and on the General Reevaluation Report analyzing the appropriateness of the proposed flood control improvements. Our client has significant concerns about the legality of many of the flood control improvements and the methods proposed for mitigation that will be commented upon and, perhaps, litigated over during the EIS/EIR process. It is premature and a waste of public funds to go ahead and continue processing with WSAFCA unless and until a full and complete environmental document is available and a final decision is made on the project selected. We would be happy to discuss this with you more fully.

Very truly yours,

MILLER STARR REGALIA

Wilson F. Wendt

WFW:elt
cc: Lori Clamurro Chew, FloodSAFE CDWR
Client

SEEC\49924\897527.1

1

MILLER STARR REGALIA

1331 N. California Blvd.
Fifth Floor
Walnut Creek, CA 94596

T 925 935 9400
F 925 933 4126
www.msrlegal.com

Wilson F. Wendt
wilson.wendt@msrlegal.com

March 18, 2013

VIA E-MAIL WSRD@PACBELL.NET AND U.S. MAIL

Kenneth Ruzich
General Manager/Secretary
West Sacramento Area Flood Control Agency
1110 West Capitol Avenue, 2nd Floor
West Sacramento, CA 95691

Re: Response to Your Letter of March 13, 2013

Dear Mr. Ruzich:

Thank you for responding to my letter of February 27, 2013 in which I summarized my introductory remarks and the presentation made by Seecon's consultant, Mark Gilbert of ENGEO, at our meeting with Agency Staff and consultants on February 26, 2013, and evidenced a number of commitments and agreements coming out of that meeting. Initially, I'm disappointed that you feel that most, if not all of Mr. Gilbert's points have been raised and responded to previously. The reason for our requesting a meeting was to impart information from our consultant which, we feel, has not been acknowledged, implemented into the Project or even expressly rejected. It was and remains our hope that some of this information may diffuse a highly contentious situation and result in a better and safer design of necessary flood control improvements, furthering the stated WSAFCA goal to minimize impacts to private property whenever feasible.

I appreciate your providing me some of the records that we sought under our Public Records Act request and a copy of the memo prepared by Staff addressing the decisions underlying the selection of the setback levee as the preferred alternative in Segment F (the "Memorandum"). Our consultant is reviewing that information and we agreed at the meeting on February 26, 2013, that we would meet with Agency Staff and consultants prior to the completion of the 65% design. That completion appears imminent and we would like to meet in your offices on Wednesday, April 3, 2013, at a time of your convenience, to continue our discussion of the Adjacent Levee Alternative being a part of the design in Segment F, as proposed by ENGEO at our February 26, 2013, meeting and to discuss the Memorandum and the issues raised therein. If you would respond as to what time on April 3 will work for you, I would be most appreciative.

1

Your responses to Mr. Gilbert's points require some comment, and I give that comment in numbered paragraphs corresponding to your responses in your letter of March 13, 2013 and my letter of February 27, 2013:

1. Mr. Gilbert made the point that, using your own data and information, that the adjacent levee alternative was the less expensive alternative for a number of reasons including the necessity of significantly less amounts of borrow material. Your response was to lament the fact that Mr. Gilbert had not provided any written materials or other support for his conclusions and to just indicate that additional borrow costs are included in the right-of-way costs and covered by the 30% cost contingency included in the 15% opinion of probable cost.

It strains credibility to think that the implementation of the setback levee with all of its earth work construction will not require significantly more grading and borrow than the Adjacent Levee Alternative. Indeed, this is clearly documented in the 15% Cost Estimate prepared by HDR for the Adjacent and Setback Levee Alternatives for Segment F which are compared in the attached table prepared by Mr. Gilbert. Furthermore, the recently issued WSAFCA Supplemental Notice of Preparation for EIS/EIR shows clearly that the study areas contemplated for borrow material indicates that additional borrow materials will be required. The new study area shown in Figure 1 of the Supplemental Notice of Preparation for EIS/EIR raises significant environmental and other issues which, we assume, you will address in your fourth administrative draft EIS/EIR.

2. My second statement relating to Mr. Gilbert's presentation was that adjacent Levee Alternative results in superior mitigation of underseepage than does the setback levee. Your response was the berm for the two alternatives could be designed to provide identical performance and, regardless, the minimum allowable berm meets the current underseepage design criteria.

However, in our consultant's view, the additional land take required for the setback levee is unnecessary damage to our property and cannot be justified by technical information. At the December WSAFCA Board Meeting, Mr. Gilbert submitted a letter dated December 12, 2012. In item 2 of that letter, Mr. Gilbert cited your consultants' specific underseepage analysis that showed a high factor of safety against underseepage for the Adjacent Levee Alternative. Mr. Gilbert also orally presented that information to the Board and at no time since then has WSAFCA Staff, consultants or elected Board Members presented any evidence or information countering that contention by Mr. Gilbert and your own consultant, Blackburn Engineering. If your geotechnical consultants now disagree with that conclusion, we would like to review the material upon which they base their position, given the results of their own analysis.

3. The third point in my letter concerned the assertion by WSAFCA that "liquefaction induced deformation" in the event of a seismic event

1

coinciding with severe river flood stage was a valid reason against the use of the Adjacent Levee Alternative. I pointed out that if this remote possibility were actually a factor, then the design of flood control improvements throughout the entire Sacramento River were in peril. Your response was that the fact that there may be problems with flood control improvements in other places along the river does not mean that this issue should not be a major concern in designing these specific improvements in the Southport Reach.

Mr. Gilbert's opinion is that liquefaction induced lateral spreading is a remote possibility and not one that should be a substantial factor in selecting alternatives. The remote possibility that a major seismic event and a flood stage in the river would happen simultaneously is recognized by the State of California and addressed in the latest version of the Urban Levee Design criteria. It is recognized that a high water situation would, by itself, provide protection and mitigation against lateral spreading since the weight and force of the high water exerting pressure toward the land would reduce the possibility of liquefaction induced lateral spreading. In our opinion, the citation of this remote possibility as a reason not to select the Adjacent Levee Alternative is simply an attempt to justify the taking of much more private property than should be required for this project. Your technical reports recommend a seismic mitigation measure requiring the preparation of a post-earthquake remediation plan and, we assume, the EIR/EIS under preparation for this project will analyze that proposed mitigation measure and deem it satisfactory and sufficient to mitigate any impacts of liquefaction induced deformation on the Adjacent Levee Alternative. This sort of "make weight" argument is unworthy of a public agency seeking to justify a taking of private property. Irrespective of which opinion has more credibility, your budget for Segment F already has a substantial dollar amount for slope protection.

4. Mr. Gilbert pointed out that your own tables and materials indicated that erosion action caused by the river is not a problem in the northern portion of Segment F in which the Seecon Property is located. Your response is that the 15% plans for the adjacent levee with berm shows extensive waterside erosion protection adjacent to the Seecon Property. Mr. Gilbert cited Figure CMA 1 (Exhibit C-3 from May, 2011 as included with the 15% EIP design report dated January, 2012) that showed no erosion deficiencies in the northern portion of Segment F. If additional studies have been performed, then we would like to review the new information you have developed indicating that erosion is a concern and erosion protection necessary adjacent to the Seecon Property.

5. My Point No. 5 (responded to by you in your Paragraph No. 6) was that according to Victoria Yokoyama, Board President Denton has on a number of occasions indicated that WSAFCA would do everything they can to save the Yokoyama family home. Mr. Gilbert's suggestion was to break Segment F into a northern and southern portion with the Adjacent Levee Alternative implemented in the northern portion on the Seecon/Yokoyama properties and a setback levee with

1

seepage berm on the southern portion. Your response was that it would be helpful if ENGEO would provide the engineering drawings showing how the Adjacent Levee Alternative would not impact the Yokoyama farm and house.

The design of the improvements is not our consultant's responsibility. The Agency design team, in considering the flood control improvements in Segment B, made a number of accommodations and modifications intended to save individual houses. Mr. Gilbert would be happy to meet with your design team and give them any assistance he might have and the benefit of his expertise. Indeed, his January 8, 2012 letter to the Board on behalf of the Victoria Yokoyama family offered suggestions on how the Yokoyama property could be protected and saved. We understand that letter was never acknowledged or responded to by Agency Staff or consultants.

Again, we appreciate your meeting with us and your free exchange of thoughts. We think it is important to meet, as agreed, hopefully on April 3 to see if some mutually agreeable solution can be achieved to a problem which poses every potential for long and expensive litigation.

Very truly yours,

MILLER STARR REGALIA

Wilson F. Wendt

Wilson F. Wendt

WFW:elt

cc: President William Denton and Members of the WSAFCA Board
Alicia Kirchner, USACE
Thomas Karvonen, USACE
Marc Fugler, USACE
L. Chew, CDWR
Victoria Yokoyama
Client

SEEC\49924\898961.3

1

HDR 15% Opinion of Probable Cost Comparison

Levee Improvements	Quantities		Units	Differences
	Adjacent	Setback		Setback - Adjacent
Mobilization and Demobilization (5%)	1	1	LS	
Traffic Control (Urban) (3%)	1	1	LS	
Top Soil Stripping	56.1	84.5	AC	28.4
Clearing and Grubbing	2.8	4.2	AC	1
Inspection Trench Excavation	3,944	3,653	CY	(291)
Existing Levee Degrade & Haul - For Seepage Berm	533	183,924	CY	183,391
Seepage Berm - Placement	197,705	176,538	CY	(21,167)
SB Wall - Conventional Method	48,024	15,399	SF	(32,625)
Levee Embankment - Placement of Setback & Adj.	158,915	323,269	CY	164,354
Scraper Haul Cost - Setback & Adjacent	198,644	404,086	CY	205,442
Bedding Material for Erosion Control	9,350	4,667	TN	(4,683)
Full Waterside Slope Erosion Control	12,487	0	TN	(12,487)
Partial Degrade Erosion Control	0	0	LF	0
Inlet/Outlet Erosion Control	0	11,000	TN	11,000
Excavate Unsuitable Material from Offset Area, Haul & Place in Landside Borrow Area	0	52,770	CY	52,770
Revegetation	56.1	84.5	AC	28.4

Setback Levee Additional Earthwork = 584,790 CY
Additional Top Soil Stripping and Revegetation= 28.4 AC

1

MILLER STARR REGALIA

1331 N. California Blvd.
Fifth Floor
Walnut Creek, CA 94596

T 925 935 9400
F 925 933 4126
www.msrlegal.com

Wilson F. Wendt
wilson.wendt@msrlegal.com

July 12, 2012

President William Denton and
Members of the Board
Board of Directors
West Sacramento Area Flood Control Agency
1110 West Capitol Avenue, 2nd Floor
West Sacramento, CA 95691

Re: Seecon Financial and Construction Co., Inc.; Continuing Concerns Regarding Sacramento River Southport Early Implementation Project

Honorable President Denton and Members of the Board:

Our office represents Seecon Financial and Construction Co., Inc. ("Seecon"). We have appeared before you on several occasions to voice our client's concern over the severe and irremediable impact that the selection of the setback levee alternatives in Segment F and the implementation of the EIP will have on the Seecon property. Last month, we submitted a letter requesting a reconsideration of the Board's determination that the preferred alternative affecting the Seecon property was the setback levee. We also filed a Public Records Act request and have been reviewing the materials provided in response. We remain significantly concerned about the design of the levee improvements in Segment F and the Agency's implementation of the EIP, as set out in our prior letters and as mentioned below. However, at this time we think it would be extremely helpful for both sides in this dispute to sit down and discuss the design of the improvements and the data provided affecting levee protection in Segment F, keeping in mind the Board's directive to minimize impacts upon private property. We hereby request that Mr. Ruzich, Mr. Bessette and a representative from HDR Consultants meet with us and our consultant to make sure that we understand precisely what has gone into the Board's determinations relating to design and implementation of the EIP. We would appreciate it if the Board would direct staff to meet with us.

A. Remaining Concerns Over Impacts Upon the Seecon Property: We are concerned over these various impacts and we have reviewed the Flood Protection Progress Report dated July 6, 2012 and have the following concerns and comments:

1. Engineering Design: This section of the Progress Report appearing at the bottom of page 2 reiterates that "minimizing impacts on

1

private property" is a real and significant concern of the district. Obviously, we share that concern and do not see how the prior actions of the Board in selecting the setback levee alternative as appropriate for Segment F evidences the intent to minimize impacts.

a. Cost to the Agency Seems to Override All Other Considerations: After reviewing the materials submitted in response to our Public Records Act demand and the "value engineering" analysis specifically addressed to Segment F which was presented to you at your May meeting by the consultant, it seems clear that cost to the Agency and not cost to the public is the overriding consideration in Board determinations. The information provided to us indicates clearly that the setback levee is substantially more expensive in total cost than the adjacent levee in Segment F. However, the share of the cost attributable to the Agency is less under the setback levee alternative. This is because state funds are available which increases the state share and makes the Agency's share significantly less. However, the result of this choice is to create an enormous swath of unusable property and require the construction, not only of the setback levee but also a large seepage berm. This construction requires an enormous amount of fill material, the source of which is problematic and the environmental impacts of which will be enormously significant. Additionally, this will require ongoing maintenance expense and cause significant public safety problems for the police.

b. Sources of Borrow Material: The first full paragraph on page 3 identifies (and we feel understates) the significant problem facing the Agency in identifying sufficient borrow material for levee and seepage berm construction and does not address the truly enormous environmental impacts that will be caused by excavating, trucking and putting in place the staggering amounts of borrow material that will be necessary. We understand that the second administrative draft EIS/EIR is being prepared by the consultants and we look forward to participating in a full and complete comment analysis on its adequacy. One of the areas of most significant concern will be the significant environmental impacts caused by selecting the setback levee alternative in Segment F, the most severe and socially wasteful of the levee protection alternatives.

c. The engineering analysis goes on to state that "consideration of borrow sources is now a primary critical path item due to the large volume of material needed, high costs/impacts of transporting materials via roadways, potential to impact land development and uses, complexities of synchronizing harvest and delivery of materials with construction phasing, and limited availability of sites that can provide materials suitable for project construction." Our clients are unsure as to whether you can even find the amount of necessary satisfactory borrow material available in the immediate area. This will require literally thousands of truck transports with resulting significant air pollution and damage of City streets. It is possible that material will have to be barged in from significant distances. The cost of this will be enormous, both from a fiscal and

1

an environmental standpoint. The solutions under consideration highlight possible conflicts with existing general and specific plans as discussed below addressing the statement that the proposed Village Parkway may be used as a "rural roadway". All of this appears to be unsettling indications that the amount of borrow material may not physically be available for this project.

2. State Funding Agreement: The agenda report goes on to discuss reimbursement payment under the Design Funding Agreement which is interpreted as a firm commitment by State of California to the success of the West Sacramento Levee Improvement Program. No one doubts the state's commitments nor the necessity for timely and successful implementation of the improvement program. However, the Central Valley Flood System Conservation Framework and Strategy Funding Guidelines issued by the Department of Water Resources, dated February 14, 2012 includes the following requirement for funding agreements:

> "The funding recipient will defend, indemnify, and hold and save the State, its officers, agents, and employees, free and harmless from any and all claims or damages arising out of or in connection with the planning, design, construction, evaluation, repair, replacement, or rehabilitation of the project facilities and properties, and any activity under the Project, including claims based on inverse condemnation." (Emphasis added)

Thus, these expenses, including damages for inverse condemnation will fall squarely on the Agency and its constituent members.

3. "Reevaluation" of the Proposed Configuration for Village Parkway: Village Parkway is partially constructed through the Seecon property providing ingress and egress for homeowners and others. Final maps are of record and improvements constructed on a portion of the Seecon property. Tentative maps have been approved and a development agreement is in place for the Seecon property. Village Parkway is an essential element of the circulation system not only for the Newport Estates development but also as a part of the Southport Specific Plan. This is the primary north-south circulation element and is crucial to the implementation of the Southport Specific Plan. To change this to a "rural road" or to delete it entirely (as seems to be the suggestion in the discussion of flood plain administration and the liberty development) would create a significant inconsistency with the Southport Specific Plan and the City General Plan. This also highlights the significant impact that the implementation of the EIP will have on the Seecon property. All of that property designated currently for water-related marina and resort uses would be deprived of access and development.

1

Conclusion: The selection of the most socially wasteful of the levee design alternatives, the setback levee with an additional significant seepage berm, will have enormous, unexamined impacts on the Seecon property and the community in general. The Board's directions to staff in February and March specifically identified a number of concerns that were to be analyzed and reviewed and reported back on to the Board. Instead, it appears to us that the in-place or adjacent levee with cutoff wall was never seriously considered for Segment F; and, instead, the costs to the Agency overrode all other considerations. The very real problem of identifying sufficient borrow materials to accommodate the setback levee alternative is new information calling for a re-evaluation of levee alternatives by the Agency. We urge the Board to direct staff to review and reconsider the applicability of a cutoff wall in Segment F to alleviate some of the needless impacts upon private property.

Very truly yours,

MILLER STARR REGALIA

Wilson F. Wendt

WFW:jj
cc: Kenneth Ruzich
Michael Bessette
James Day, Esq.
Albert D. Seeno, III
Jeanne C. Pavao, Esq.

SEECW9924\576752.2

1

4.12.1 Responses to Letter 23

23-1

Chapter 2, "Alternatives," provides a detailed description of the alternative screening criteria applied by WSAFCA. Among the seven criteria were consideration of cost; land use compatibility (including minimization of property acquisition and other effects on private property); and avoidance, minimization, and mitigation of environmental effects (criteria 7, 5, and 6, respectively). While no single alternative has yet been adopted as a project (i.e., selected), WSAFCA has identified Alternative 5 as the APA to facilitate the review process with the numerous Federal and state agencies with approval authority for the Southport project. In balancing the multiple considerations represented by the criteria, Alternative 5 presents the most favorable combination of project measures as a result of the screening process, including consideration of the three factors suggested in the comment. For detailed effect discussions, the alternatives' impacts on private property are analyzed primarily in Section 3-11, Land Use and Agriculture; analyses of the alternatives relative to other environmental resources are under similar topical headings.

23-2

The lead agencies have carefully reviewed and considered the public comments received throughout the CEQA and NEPA public noticing processes. The Draft EIS/EIR and Final EIR are responsive to these concerns and are considered adequate by the lead agency.

23-3

Section 3.7, Noise, thoroughly analyzes the construction- and operations-related noise effects of each alternative, including identification of all potentially affected sensitive receptors on Plate 3.7-1. Table 3.7-10 summarizes construction equipment noise assumptions, and each alternative analysis discloses construction noise levels associated with each construction activity along each levee segment during each year of construction.

23-4

Section 2.2.3.3, Common Elements and Assumptions, explains what steps would be taken to ensure that the performance of the levee system is not compromised during project construction. Specifically, all project construction would be performed in accordance with the seasonal requirements of WSAFCA's Central Valley Flood Protection Board encroachment permit and at the direction of USACE. At the end of each primary construction season, the levee would be restored, at a minimum, to the level of performance existing at the project outset. During the flood season, maintenance of the levee would continue to be performed by the maintaining agency, RD 900.

23-5

Potential borrow sites identified in Volume I include locations with preferred soil material needed for levee construction. WSAFCA has a policy to only enter into agreements to purchase borrow material from willing property owners; costs associated with achieving the property owners' desired post-excavation condition would be a factor considered by WSAFCA when entering into agreements for borrow material.

In the event the use of borrow sites adjacent to an existing or proposed levee are negotiated with property owners, geotechnical analysis, including seepage and slope stability analysis, would be performed to establish the appropriate grading and proximity to the flood protection system for borrow extraction activities to occur without creating an increased risk of underseepage. Such evaluation would include consideration of depth to groundwater, presence of adjacent surface water, and previous instances of subsidence.

Borrow activities would then be set back a safe distance, as determined by the results of the analysis, from the landside toe of existing levees to avoid impact on the integrity of the levee. Site-specific seepage and slope stability analysis would be conducted, as applicable, in accordance with Federal and state levee design criteria enumerated and discussed in Section 3.1, Flood Risk Management and Geomorphic Conditions.

23-6

The effects on planned or existing land uses and conflicts with existing land use policies in the project area are analyzed in Section 3.11, Land Use and Agriculture; the effects of all five alternatives on planned or existing land uses were found to be significant and unavoidable. Additionally, WSAFCA has been coordinating with the City's planning division as the City is preparing its General Plan update.

23-7

Preparation of Section 3.17, Cultural Resources, was based upon multiple field surveys, record searches, and extensive consultation with Native American groups. Potential effects on known and unknown resources are analyzed. Appropriate mitigation is proposed in Volume I and in the Draft Programmatic Agreement currently being prepared pursuant to Section 106 of the National Historic Preservation Act, and attached to Volume I as Appendix I.

23-8

Section 2.2.2, Alternatives Screening Process, describes the alternatives screening criteria employed by the lead agencies in order to develop this analysis. Each alternative represents a different approach to accomplishing the project objectives; therefore, environmental effects will vary amongst alternatives. Section 2.2.3, Actions Alternatives Overview, describes how Alternative 5 was selected by WSAFCA as the Environmentally Superior Alternative.

23-9

The determination of effect significance is made for each alternative for the purpose of disclosing likely environmental effects that would result from implementation of the project alternative described. A significant and unavoidable effect is one that cannot be avoided or mitigated to a less-than-significant level *if the project alternative is implemented*.

Often, as is the case with the Southport alternatives, implementation of a construction method or flood risk-reduction measure that lessens one effect results in worsened effects on another resource. Therefore, in NEPA and CEQA analysis, analysis of measures to reduce the severity of environmental effects is limited to those that could be accomplished if the alternative analyzed was adopted. To conduct the analysis as the comment suggests, each alternative would mitigate for the other in various ways, leaving the public without a reasonable range of alternatives upon which to comment.

23-10

Rationale for WSAFCA's selection of the APA is described in Section 2.2.3.2, Overview of Alternatives Carried Forward.

23-11

While all five Southport alternatives are designed to reduce flood risk, and thereby protect human health and safety and prevent adverse effects on property and the economy of West Sacramento, Section 1.3, Project Purpose, Objectives, and Need, describes WSAFCA's project purpose and objectives. Section 2.2.2, Alternatives Screening Process, further describes the alternatives screening criteria employed by the lead agencies in order to develop this analysis. Each alternative represents a different approach to accomplishing the project objectives; therefore, environmental effects will vary among alternatives. Section 2.2.3, Action Alternatives Overview, describes how Alternative 5 was selected by WSAFCA as the Environmentally Superior Alternative because it minimizes effects on potentially jurisdictional waters and balances emissions, real estate acquisition and land use change, environmental benefits, habitat effects, and construction-related disturbances.

23-12

Neither WSAFCA nor its consultants ignored requests from interested parties, but, instead, engaged with the community in numerous ways in an effort to ensure that stakeholders were informed and involved. An overview of the outreach efforts is provided in Section 1.6.1, Community Outreach.

As a point of clarification, the comment may be interpreted to suggest that an alternative has been adopted. No project has yet been adopted. Rather, an APA has been identified to facilitate the review process with the numerous Federal and state agencies with approval authority for the Southport project. As described in Section 2.2.2, Alternatives Screening Process, WSAFCA considered a number of criteria in identifying the APA, including land use compatibility. WSAFCA and its consultant team applied supporting principles for this criterion to minimize needs for property acquisition and other effects on private property as strong guiding directives in planning and designing the project. However, this criterion is one of seven criteria considered in combination to identify the APA. In balancing the multiple considerations represented by the criteria, Alternative 5 presents the most favorable combination of project measures as a result of the screening process. Section 3-11, Land Use and Agriculture, provides a detailed discussion and analysis of the alternatives' impacts on private property.

As another point of clarification, the comment assumes that private property will be acquired through eminent domain (i.e., condemnation). WSAFCA intends to make every reasonable effort to acquire property by negotiation as contemplated by Government Code, Section 7267.1(a).

23-13

Comments from the public on a wide variety of topics have been read, considered, and weighed by the lead agencies, as described at length in the Scoping Report, Appendix B of Volume I. As a point of clarification, the comment may be interpreted to suggest that an alternative has been adopted. No project has yet been adopted. Rather, an APA has been identified to facilitate the review process with the numerous Federal and state agencies with approval authority for the Southport project.

23-14

The issues of known controversy summarized in Chapter 1, "Introduction," accurately summarize the key issues raised by the public during scoping. Specifically, the referenced concern about condemnation of private property is identified as an issue of known controversy in Section 1.6.3.1, Property Acquisition. The effects of the project alternatives on private property are analyzed in Section 3.11, Land Use and Agriculture. Such items are explained in greater detail in Volume I, Appendix B, Scoping Report.

23-15

The comment misquotes the Draft EIS/EIR's alternative screening criteria, contained in Section 2.2.2, Alternatives Screening Process. The criteria identify the potential for setback levees in general to cause measureable water surface elevation rise. If an alternative did cause such a rise, it would be excluded from consideration. Section 3.1, Flood Risk Management and Geomorphic Conditions, analyzed Effect FR-1, Change in Flood Risk Associated with Water Surface Elevation. Each alternative was determined to result in no effect or a less-than-significant effect. The hydraulic modeling done to support these findings can be found in Volume I, Appendix C, Flood Management and Geomorphic Conditions Technical Appendix.

23-16

Conflicts with existing land uses and designations are analyzed as Effect LU-2 under each alternative in Section 3.11, Land Use and Agriculture. The analysis discusses the degree of impact under each alternative relative to the remaining alternatives.

Neither WSAFCA nor its consultants ignored requests from interested parties to analyze a non-setback alternative in Segment F, as is shown in Alternatives 1, 3, and 4. WSAFCA has engaged with the community in numerous ways in an effort to ensure that stakeholders were informed and involved.

23-17

Each alternative represents a different approach to accomplishing the project objectives; therefore, environmental effects will vary among alternatives. Section 2.2.3, Action Alternatives Overview, describes how Alternative 5 was selected by WSAFCA as the Environmentally Superior Alternative.

Volume I presents proposed mitigation measures that would reduce effects on Swainson's hawk habitat and air quality under all alternatives.

23-18

Cost was one of many factors considered by WSAFCA in identification of Alternative 5 as the APA. The cost implications of the Southport EIP were reported to the WSAFCA Board at the March, May, and September 2012 Board meetings. The Central Valley Flood Protection Plan, adopted by the Central Valley Flood Protection Board in July 2012, proposes an investment approach for sustainable and integrated flood management. A key element of the CVFPP is leveraging flood system improvements to create habitat through levee setbacks. Because the state provides additional funding for projects consistent this approach, construction of Alternative 5 would reduce the total investment required by WSAFCA to complete the Southport EIP.

Long-term maintenance costs are not expected to increase as a result of vector and mosquito control, because mosquito breeding conditions would be unlikely to occur, as described in Section 3.16, Public Health and Environmental Hazards. Should standing water result in possible vector issues, WSAFCA would coordinate with Sacramento-Yolo Mosquito and Vector Control District to address the concern.

Operation and maintenance activities under all alternatives would be similar to those presently performed by RD 900, as described in Section 2.2.3.3, Common Elements and Assumptions, under Postconstruction Operation and Maintenance. West Sacramento Police Department and West Sacramento Fire Department have been consulted and expressed no concerns that any of the project alternatives may create a greater burden on law enforcement and fire suppression efforts than existing waterfront usages.

23-19

Section 2.2.2, Alternatives Screening Process, describes the alternatives screening criteria employed by the lead agencies in order to develop this analysis. Each alternative represents a different approach to accomplishing the project objectives; therefore, environmental effects will vary among alternatives. Section 2.2.3, Action Alternatives Overview, describes how Alternative 5 was selected by WSAFCA as the Environmentally Superior Alternative.

23-20

Volume I analyzes several approaches to implementation of flood risk-reduction measures in each segment of the project area, including Segment F, and the analysis represents a reasonable range of project alternatives in each segment.

One of the measures considered in Volume I to address underseepage is a shallow slurry cutoff wall that extends through the levee embankment and a portion of the levee foundation but does not finish into a low-permeability layer. Because the slurry wall does not tie into a low-permeability layer, a seepage berm is combined with this measure in Alternatives 2 and 5 to reduce the underseepage gradient to meet the USACE and State Urban Levee Design Criteria. However, the results of the analysis showed that the shallow slurry cutoff wall would not reduce the seepage gradient to a level that would significantly reduce the width of the seepage berm.

Compared to the setback levee alignment, subsurface conditions along the existing levee alignment in Segment F are equally prone to, or more prone to, underseepage. Therefore, a berm equal to the one applied in Alternatives 2 and 5 would reasonably be expected in Alternatives 1, 3, and 4, even with the installation of a shallow slurry cutoff wall. As a result, the use of a slurry wall in these alternatives would not reduce the size of the needed seepage berm to such an extent as to significantly reduce the magnitude of these alternatives' already reduced effects on residences and land use.

As project development continues to advance, WSAFCA is currently recommending the combined use of shallow slurry cutoff walls along with the minimum width berm necessary to mitigate underseepage along most of the Southport EIP, including Segment F, where conventional slurry cutoff walls are not feasible because the depth to the impermeable layer is greater than 90 feet. The recommended berm widths are described in Volume II, Chapter 6, "Revisions to the Applicant Preferred Alternative."

23-21

Equipment exhaust and fugitive dust emissions from the onsite excavation for the offset area are evaluated for all alternatives under the "Soil Borrow Extraction/Levee Placement" phase. Daily earthwork rates (cubic yards per day) required for excavation are identified in Appendix E of Volume I.

23-22

To clarify, WSAFCA does not propose the establishment of a mitigation bank enterprise as a component of the Southport project. Rather, Alternatives 2, 4, and 5 include a component of ecosystem restoration that would be made possible in the expanded floodplain created by constructing a segment of new levee landward of the existing levee and subsequently degrading and breaching the old remnant levee. Such restoration provides the ability to mitigate vegetation and habitat impacts resulting from the Southport project, and will be required under necessary approvals to comply with local, state, and Federal laws. The mitigation requirements have not been finalized by the regulating agencies, so it is not yet known if there could be habitat created beyond the needs of the project. The size and configuration of the expanded floodplain is driven by the levee alignment for optimum flood-risk reduction, not by mitigation needs.

If there is opportunity for additional restoration beyond the mitigation needs of the project, it could be used to mitigate for future projects implemented by WSAFCA, its partners under a Regional Flood Management Plan, or other partnerships, listed in likely order of priority. As an example of one such partnership, WSAFCA and the State of California (through DWR) are exploring application of possible surplus restoration toward the conservation strategy associated with the Central Valley Flood Protection Plan, pursuant to which the Southport project is advancing. No agreement has been executed for this potential future use, and such agreement would be subject to approval from the state and Federal fish and wildlife agencies. It may also be possible that WSAFCA could partner with an entity for long-term management of the restored habitat, which may include organizations with experience in mitigation banking, but, again, there is no intent to create a banking enterprise from which mitigation credits would be commercially available.

It should be noted that the ecosystem restoration component, in addition to representing a low-cost method to achieve required project mitigation, provides a more favorable cost-share with the State of California based on the state's funding criteria, thereby allowing WSAFCA to more cost-effectively meet the project goals for flood-risk reduction and 200-year protection.

23-23

WSAFCA evaluated different approaches to mitigate underseepage for each project segment. For Segment F, one of the measures considered to address underseepage was a shallow slurry cutoff wall that extended through the levee embankment and a portion of the levee foundation, but did not finish into a low-permeability layer. Because the slurry wall did not tie into a low-permeability layer, a seepage berm was combined with this measure to reduce the underseepage gradient to meet the USACE and State Urban Levee Design Criteria. The results of the analysis showed that the partially penetrating slurry cutoff wall would not reduce the seepage gradient to a level that would significantly reduce the width of the seepage berm.

As project development continues to advance, WSAFCA is currently recommending the use of the minimum suitable berm width needed to sufficiently reduce the seepage gradient, coupled with

shallow slurry cutoff walls, to mitigate underseepage along most of the Southport EIP; this includes Segment F, where conventional slurry cutoff walls are not feasible because the depth to the impermeable layer is more than 90 feet.

23-24

Please see the response to comment 23-23 above.

23-25

Table ES-10 provides a summary of effects and mitigation measures for the Southport project, which are fully analyzed and discussed in Chapter 3, "Affected Environment and Environmental Consequences." Such discussion includes detailed information explaining the relative severity of the effect described in relation to the other alternatives.

23-26

The requested comparison of each alternative's air quality effects is already contained in the analysis. Please see Section 3.5, Air Quality, for a quantified comparison of each alternative's air quality effects.

23-27

The requested comparison of each alternative's air quality effects is already contained in the analysis. Please see Section 3.5, Air Quality, for a quantified comparison of each alternative's air quality effects.

23-28

The assertion that Alternatives 1 and 3 result in a smaller loss of riparian land cover types than Alternatives 2, 4, and 5 is based on construction impacts alone. The assertion does not take into account that the setback alternatives are expected to result in a long-term beneficial effect, likely doubling the area of riparian land cover types in the project area. In addition, Alternatives 1 and 3 would likely require offsite mitigation for riparian losses.

23-29

See FISH-MM-4 in Section 3.9, Fish and Aquatic Resources. Potential stranding will be minimized by grading the new floodplain to promote complete and unimpeded drainage to the river and minimal ponding as floodwaters recede. The Draft MMP (Volume II, Appendix A), will be implemented to evaluate the effectiveness of these measures and the need for remediation measures should the grading and drainage features fail to meet established performance standards.

23-30

The comment's assertion that Alternatives 1 and 3 result in a smaller loss of riparian land cover types than Alternatives 2, 4, and 5 is based on construction impacts alone. The assertion does not take into account that the setback alternatives are expected to result in a long-term beneficial effect, likely doubling the area of riparian land cover types in the project area. In addition, Alternatives 1 and 3 would likely require offsite mitigation for riparian losses.

23-31

The APA and its alternatives will conflict with existing and planned land uses. Conflicts with existing land uses and designations are analyzed as Effect LU-2 under each alternative in Section 3.11, Land Use and Agriculture. The analysis discusses the degree of impact under each alternative relative to the remaining alternatives.

The comment asserts that use of a shallow cutoff wall in Segment F could reduce or eliminate the need for a seepage berm in that segment, and that this approach was not considered or analyzed as a method of reducing land use conflicts. These assertions are incorrect. Volume I analyzes several approaches to implementation of flood risk-reduction measures in each segment of the project area, including Segment F, and the analysis represents a reasonable range of project alternatives in each segment.

One of the measures considered in Volume I to address underseepage is a shallow slurry cutoff wall that extends through the levee embankment and a portion of the levee foundation but does not finish into a low-permeability layer. Because the slurry wall does not tie into a low-permeability layer, a seepage berm is combined with this measure in Alternatives 2 and 5 to reduce the underseepage gradient to meet the USACE and State Urban Levee Design Criteria. However, the results of the analysis showed that the shallow slurry cutoff wall would not reduce the seepage gradient to a level that would significantly reduce the width of the seepage berm.

Compared to the setback levee alignment, subsurface conditions along the existing levee alignment in Segment F are equally prone to, or more prone to, underseepage. Therefore, a berm equal to the one applied in Alternatives 2 and 5 would reasonably be expected in Alternatives 1, 3, and 4, even with the installation of a shallow slurry cutoff wall. As a result, the use of a slurry wall in these alternatives would not reduce the size of the needed seepage berm to such an extent as to significantly reduce the magnitude of these alternatives' already reduced effects on residences and land use.

As project development continues to advance, WSAFCA is currently recommending the combined use of shallow slurry cutoff walls along with the minimum width berm necessary to mitigate underseepage along most of the Southport EIP, including Segment F, where conventional slurry cutoff walls are not feasible because the depth to the impermeable layer is greater than 90 feet. The recommended berm widths are described in Volume II, Chapter 6, "Revisions to the Applicant Preferred Alternative."

23-32

The effects analyses suggested in the comment were conducted as part of the Draft EIS/EIR. Economic and social effects of the project alternatives are analyzed in Section 3.12, Environmental Justice, Socioeconomic, and Community Effects. Section 3.16, Public Health and Environmental Hazards, discusses health effects of the project alternatives. Conflicts with existing land uses and designations are analyzed as Effect LU-2 under each alternative in Section 3.11, Land Use and Agriculture. Section 3.5, Air Quality, analyzes and discloses the potential health effects of air quality contaminants associated with each alternative.

23-33

Conflicts with existing land uses and designations are analyzed as Effect LU-2 under each alternative in Section 3.11, Land Use and Agriculture. As the comment recommends, the analysis clearly discloses the degree of impact under each alternative relative to the remaining alternatives.

23-34

Volume I analyzes, discloses, and differentiates the various relative environmental effects of each alternative in Chapter 3, "Affected Environment and Environmental Consequences."

23-35

The issues of known controversy summarized in Chapter 1, "Introduction," accurately summarize the key issues raised by the public during scoping. Such items are explained in greater detail in Appendix B, Scoping Report.

The comment that the previously provided comments have been ignored is incorrect; the lead agencies have carefully reviewed, considered, and responded to the letters referenced in the comment in correspondence dated September 6, 2012, October 4, 2012, and March 26, 2013.

23-36

See response to comment 23-21.

23-37

The potential risks to human health associated with each alternative are analyzed in Section 3.16, Public Health and Environmental Hazards. Specifically, health risks associated with mosquitoes were analyzed, and determined to be beneficial (Alternative 2) and less than significant (Alternatives 4 and 5). These findings were made in consultation with Sacramento-Yolo Mosquito and Vector Control District.

The analysis also determined that Bees Lakes, located in Segment E, is currently a large breeding ground for area vectors. This condition would remain unchanged in all alternatives, except Alternative 2.

23-38

Section 3.1, Flood Risk Management and Geomorphic Conditions, disclosed and analyzed Effect FR-1, Change in Flood Risk Associated with Water Surface Elevation. Effects on the local and regional levees were considered, including effects on the levees on the east side of the Sacramento River, and each alternative was determined to result in no effect or a less-than-significant change in water surface elevations above, at, and below the project area. The hydraulic modeling done to support these findings can be found in Volume I, Appendix C, Flood Management and Geomorphic Conditions Technical Appendix.

23-39

The requested comparison of each alternative's air quality effects is already contained in the analysis. Please see Section 3.5, Air Quality, for a quantified comparison of each alternative's air quality effects.

The comment's assertion that "excavation for the Offset Area has been omitted from the Executive Summary" is incorrect; excavation of the offset area is discussed in the Executive Summary, Section ES.6.4.1, Alternative 2 Flood Risk–Reduction Measures: "The offset floodplain area refers to the expanded floodway waterside of the proposed setback levee that is created when portions of the existing levee are breached and material excavated and graded to allow Sacramento River water to flow into the offset area."

23-40

Conflicts with existing land uses and designations are analyzed as Effect LU-2 under each alternative in Section 3.11, Land Use and Agriculture. The analysis discusses the degree of impact under each alternative relative to the remaining alternatives.

23-41

The determination of effect significance is made for each alternative for the purpose of disclosing likely environmental effects that would result from implementation of the project alternative described. A significant and unavoidable effect is one that cannot be avoided or mitigated to a less-than-significant level *if the project alternative is implemented*.

Often, as is the case with the Southport alternatives, implementation of a construction method or flood risk-reduction measure that lessens one effect results in worsened effects on another resource. Therefore, in NEPA and CEQA analysis, analysis of measures to reduce the severity of environmental effects is limited to those that could be accomplished if the alternative analyzed was adopted. To conduct the analysis as the comment suggests, each alternative would mitigate for the other in various ways, leaving the public without a reasonable range of alternatives upon which to comment.

23-42

The determination of effect significance is made for each alternative for the purpose of disclosing likely environmental effects that would result from implementation of the project alternative described. A significant and unavoidable effect is one that cannot be avoided or mitigated to a less-than-significant level *if the project alternative is implemented*.

Often, as is the case with the Southport alternatives, implementation of a construction method or flood risk-reduction measure that lessens one effect results in worsened effects on another resource. Therefore, in NEPA and CEQA analysis, analysis of measures to reduce the severity of environmental effects is limited to those that could be accomplished if the alternative analyzed was adopted. To conduct the analysis as the comment suggests, each alternative would mitigate for the other in various ways, leaving the public without a reasonable range of alternatives upon which to comment.

One of the measures considered in Volume I to address underseepage is a shallow slurry cutoff wall that extends through the levee embankment and a portion of the levee foundation but does not finish into a low-permeability layer. Because the slurry wall does not tie into a low-permeability layer, a seepage berm is combined with this measure in Alternatives 2 and 5 to reduce the

underseepage gradient to meet the USACE and State Urban Levee Design Criteria. However, the results of the analysis showed that the shallow slurry cutoff wall would not reduce the seepage gradient to a level that would significantly reduce the width of the seepage berm.

Compared to the setback levee alignment, subsurface conditions along the existing levee alignment in Segment F are equally prone to, or more prone to, underseepage. Therefore, a berm equal to the one applied in Alternatives 2 and 5 would reasonably be expected in Alternatives 1, 3, and 4, even with the installation of a shallow slurry cutoff wall. As a result, the use of a slurry wall in these alternatives would not reduce the size of the needed seepage berm to such an extent as to significantly reduce the magnitude of these alternatives' already reduced effects on residences and land use.

As project development continues to advance, WSAFCA is currently recommending the combined use of shallow slurry cutoff walls along with the minimum width berm necessary to mitigate underseepage along most of the Southport EIP, including Segment F, where conventional slurry cutoff walls are not feasible because the depth to the impermeable layer is greater than 90 feet. The recommended berm widths are described in Volume II, Chapter 6, "Revisions to the Applicant Preferred Alternative."

23-43

The determination of effect significance is made for each alternative for the purpose of disclosing likely environmental effects that would result from implementation of the project alternative described. A significant and unavoidable effect is one that cannot be avoided or mitigated to a less-than-significant level *if the project alternative is implemented*.

Often, as is the case with the Southport alternatives, implementation of a construction method or flood risk-reduction measure that lessens one effect results in worsened effects on another resource. Therefore, in NEPA and CEQA analysis, analysis of measures to reduce the severity of environmental effects is limited to those that could be accomplished if the alternative analyzed was adopted. To conduct the analysis as the comment suggests, each alternative would mitigate for the other in various ways, leaving the public without a reasonable range of alternatives upon which to comment.

One of the measures considered in Volume I to address underseepage is a shallow slurry cutoff wall that extends through the levee embankment and a portion of the levee foundation but does not finish into a low-permeability layer. Because the slurry wall does not tie into a low-permeability layer, a seepage berm is combined with this measure in Alternatives 2 and 5 to reduce the underseepage gradient to meet the USACE and State Urban Levee Design Criteria. However, the results of the analysis showed that the shallow slurry cutoff wall would not reduce the seepage gradient to a level that would significantly reduce the width of the seepage berm.

Compared to the setback levee alignment, subsurface conditions along the existing levee alignment in Segment F are equally prone to, or more prone to, underseepage. Therefore, a berm equal to the one applied in Alternatives 2 and 5 would reasonably be expected in Alternatives 1, 3, and 4, even with the installation of a shallow slurry cutoff wall. As a result, the use of a slurry wall in these alternatives would not reduce the size of the needed seepage berm to such an extent as to significantly reduce the magnitude of these alternatives' already reduced effects on residences and land use.

As project development continues to advance, WSAFCA is currently recommending the combined use of shallow slurry cutoff walls along with the minimum width berm necessary to mitigate underseepage along most of the Southport EIP, including Segment F, where conventional slurry cutoff walls are not feasible because the depth to the impermeable layer is greater than 90 feet. The recommended berm widths are described in Volume II, Chapter 6, "Revisions to the Applicant Preferred Alternative."

23-44

The determination of effect significance is made for each alternative for the purpose of disclosing likely environmental effects that would result from implementation of the project alternative described. A significant and unavoidable effect is one that cannot be avoided or mitigated to a less-than-significant level *if the project alternative is implemented*.

Often, as is the case with the Southport alternatives, implementation of a construction method or flood risk-reduction measure that lessens one effect results in worsened effects on another resource. Therefore, in NEPA and CEQA analysis, analysis of measures to reduce the severity of environmental effects is limited to those that could be accomplished if the alternative analyzed was adopted. To conduct the analysis as the comment suggests, each alternative would mitigate for the other in various ways, leaving the public without a reasonable range of alternatives upon which to comment.

One of the measures considered in Volume I to address underseepage is a shallow slurry cutoff wall that extends through the levee embankment and a portion of the levee foundation but does not finish into a low-permeability layer. Because the slurry wall does not tie into a low-permeability layer, a seepage berm is combined with this measure in Alternatives 2 and 5 to reduce the underseepage gradient to meet the USACE and State Urban Levee Design Criteria. However, the results of the analysis showed that the shallow slurry cutoff wall would not reduce the seepage gradient to a level that would significantly reduce the width of the seepage berm.

Compared to the setback levee alignment, subsurface conditions along the existing levee alignment in Segment F are equally prone to, or more prone to, underseepage. Therefore, a berm equal to the one applied in Alternatives 2 and 5 would reasonably be expected in Alternatives 1, 3, and 4, even with the installation of a shallow slurry cutoff wall. As a result, the use of a slurry wall in these alternatives would not reduce the size of the needed seepage berm to such an extent as to significantly reduce the magnitude of these alternatives' already reduced effects on residences and land use.

As project development continues to advance, WSAFCA is currently recommending the combined use of shallow slurry cutoff walls along with the minimum width berm necessary to mitigate underseepage along most of the Southport EIP, including Segment F, where conventional slurry cutoff walls are not feasible because the depth to the impermeable layer is greater than 90 feet. The recommended berm widths are described in Volume II, Chapter 6, "Revisions to the Applicant Preferred Alternative."

23-45

Chapter 2, "Alternatives," provides a detailed description of the alternative screening criteria applied by WSAFCA. Among the seven criteria were consideration of cost; avoidance, minimization, and mitigation of environmental effects; and land use compatibility, including minimization of property acquisition and other effects on private property (criteria 7, 6, and 5, respectively). While

no single alternative has yet been adopted as a project, WSAFCA has identified Alternative 5 as the APA to facilitate the review process with the numerous Federal and state agencies with approval authority for the Southport project. In balancing the multiple considerations represented by the criteria, Alternative 5 presents the most favorable combination of project measures as a result of the screening process, including consideration of the three factors suggested in the comment. Section 3.11, Land Use and Agriculture, provides a detailed discussion and analysis of the alternatives' impacts on private property. Analyses of the alternatives relative to other environmental resources are under similar topical headings. Cost is not a specific subject of NEPA and CEQA review and thus is not subject to review as a resource area.

23-46

While the setback alternatives result in areas of land use conflicts exceeding those of Alternatives 1 and 3, as described in Section 3.11, Land Use and Agriculture, implementation of a setback alternative would allow WSAFCA to reduce flood risk to a greater amount of private property due to its consistency with the Central Valley Flood Protection Plan. The Central Valley Flood Protection Plan, adopted by the Central Valley Flood Protection Board in July 2012, proposes an investment approach for sustainable and integrated flood management. A key element of the CVFPP is leveraging flood system improvements to create habitat through levee setbacks. Because the State provides additional funding for projects consistent this approach, construction of Alternative 5 would reduce the total investment required by WSAFCA to complete the Southport EIP, allowing it to continue to pursue additional flood risk-reduction efforts.

As a point of clarification, the comment assumes that private property will be acquired through eminent domain (i.e., condemnation). WSAFCA intends to make every reasonable effort to acquire property by negotiation as contemplated by Government Code, Section 7267.1(a).

23-47

Chapter 2, "Alternatives," provides a detailed description of the alternative screening criteria applied by WSAFCA. Among the seven criteria were consideration of cost; avoidance, minimization, and mitigation of environmental effects; and land use compatibility, including minimization of property acquisition and other effects on private property (criteria 7, 6, and 5, respectively). While no single alternative has yet been adopted as a project, WSAFCA has identified Alternative 5 as the APA to facilitate the review process with the numerous Federal and state agencies with approval authority for the Southport project. In balancing the multiple considerations represented by the criteria, Alternative 5 presents the most favorable combination of project measures as a result of the screening process, including consideration of the three factors suggested in the comment.

Section 2.2.3, Action Alternatives Overview, describes how Alternative 5 was selected by WSAFCA as the Environmentally Superior Alternative, determined to have the greatest balance of environmental benefits.

Chapter 5
Individual Comments and Responses

This chapter contains the comments received on the Draft EIS/EIR from individuals. Each comment letter has been assigned a unique code, and each comment within the letter has also been assigned a unique code noted on the left margin. For example, the code "25-2" indicates the second distinct comment (indicated by the "2") in the letter from Carolyn Rech, which was the twenty-fifth letter recorded (indicated by the "25"). The chapter presents each comment letter immediately followed by the responses to that letter. Table 5-1 summarizes the commenting party and comment letter signatory.

Table 5-1. List of Comment Letters from Individuals

Letter #	Commenter
24	Carmen Wright
25	Carolyn Rech
26	Sonny Chahal
27	Kim McDonald
28	Paul Chavez
29	Cindy Tuttle
30	Carolyn Rech
31	Nicole Avila
32	Cruz and Darlene Charles
33	Cruz and Darlene Charles
34	Karen Kubo, c/o Richard and Anne Kubo
35	Karen Diepenbrock, Diepenbrock Elkin, LLP on behalf of Albert & Judy Rodgers, Madeline M. Rodgers Trust Estate (c/o Albert Rodgers), Terry Annesley and Brett Culbreth, and Chris and Thami Lacomb.
36	Albert Rodgers
37	Charles Tobia
38	Karl Machschefes
39	Kim McDonald
40	Carolyn Rech

5.1 Letter 24—Carmen Wright

Letter 24

From: CARMEN WRIGHT [mailto:carmen-w.sacto@sbcglobal.net]
Sent: Tuesday, November 19, 2013 1:42 PM
To: Toland, Tanis J SPK
Subject: [EXTERNAL] soil borrow sites

Dear Ms. Toland,

24-1 I received in today's mail a Public Meeting announcement re: the DEIS/EIR for the Southport Sacramento River concerning bringing the levee up to standard on the West Sacrament side. In the announcement it mentions "soil borrow sites". What is a "soil borrow site" and what is involved in creating a "soil borrow site"?

Thank you for your immediate response.

Carmen Wright
West Sacramento, CA

Classification: UNCLASSIFIED
Caveats: NONE

Classification: UNCLASSIFIED
Caveats: NONE

5.1.1 Responses to Letter 24

24-1

As described in Chapter 2, "Alternatives," each alternative would require the use of large quantities of fill soil, or *borrow*. Using heavy equipment such as excavators, borrow material would be removed from some of the locations identified in Plate 1-5 and trucked to the project site for use in building the levee. Specifically, after subsurface conditions are verified, existing topsoil would be scraped and set aside and borrow material excavated from the site. Excavation depths would vary, depending on landowner agreement; however, wherever feasible, depths of excavation would not encroach upon the water table. Following material extraction, Southport-area borrow sites would be graded to a depth of no greater than 3 feet and returned to pre-project drainage and irrigation conditions.

5.2 Letter 25—Carolyn Rech

Letter 25

From: Toland, Tanis J SPK <Tanis.J.Toland@usace.army.mil>
Sent: Wednesday, November 20, 2013 12:57 PM
To: Smith, Megan; Fugler, Marc A; johnp@cityofwestsacramento.org
Subject: Southport: DEIS/EIR =>Ms. Rech Comments TCR 11/20/13 (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Mark, Megan, and John;

This morning (11/20/13) I received a call from Carolyn Rech. Ms. Rech lives in the Southport area, on the corner of Blevin and Antioch in the Southport area, about 1.2 mile from the levee. Her concerns, as I understand them, are provided in the bullets below. Note that she is very anxious to get answers and would prefer to talk with someone immediately rather than wait for the end of the comment period. She plans to provide written comments. Her email address is Cejayr2000@yahoo.com While currently unemployed, she shared that she has worked professionally in the regulatory compliance arena.

25-1
- Traffic – Document needs to include more detailed mapping, narrative, and analysis of the traffic impacts and the roads that would be used, including why these roads are proposed for use (the "connector" between Village Parkway and the Bevins/Antioch area seems to be of greatest interest). She explained that the Village Parkway and the connector would funnel traffic onto smaller roads and into quiet neighborhoods. Ms. Rech is concerned that the Village Parkway and connector have nothing to do with the Southport flood control project. Therefore, she would like to know what it is identified and included in the document. She is concerned that project proponents are intentionally hiding something.

25-2
- General Plans – Ms. Rech said that the DEIS/EIR references old outdated General Plans and does not recognize the Southport Framework.

25-3
- Notice - She and her neighbors who would be affected by the traffic have not been noticed before. Why not? This is document is the first they have heard of this (especially the "connector" and the traffic that could affect their neighborhood). They understood that the issues around the roads in their neighborhood/area were addressed a few years ago and the matter was closed. Why are these same issues resurfacing through the Southport project?

25-4
- Houses - Where houses are in the way of the proposed new levee, why not move the houses rather than destroy them?

25-5
- Detailed Map of Roads – Ms. Rech would like a detailed map (now) that more clearly shows the roads and traffic that would be affected by the Southport project. One concern is that the map that was made available to her shows the road as being right on top of her house.

25-6
- Construction Period – Ms. Rech related that she does not believe that a 2-year construction period is realistic, particularly given the length of time other similar work in the area is taking to be completed.

1

25-7

- Destructive project – She believes that the project takes too much land to get a mitigation bank that will support other development or flood control projects. It would destroy an entire area; the only nice part of West Sacramento that is left. Ms. Rech offered that if the Corps' "tree removal program" is successfully fought then all of this will have been unnecessary.

- Ms. Rech stated that she opposes this project. She does not oppose levees or levee work in general. She opposes the this project for the following reasons: (1) the road and (2) the destructive nature of the project

Tanis

Classification: UNCLASSIFIED
Caveats: NONE

2

1

5.2.1 Responses to Letter 25

25-1

The plates showing the analyzed alternatives accurately reflect the roads within the project area, with the exception of the emergency access road from the proposed Village Parkway to Bevan Road and Antioch Avenue shown in Alternatives 4 and 5. The Bevan Road connection indicated was proposed to provide emergency access only, with access controlled through a gate. The gate, which would normally be locked, would prohibit/discourage through traffic. With the proposed extension of Village Parkway to Gregory Avenue, the connection to Bevan Road is no longer required for any of the levee alternatives and has been removed from the project, as shown in revised Plates 2-3a, 2-3b, 2-5a, 2-5b, 2-6a, and 2-6b.

25-2

The Southport Framework Plan is discussed and considered in Section 3.11, Land Use and Agriculture, and in Chapter 4, "Growth-Inducing and Cumulative Impacts."

25-3

The project's CEQA and NEPA processes were widely noticed to the public. Details regarding public outreach and public noticing of the Notice of Preparation (NOP), Supplemental NOP, and Draft EIS/EIR can be found in Chapter 1, "Introduction," Section 1.6.1, Community Outreach; Appendix B of Volume I; and in Chapter 1 of the Final EIR, Volume II.

Specifically, utility bill inserts providing a notice of preparation and notice of Draft EIS/EIR availability were sent to every residence that receives a utility bill in the City of West Sacramento. In addition, letter notices were sent to property owners whose property is within 500 feet of the proposed construction area, or within 100 feet of a proposed haul route. Letter notices were also sent to anyone who attended the project scoping meetings, commented on project scoping, or otherwise contacted the City about the proposed project. Lastly, notices of the circulation of both the NOP and NOA were published in the Legal Notices section of the Sacramento Bee.

The connector road to Bevan Road has been removed from the proposed roadway construction alignment as shown in revised Plates 2-3a, 2-3b, 2-5a, 2-5b, 2-6a, and 2-6b.

25-4

Whether or not a structure can be physically moved is a function of the existing condition of the structure, the type of construction, and whether the remaining property is of adequate size to accommodate the structure and meet zoning and building requirements. Should the structure be suitable and relocation desired by the property owner, relocation could be considered, consistent with WSAFCA's obligations related to property acquisition and relocation assistance.

25-5

The plates in the Draft EIS/EIR showing the analyzed alternatives accurately reflect the roads within the project area, with the exception of the emergency access road from the proposed Village Parkway to Bevan Road and Antioch Avenue shown in Alternatives 4 and 5. The Bevan connection

indicated was proposed to provide emergency access only, with access controlled through a gate. The gate, normally locked, would prohibit/discourage through traffic. With the proposed extension of Village Parkway to Gregory Avenue, the connection to Bevan Road is no longer required for any of the project alternatives and has been removed from the project, as shown in revised Plates 2-3a, 2-3b, 2-5a, 2-5b, 2-6a, and 2-6b.

25-6

When developing the construction schedule for the Southport EIP, WSAFCA considered the time to construct the Rivers and California Highway Patrol (CHP) Academy EIPs, which WSAFCA recently constructed, as well as other similar levee projects recently constructed in the Central Valley. The projected 2- to 3-year construction schedule is a reasonable estimate based on the information gathered. Because most construction-related effects could be worsened by meeting a 2-year construction schedule, as opposed to a 3-year schedule, the potential environmental effects of a 2-year construction schedule were analyzed, conservatively disclosing those effects to ensure the public was informed.

As with any construction project, weather, permit conditions, and flood conditions could affect the actual construction time. The levee construction project mentioned in the comment is not a WSAFCA project; the reasons for its construction schedule do not relate to WSAFCA's expected schedule for the Southport EIP.

25-7

To clarify, WSAFCA does not propose the establishment of a mitigation bank as a component of the Southport project. Rather, Alternatives 2, 4, and 5 include a component of ecosystem restoration that would be made possible in the expanded floodplain created by constructing a segment of new levee landward of the existing levee and subsequently degrading and breaching the old remnant levee. Such restoration provides the ability to mitigate vegetation and habitat impacts resulting from the Southport project, and will be required under necessary approvals to comply with local, state, and Federal laws. The mitigation requirements have not been finalized by the regulating agencies, so it is not yet known if there could be habitat created beyond the needs of the project. The size and configuration of the expanded floodplain are driven by the levee alignment for optimum flood-risk reduction, not by mitigation needs.

If there is opportunity for additional restoration beyond the mitigation needs of the project, it could potentially be used to mitigate for future projects implemented by WSAFCA, WSAFCA's partners under a Regional Flood Management Plan being developed beyond the Southport project, or other partnerships, listed in likely order of priority. As an example of one such partnership, WSAFCA and the State of California (through DWR) are exploring application of possible surplus restoration toward the conservation strategy associated with the Central Valley Flood Protection Plan, pursuant to which the Southport project is advancing. No agreement has been executed for this potential future use, and such agreement would be subject to approval from the state and Federal fish and wildlife agencies. It may also be possible that WSAFCA could partner with an entity for long-term management of the restored habitat, which may include organizations with experience in mitigation banking, but, again, there is no intent to create a banking enterprise from which mitigation credits would be commercially available and the project is not intended to mitigate for development projects.

With regard to USACE levee vegetation policy (Corps' "tree removal program"), levee encroachments, including vegetation, are not the most limiting levee deficiency in the study reach, as described in Chapter 1, "Introduction." Seepage, erosion, slope stability, and levee geometry are the primary deficiencies compromising the level of performance, causing the levee to not meet standards, and contributing to flood risk. The proposed improvements to address these deficiencies would be necessary even without considering the USACE levee vegetation policy.

5.3 Letter 26—Sonny Chahal

Letter 26

From: Sonny Chahal [mailto:sonnychahal@yahoo.com]
Sent: Saturday, November 23, 2013 11:04 AM
To: Toland, Tanis J SPK
Subject: [EXTERNAL] Southport Levee Project

Ms. Toland,

I am part owner of a property in West Sacramento that is adjacent to one of the potential borrow parcels (Yarborough Golf Course).

26-1 Can you tell me the estimated dates that the project (Southport Levee Project) will officially start? By start I mean construction.

Thanks,

Sonny Chahal

Classification: UNCLASSIFIED
Caveats: NONE

5.3.1 Responses to Letter 26

26-1

If WSAFCA approves the project and appropriate permits are acquired, construction would occur over multiple years. Construction of levee features could begin in the summer/fall of 2015. Relocations for utilities and roadways associated with the project could begin as early as the spring of 2015.

5.4 Letter 27—Kim McDonald

Letter 27

From: Kim Mcd <grandmamc55@yahoo.com>
Sent: Friday, November 29, 2013 1:52 PM
To: Smith, Megan
Cc: tanis.j.toland@usace.army.mil
Subject: WSAFCA

27-1 I recently received your cover letter for the Southport levee project. I was once again appalled at the mention of public recreation as a part of the project. The city's crassness of wanting to take the homes of long time residents to make recreational areas for residents of future developments is objectionable at least, and morally wrong to anyone with a conscience. The levee in my area could be repaired in place but the project would generate no revenue or assets to the government agencies involved. Therefore the more invasive setback levee has been the preferred plan when estimates were presented before the board. The proposed plan takes my home and land, not for safety, but to use for mitigation value to receive matched money for projects that do not improve safety. There is no justifiable reason in my mind, for you to be able to make my land an environmental area to counteract the city's plan to let more homes be built in the undeveloped floodplain area of Southport.
If this was a matter of bulldozing my home to save lives, I would have no reason to protest. To take my home and land for a means of funding a project to save the idiots who were stupid enough not to realize they were building in a floodplain is wrong. To turn my land into an environmental area so others can develop the farmland around me, is a punishment for trying to preserve this as natural area.
Kim McDonald

1

5.4.1 Responses to Letter 27

27-1

As a point of clarification, it is not WSAFCA's desire to take homes, whether for flood-risk reduction or any purpose, such as recreation, as asserted by the comment. As described in Chapter 2, "Alternatives," under Section 2.2.2, Alternatives Screening Process, WSAFCA considered a number of criteria in identifying the APA, including land use compatibility. WSAFCA and its consultant team applied supporting principles for this criterion to minimize the need for property acquisition and other effects on private property as strong guiding directives in planning and designing the project. However, this criterion is one of seven criteria considered in combination to identify the APA. In balancing the multiple considerations represented by the criteria, Alternative 5 presents the most favorable combination of project measures as a result of the screening process. A detailed effects discussion analyzing the alternatives' impacts on private property can be found primarily in Section 3.11, Land Use.

All alternatives result in the need for private property acquisition, not just Alternative 5. In pursuing acquisition, WSAFCA intends to make every reasonable effort to acquire property by negotiation, as contemplated by Government Code Section 7267.1(a), rather than through eminent domain (i.e., condemnation).

5.5 Letter 28—Paul Chavez

Letter 28

Southport Sacramento River Early Implementation Project Draft EIS/EIR Public Meeting

Comment Card

ame: PAUL CHAVEZ Date: 12.31.13

Telephone: 916.956.2149 Email: PRCCLC@NETZERO.NET

Affiliation: _____ Title (if applicable): _____

Street Address: 2650 BEVAN RD

City: WEST SACRAMENTO State: CA Zip: 95691

Thank you for your interest in this flood risk-reduction effort. The West Sacramento Area Flood Control Agency and the U.S. Army Corps of Engineers value your input. Please provide us with your comments regarding the content of the Draft Environmental Impact Statement/ Environmental Impact Report that has been prepared for this project. Please write legibly in the space below.

For your convenience, you may take this self-addressed card home, fill it out, and fold it in half and mail it. You may also send comments via email to Megan Smith at *megan.smith@icfi.com* or Tanis Toland at *tanis.j.toland@usace.army.mil*. **All comments must be received or postmarked by Monday, January 6, 2014**.

- Megan Smith, ICF International, 630 K Street, Suite 400, Sacramento, CA 95814
- Tanis Toland, U.S. Army Corps of Engineers, Sacramento District, Delta Programs Integration & Ecosystem Restoration, 1325 J Street

Comment Card for the Southport River Project

28-1 Three of the five levee project proposals indicate per the maps, included in the Southport Sacramento River Early Implementation Draft EIS/EIR, a connection to Bevan Rd. from the Village Parkway extension. My concern is that the connection of Village parkway to Bevan Rd would destroy the rural atmosphere of the neighborhood and severely the impact the safety of its residents. Per Toby Wong, West Sacramento city engineer, at the public meeting Dec 11 stated that the Bevan Rd connection in Alternative 3 would be a gated emergency access road only and in Alternative 4 and 5 that the Bevan Rd connection would not be exist because Village Parkway would extend to Gregory Rd for the secondary emergency access. The EIS/EIR provided does not state these facts. If the information from Toby Wong is accurate then the connection shown on the maps for Alt 4 and 5 needs to removed and any mention of a connection also removed from the EIS/EIR. The proposal for Alt 3 needs to clearly state that the Bevan Rd connection is a temporary gated emergency access road for this project only. The connection should be removed, if Alt 3 is selected, with the conclusion of the project so as not to be considered for use on future projects in the area. Bevan Rd is one lane and the area of Bevan Rd is rural as are the roads and services. There are no street lights or pedestrian walkways. Daily activities of walking running, horse back riding, bicycling all take place in roadways. Increasing traffic in this area would greatly impact the safety of the people in the area.

5.5.1 Responses to Letter 28

28-1

The plates showing the analyzed alternatives accurately reflect the roads within the project area, with the exception of the emergency access road from the proposed Village Parkway to Bevan Road and Antioch Avenue shown in Alternatives 4 and 5. The Bevan Road connection indicated was proposed to provide emergency access only, with access controlled through a gate. The gate, which would normally be locked, would prohibit/discourage through traffic. With the proposed extension of Village Parkway to Gregory Avenue, the connection to Bevan Road is no longer required for any of the levee alternatives.

The connector road to Bevan Road has been removed from the proposed roadway construction alignment as shown in revised Plates 2-3a, 2-3b, 2-5a, 2-5b, 2-6a, and 2-6b.

5.6 Letter 29—Cindy Tuttle

Letter 29

Cindy Tuttle
P.O. Box 718
West Sacramento, CA 95691
(916) 372-9528 Home Phone & Fax - (916) 832-5404 Cell
cindytuttle@msn.com

January 2, 2014

Megan Smith, Project Manager
ICF International
630 K Street, Suite 400
Sacramento, CA 95814

RE: SUPPORT – Southport EIP Alternative 5 - Applicant Preferred Alternative

Dear Ms. Smith,

The City of West Sacramento is a regional gem and a place I am proud to call home. As a former council member and mayor, I have a unique understanding of how the City's levee systems impact West Sacramento's businesses and residents.

Flood protection efforts are underway across the country as agencies respond to flood disasters like those in Colorado and from hurricanes Sandy and Katrina. The City's comprehensive flood protection program is not only benefiting West Sacramento residents and businesses now with increased public safety, but also into the future. By working to meet the state's 200-year level of flood protection, future development opportunities will not be impacted by state restrictions.

I support the City's effort to construct a setback levee as identified in the Applicant Preferred Alternative. Alternative 5 allows for increased public safety for the entire City of West Sacramento and especially in the Southport community. This alternative is essential for flood risk reduction and also allows for smart growth in our city's future, mirroring the city's general plan elements. A setback levee alternative will also allow for future community benefits along the river like biking, fishing and other open space activities.

The proximity to the river and recreational activities will benefit current and future West Sacramento residents. A setback levee approach will help residents, businesses and visitors take advantage of our riverfront space and benefit the entire region.

I look forward to following the continued progress of this project and future levee improvement work in the city. Please feel free to call me with any questions at (916) 832-5404.

Sincerely,

Cindy Tuttle
West Sacramento Resident
Former Mayor and Council member, City of West Sacramento

5.6.1 Responses to Letter 29

29-1

The comments provided have been noted and considered by the lead agencies.

5.7 Letter 30—Carolyn Rech

Letter 30

January 6, 2013

2620 Bevan Road
West Sacramento, CA 95691

Ms. Tanis Toland
U.S. Army Corps of Engineers, Sacramento District
Delta Programs Integration & Ecosystem Restoration
1325 J Street
Sacramento, CA 95814

Copy to:
West Sacramento Flood Control Agency
ATTN: John Powderly
1110 West Capitol Avenue
West Sacramento, CA 95691

Re: Comments on DRAFT SOUTHPORT SACRAMENTO RIVER EARLY IMPLEMENTATION PROJECT ENVIRONMENTAL IMPACT STATEMENT/ ENVIRONMENTAL IMPACT REPORT (EIR/EIS)

I am a property owner who lives next to proposed project limits. I have numerous concerns regarding this project as proposed and the EIR/EIS; some of my major concerns and comments are as follows:

30-1

1. **Incomplete and Inaccurate Document**. Upon notice and release of the subject draft document I reviewed the document then contacted Ms. Toland regarding my concerns because the document was incomplete and inaccurate with numerous omissions. Ms. Toland's response to my concern was to inform me that the purpose of a "draft" document is to solicit public comment on the inadequacies of the document then the project proponent will revise it and produce an accurate and complete final document. I disagree with Ms. Toland's position regarding the purpose of a "draft" EIR/EIS. The purpose of a draft EIR/EIS is to *accurately* describe a proposed project and the associated potential impacts. During the public meeting on December 18, 2013 I asked numerous project representatives why an inaccurate document was released for public comment. Project representatives acknowledged that the document was inaccurate but stated that it "had to be released." I would like to know why an inaccurate and incomplete EIR/EIS was released for public review..

30-2

2. **EIR/EIS Based on 65% Design.** Although it is not stated in the document, this EIR/EIS is based on the 65% design, not a final project design. WSAFCA meeting notes from December 2013 state that the 90% project design should be completed by spring 2014. The meeting notes also state that the impacts to sensitive natural resources and special status species are strongly related to the design; therefore, permit applications for take and habitat loss should be developed for submittal only after the 90% is complete. In other words, accurately assessment of impacts to natural resources and special status species can be determine only after there is a 90% design. Therefore, the impact assessment in the draft EIR/EIS is inaccurate for all alternatives. This information should be disclosed in the draft EIR/EIS.

30-3

3. **Decision to Build Alternative 5.** Section ES 1.1 states that the purpose of the EIS/EIR is to satisfy the requirements of Federal and State environmental laws regarding disclosure of environmental

30-3 cont'd

effects and recommended mitigation measures related to the proposed action and alternatives, prior to making a decision on project approval. However, when the document was released I contacted one of the WSAFCA board members regarding my concerns and he informed me that I need not be concerned about the roadway alignment in alternative 2 because they were not going to build that alternative but they needed to provide alternatives for the environmental review process. Subsequently, at the public meeting on December 18, 2013 I was told by Mr. Greg Fabun, Flood Protection Manager, that I need not be concerned about Alternatives 1 through 4 because they are going to build Alternative 5. In other words, it was made very clear that the project proponents had already decided that Alternative 5 would be built, not that it is merely the "preferred" alternative.

30-4

4. **Benefits of preferred alternative (alternative 5) do not outweigh the increased environmental impacts associated with this alternative.** Environmental impacts associated with Alternative 5 (preferred alternative) are far larger than the other alternatives that do not incorporate a setback levee (ie alternatives 1 and 3). All alternatives provide the same level of protection following levee improvements; however, alternatives 2, 4, and 5 have much higher environmental impacts that Alternatives 1 and 3. What is the justification for selecting an alternative with the most environmental impacts?

30-5

5. **Failure to Notice Property Owners/Occupants affected by the project.** Parties that will be directly affected by the project such as those living adjacent to or near borrow sites, haul routes, etc. did not receive notice of the release of the draft EIS/EIR and the associated public meetings held in December 2013. As a result, those individuals were not given the opportunity to be involved in the environmental review process for this project.

6. **Public Meetings.**

30-6

A. I attended the public meeting on December 18, 2013 and found that Project representative were not prepared to answer questions from the public but instead directed them to provide comments. I had numerous questions regarding the assessments to biological resources; however, there was no biologist present to answer questions.

30-7

B. According to the project representatives the alternative maps on display and in the handouts were inaccurate. I had concern regarding the road connection from the proposed Village Parkway to Bevan and Antioch Roads as presented in the EIR/EIS and maps at the public meeting. I was told by Toby Wong (project engineer) and Greg Fabun (flood protection manager) that the EIR/EIS and maps were incorrect and that the Village Parkway to Bevan Road connection will not be built as described for alternatives 2, 4, and 5. Furthermore, Mr. Fabun informed me that Alternative 5 will be built so I don't need to be concerned about the other alternatives. The purpose of this public meeting in the NEPA environmental process is for meaningful public participation in the decision making process. However, since the decision to build alternative 5 occurred before the public meeting, there is no longer an opportunity for meaningful public participation in the decision-making process.

30-8

1

Ms. Toland
Comments on DRAFT SOUTHPORT SACRAMENTO RIVER EARLY IMPLEMENTATION PROJECT EIS/EIR
Page 3 of 4

30-9 7. **Project Alternative Maps.** As mentioned in Comment 2, the project is based on 65% design. In addition, as stated in Comment 6, the road alignments are *apparently* incorrect in Alternatives 4 and 5 (the "preferred" alternative). On these alternatives, Village Parkway connects to Bevan and Antioch Roads. This connection is also mentioned in the text of the document; however, no reason is provided for the construction of this connection in any of the alternatives where it is delineated on the maps (alternatives 2, 4, 5). In addition, there are no impacts associated with this road connection described in the EIR/EIS. Please provide an accurate description of the roadways and connections for all of the proposed project alternatives. In addition, provide an impacts analysis (transportation, natural resources, air, noise, etc) for the proposed roadway connection through the rural residential neighborhood.

30-10 8. **Borrow sites.** Borrow sites necessary for each alternative are not described or delineated specifically for each alternative. Therefore, it is difficult to determine if the impact analysis for each alternative in terms of acres of habitat affected is correct. It appears from the maps provided in the document that impact acreage is underestimated.

30-11 9. **Traffic**. It appears that traffic impacts are underestimated for alternatives where the Village Parkway will be constructed because traffic from the Pioneer Bridge (currently under construction) is not considered in the analyses.

30-12 10. **Recreation and Public Parks**. The River Park project has been approved and secured all entitlements. The project included a 50-acre regional park and river access at Oak Hall Bend (segment c) that will not be built under alternatives 2, 4 and 5 but can be partially built under alternative 1 and 3; however, this significant loss to recreation has not been recognized in the EIR/EIS. Furthermore the loss of use of the Clarksburg Trail that falls within the project and borrow sites has not been accounted for in anywhere in the EIR/EIS.

30-13 11. **Establishment of a *private* mitigation bank**. This levee improvement project is supposed to be a public project to benefit the public; however, a component of alternatives 2, 4, and 5 is to establishment a *private* mitigation bank. The establishment of this mitigation bank results in numerous unnecessary impacts to recreation, biological resources, etc. The mitigation area will not be self-sustaining; therefore, management and maintenance will be required for success. Furthermore, the project proponents anticipate that they will be able to sell mitigation credits from this mitigation bank, that will support the development of other projects primarily within Yolo county. Please explain why the creation of a mitigation bank that will support development (other than this project) is an acceptable practice for a public levee project.

30-14 12. Exception to ACOE vegetation standards is not considered. The majority of the construction footprint is from removing all riparian vegetation according to the ACOE guidelines. These impacts can be reduce or mitigated by requesting an exception to the standard; why hasn't WSAFCA requested an exception?

1

Ms. Toland
Comments on DRAFT SOUTHPORT SACRAMENTO RIVER EARLY IMPLEMENTATION PROJECT EIS/EIR
Page 4 of 4

30-15 **13. Unrealistic construction schedule**. The EIR/EIS proposes a 2 to 3 year construction schedule but determined impacts based on a "conservative" 2 year construction schedule. Under their/EIS scenario, "conservative" should apply to a 3 year construction schedule with associated impacts. However, a realistic construction schedule should be used when determining project impacts. The WSAFCA is currently constructing a setback levee on 0.5 miles of river immediately north of the proposed project limits (at Pioneer Bluffs). The Pioneer bluff levee project was supposed to be completed in one construction season, but it is not yet complete and going into its **fourth** year of construction. The proposed project covers 5.6 miles of river and hundreds of acres. Please explain how you will complete the proposed project in two years when you are unable to complete a simple 0.5 mile levee improvement project in less than four years.

30-16 **14. Impacts to public services** (fire, police, emergency response). The EIR/EIS does not account for any impacts to public services although construction-related traffic will impact these services. For example, construction-related vehicle trips are as high as 1,500 to 1,800 trips per day which translate into two vehicles per minute, 12 hours per day, 6 days per week during construction. This level of traffic will affect response times as well as public use of the roads; however, this impact was not considered in the EIR/EIS.

30-17 **15. Impacts to farmland**. Impacts to farmland was underestimated for alternatives 2, 4, and 5 because only the set back levee footprint was used to determine losses. The loss of farmland between the levee and the river should also be included in the effects analysis.

30-18 **16. Impacts to biological resources are incomplete and inaccurate and the evaluation conducted is less than the professional standards.** There are numerous issues with the effects analysis for vegetation, wildlife, and aquatic species. Wildlife species considered present in the project area were determined from reconnaissance surveys and CNDDB searches. The CNDDB is a database of voluntarily-submitted observations, not a comprehensive list of special status species and habitats that may be in the project limits. Furthermore, no protocol level surveys have been conducted although numerous special status species are present in and near the project area. Alternative impacts analyses determining the loss of habitat considered only the setback levee foot print and not the loss of land between the levee and river. Therefore, impacts were underestimated for alternative 2, 4, and 5. Both permanent and temporary loss of giant garter snake (GGS) habitat was not accounted for in the effects analysis. In addition, the GGS impact analysis included in the EIR/EIS appears to underestimate impacts. Western pond turtle survey methods are inadequate and mitigation measures are not feasible or will not mitigate impacts to this species.

Thank you for the opportunity to comment on the draft EIR/EIS.

Sincerely,

C.J. Rech

1
2

5.7.1 Responses to Letter 30

30-1

Purpose of Draft EIS/EIR: An overall goal of NEPA is improved decisions on Federal actions. Similarly, CEQA seeks to inform and improve a lead agency's decision making. Integral to this is seeking public and agency input and evaluating an array of alternatives.

Public and Agency Input: Citizen participation in the NEPA and CEQA processes is important to ensure that decision makers have adequate information to make informed decisions about proposed projects and permits. Public and agency review of the Draft EIS/EIR is one point at which the public is specifically invited to review and provide comments on the alternatives, including the preferred alternative, and the environmental analysis performed. Public and agency comments are considered as each lead agency prepares its final document.

The Draft EIS/EIR was circulated for public and agency review from November 8, 2013, through January 6, 2014.

Alternatives – Range and Assessment: Under NEPA and CEQA, agencies are required to develop and evaluate a reasonable range of alternatives. NEPA requires that these alternatives be developed to a similar level of detail for the purposes of the impact assessment.

For the Draft EIS/EIR, a range of alternatives was evaluated and potential impacts were described, along with measures that could mitigate/offset those impacts. The lead agencies have determined that the level of detail used in evaluating the alternatives was sufficient to adequately identify the potential impacts of each of the alternatives.

APA: Since the point at which the range of alternatives was identified and developed for the NEPA and CEQA analyses, WSAFCA (the Applicant for USACE permits) has continued to refine designs for the APA. This is consistent with the usual process for applicants seeking a permit from USACE. This effort is proceeding outside of the NEPA process for evaluating and determining the preferred alternative for the purposes of the decisions USACE must make on permits. These ongoing design refinements may be what the commenter is referring to as inaccurate or incomplete information.

Final EIS: USACE is responsible for preparation of the Final EIS, and WSAFCA for preparation of the Final EIR. The Final EIR provides updated information on WSAFCA's preferred alternative, including changes in impact assessment since the Draft EIS/EIR was published, as well as any needed corrections or clarification brought to light by the public review process. In compliance with NEPA, the Final EIS will provide similar information when it is released to the public.

30-2

Neither NEPA nor CEQA require a Draft EIS/EIR be delayed until a specified level of design completion is reached. The level of design upon which the Draft EIS/EIR is based is sufficiently advanced to allow meaningful comparisons between alternatives, while accurately, but conservatively, disclosing likely environmental effects of the project. WSAFCA has continued to advance design of its preferred alternative during preparation of the Draft EIS/EIR, and has modified the project based on agency and public feedback gathered during that process. The Final EIR describes expected changes in the APA, and explains the relevance of the analysis of the Draft

EIS/EIR to that alternative. In compliance with NEPA, the Final EIS will provide similar information when it is released to the public.

It is expected that the various necessary permit applications submitted by WSAFCA would be based on a further level of design.

30-3

Alternative 5 is the APA. Alternatives 1 through 4 are also analyzed in the Draft EIS/EIR. At the public meeting on December 18, 2013, Mr. Fabun indicated in response to a question that Alternative 5 was one of the alternatives and that for the purposes of the question posed, its effects were of particular interest to the commenter. At no point was it stated or implied that a decision had been made as to which alternative would be selected and built.

30-4

Each alternative represents a different approach to accomplishing the project objectives; therefore, environmental effects will vary among alternatives. While Alternative 5 may affect some resources more significantly than another alternative, it is also beneficial in many ways. Section 2.2.3, Action Alternatives Overview, describes how Alternative 5 was selected by WSAFCA as the Environmentally Superior Alternative.

30-5

The project's CEQA and NEPA processes were widely noticed to the public. Details regarding public outreach and public noticing of the NOP, Supplemental NOP, and Draft EIS/EIR can be found in Chapter 1, "Introduction," Section 1.6.1, Community Outreach; Appendix B of Volume I; and in Chapter 1 of the Final EIR, Volume II.

Specifically, utility bill inserts providing a notice of preparation and notice of Draft EIS/EIR availability were sent to every residence that receives a utility bill in the City of West Sacramento. In addition, letter notices were sent to property owners whose property is within 500 feet of the proposed construction area, or within 100 feet of a proposed haul route. Letter notices were also sent to anyone who attended the project scoping meetings, commented on project scoping, or otherwise contacted the City about the proposed project. Lastly, notices of circulation of both the NOP and NOA were published in the Legal Notices section of the Sacramento Bee.

30-6

Numerous project team members representing USACE and WSAFCA, as well as other regulatory agencies, were present at the public meetings. Please contact either agency directly for resolution of specific topics concerning the project.

30-7

The plates in the Draft EIS/EIR showing the analyzed alternatives accurately reflect the roads within the project area, with the exception of the emergency access road from the proposed Village Parkway to Bevan Road and Antioch Avenue shown in Alternatives 4 and 5. The Bevan Road connection indicated was proposed to provide emergency access only, with access controlled through a gate. The gate, which would normally be locked, would prohibit/discourage through

traffic. With the proposed extension of Village Parkway to Gregory Avenue, the connection to Bevan Road is no longer required for any of the levee alternatives.

The connector road to Bevan Road has been removed from the proposed roadway construction alignment as shown in revised Plates 2-3a, 2-3b, 2-5a, 2-5b, 2-6a, and 2-6b.

30-8

Alternative 5 is the APA. Alternatives 1 through 4 are also analyzed in the Draft EIS/EIR. At the public meeting on December 18, 2013, Mr. Fabun indicated in response to a question that Alternative 5 was one of the alternatives and that for the purposes of the question posed, its effects were of particular interest to the commenter. At no point was it stated or implied that a decision had been made as to which alternative would be selected and built.

30-9

The plates in the Draft EIS/EIR showing the analyzed alternatives accurately reflect the roads within the project area, with the exception of the emergency access road from the proposed Village Parkway to Bevan Road and Antioch Avenue shown in Alternatives 4 and 5. The Bevan Road connection indicated was proposed to provide emergency access only, with access controlled through a gate. The gate, which would normally be locked, would prohibit through traffic. With the proposed extension of Village Parkway to Gregory Avenue, the connection to Bevan Road would no longer be required for Alternatives 4 and 5, and has been removed from the project as shown in revised Plates 2-3a, 2-3b, 2-5a, 2-5b, 2-6a, and 2-6b.

30-10

In the Draft EIS/EIR, WSAFCA provided the public with an expansive view of possibly available borrow sites, as shown on Plate 1-5. However, WSAFCA is continuing to negotiate with landowners to identify willing sellers of borrow material, and the area of borrow presently under consideration is anticipated to be significantly reduced based on WSAFCA's understanding of expected project borrow needs.

The acreages of effect described in the Draft EIS/EIR were calculated using the borrow site map shown in Plate 1-5. The areas of affected acreage would be expected to be substantially reduced as WSAFCA continues to negotiate with landowners to identify willing sellers of borrow material and as project design continues to be refined.

30-11

Section 4.2.4.4, Transportation and Navigation, has been updated to discuss the cumulative effect of the Michael McGowan Bridge (formerly named Pioneer Bluff Bridge) on traffic operation of Village Parkway extension, based on the traffic impact study prepared for the bridge project. It is concluded that the cumulative effects would be less than significant.

30-12

The effects of each alternative on the park planned for placement in Oak Hall Bend were disclosed and analyzed in Section 3.14, Recreation, under Effect REC-5: Incompatibility with Planning

Documents. Each alternative was found to have no direct effect, and a less-than-significant indirect effect.

The effects of each alternative to use of the Clarksburg Branch Line Trail are temporary, and were disclosed and analyzed in Section 3.14, Recreation, under Effect REC-1: Temporary Disruption of Recreation Opportunities during Construction. Each alternative was found to have a less-than-significant direct effect, and no indirect effect.

No permanent effects on the Clarksburg Branch Line Trail would be expected to result from implementation of any of the project alternatives.

30-13

To clarify, WSAFCA does not propose the establishment of a private mitigation bank as a component of the Southport project. Rather, Alternatives 2, 4, and 5 include a component of ecosystem restoration that would be made possible in the expanded floodplain created by constructing a segment of the new levee landward of the existing levee and subsequently degrading and breaching the old remnant levee. Such restoration would provide the ability to mitigate vegetation and habitat impacts resulting from the Southport project and be required as part of the necessary approvals to comply with local, state, and Federal laws. The mitigation requirements have not been finalized by the regulating agencies, so it is not yet known if there could be habitat created beyond the needs of the project.

If there is opportunity for additional restoration beyond the mitigation needs of the project, it could be used to mitigate for future projects implemented by WSAFCA or WSAFCA's partners under a Regional Flood Management Plan being developed beyond the Southport project, or other partnerships, listed in likely order of priority. As an example of one such partnership, WSAFCA and the State of California (through DWR) are exploring the application of possible surplus restoration toward the conservation strategy associated with the Central Valley Flood Protection Plan, pursuant to which the Southport project is advancing. No agreement has been executed for this potential future use, and such agreement would be subject to approval from the state and Federal fish and wildlife agencies. It may also be possible that WSAFCA could partner with an entity for long-term management of the restored habitat, which may include organizations with experience in mitigation banking, but again, there is no intent to create a private bank from which mitigation credits would be commercially available, the project is not intended to mitigate for development projects, and WSAFCA is not designing the setback area for the purpose of selling credits to developers for profit. As noted above, any purchase of private land (not confiscation) is to achieve the project purposes previously described.

To the point of the comment regarding the impacts of creating habitat, it is true that there may be short-term effects on recreation, biological resources, and other resource areas, as described in the Draft EIS/EIR, but such impacts would be temporary, and there would be substantial long-term net benefits to recreation and biological resources. The habitat is being carefully designed to be self-sustaining, but it is acknowledged that some management and maintenance would be required, as described in the Draft EIS/EIR.

30-14

As the project description states, the Draft EIS/EIR action alternatives do not include removal of any vegetation from existing levees solely for the purpose of compliance with Engineering Technical

Letter 1110-2-571, *Guidelines for Landscape Planting and Vegetation Management at Levees, Floodwalls, Embankment Dams, and Appurtenant Structures* (ETL 1110-2-571). Any vegetation removal described as part of the action alternatives was included in the project description because such removal was determined to be necessary to facilitate project construction, such as the placement of rock slope protection.

Although seeking a variance from the ETL would not reduce the amount of vegetation removal analyzed in the Draft EIS/EIR, WSAFCA will continue to refine the project design in order to reduce construction-related vegetation removal.

30-15

When developing the construction schedule for the Southport EIP, WSAFCA considered the time to construct the Rivers and CHP Academy EIPs, which WSAFCA recently constructed, as well as other similar levee projects recently constructed in the Central Valley. The projected 2- to 3-year construction schedule is a reasonable estimate based on the information gathered. Because most construction-related effects could be worsened by meeting a 2-year construction schedule, as opposed to a 3-year schedule, the potential environmental effects of a 2-year construction schedule were analyzed, conservatively disclosing those effects to ensure the public was informed.

As with any construction project, weather, permit conditions, and flood conditions could affect the actual construction time. The levee construction project mentioned in the comment is not a WSAFCA project; the reasons for its construction schedule do not relate to WSAFCA's expected schedule for the Southport EIP.

30-16

Effects of construction-related traffic on public services, including emergency response times, are described in Effect UTL-5 for each alternative in Section 3.15.3, Effects and Mitigation Measures. Analysis of these effects on response times determined that the likely effects would be less than significant for all alternatives.

30-17

As described in the Draft EIS/EIR, impacts on agricultural resources were considered significant where an alternative resulted in conversion of important farmland, defined as prime farmland, unique farmland, or farmland of statewide importance. In the Draft EIS/EIR, acres of farmland calculated as affected by the setback alternatives, Alternatives 2, 4, and 5, excluded a portion of prime farmland that would be affected by the construction of the offset area in Segment D. Impacts on important farmland were recalculated to result in a 9-acre increase in permanent impacts on prime farmland under Alternative 2 and a 10-acre increase in permanent impacts on prime farmland under Alternatives 4 and 5. Inclusion of the excluded prime farmland acreage in the offset areas would result in a total permanent loss of approximately 35 acres of prime farmland under Alternative 2 and a total permanent loss of approximately 34 acres of prime farmland under Alternatives 4 and 5. Please see revised text in Section 3.11.3, Effects and Mitigation Measures, and revised Plates 3.11-4, 3.11-6, and 3.11-7.

However, including this prime farmland impact does not result in any significant new information or trigger a recirculation of the Draft EIS/EIR, because the potential of all five alternatives to significantly and unavoidably affect important farmland is disclosed in the Draft EIS/EIR. The 35%

increase in acreage of important farmland affected by Alternative 2 and the 42% increase in acreages of important farmland affected by Alternatives 4 and 5 do not result in a new significant environmental impact.

30-18

The comment notes correctly that the CNDDB is not a comprehensive list of special-status species that could occur in a particular area. The CNDDB was one of many resources used to develop a list of potentially occurring special-status wildlife species in the project area (Table 3.10-1) and special-status plant species (Table 3.8-2). This list includes special-status species that are known to or could occur in the larger Sacramento Valley region.

Protocol-level surveys are not needed to assess impacts on special-status species, nor are they common practice for that purpose. Rather, a habitat assessment to identify habitats that could support these species was conducted, and species was presumed present if habitat was identified within or near the project area.

In Section 3.10, Wildlife, Effect WILD-3 describes direct and indirect effects on giant garter snake, including permanent and temporary loss of habitat. WILD-MM-5, WILD-MM-6, and WILD-MM-7 provide mitigation measures to avoid, minimize, and compensate for effects on giant garter snake. Impact acreages for giant garter snake (Table 3.10-4) are more likely to be overestimated because they were calculated assuming that all ditches, emergent wetlands, and ponds within and adjacent to the project area were suitable aquatic habitat. However, some of these areas may not support summer water and/or prey populations required by giant garter snake.

Regarding pond turtles, extensive preconstruction surveys described in WILD-MM-4 would be conducted to determine if pond turtles are present within a particular work area. This measure includes two separate surveys prior to construction (one 2 weeks prior and one within 48 hours), as well as an initial visit to identify areas where surveys should be focused. The survey parameters include time of day when turtles are most likely to be active and minimum observation times to increase the potential for detections if turtles are present. If turtles are present within an area, capture and relocation efforts would be employed and exclusion fencing installed to prevent reentry. Although the potential for pond turtles to be affected during construction is not entirely avoided, the project is not expected to result in large mortalities that would substantially reduce the local population.

Surveys for special-status plant species were conducted in the areas for which access was granted in April and May 2011, June and August 2012, and May 2013. VEG-MM-7 and -8 include a requirement for blooming-period surveys.

5.8 Letter 31—Nicole Avila

Letter 31

Subject: FW: Southport Sacramento River Early Imp Project Comments/Concerns

From: Nicole Avila [mailto:navila813@att.net]
Sent: Monday, January 06, 2014 7:04 PM
To: kenricj@cityofwestsacramento.org; Smith, Megan; tanis.j.toland@usace.army.mil
Subject: Southport Sacramento River Early Imp Project Comments/Concerns

Hi,

Concerned property address:
Nicole and Jeff Avila
1205 Linden Road
West Sacramento, CA 95691

Concerns:

30-1 • Well going dry
30-2 • No parking signs and street lights near property and cul-de-sac
30-3 • Garage relocation
30-4 • Barrier wall on property line
30-5 • Will any trees be removed?
30-6 • Built-in hut and fire pit relocation
30-7 • House structure damage from heavy equipment
30-8 • Dust and debris from construction
30-9 • Use of maintenance road
30-10 • Swimming pool damage
30-11 • Water run off levee slope after a major rain storm... Where will the water go?
30-12 • Park/recreation area

Thank you,
Nicole and Jeff Avila

1

5.8.1 Responses to Letter 31

31-1

Effects on private wells in the project area are described in effect UTL-2 for each alternative in Section 3.15., Effects and Mitigation Measures. No private wells would be expected to go dry as a result of implementation of the project alternatives.

WSAFCA has hired a firm to conduct appraisals. Appraisers will contact affected property owners and arrange a meeting at the property owner's residence to inspect the property and will discuss property owner concerns. Property owners will be presented with compensation offers for property acquisition, structural, and other improvement losses due to the project.

31-2

It is not currently known whether relocation of vehicles off South River Road would result in an appreciable increase in recreation-related parking in existing residential neighborhoods in the project vicinity. Determining appropriate parking restrictions, lighting, and signage for city streets is the responsibility of the City of West Sacramento Civil Works Department, Traffic/Transportation Section. The City has engaged the property owners in discussions regarding lighting and signage and will continue to monitor the need for additional measures as part of the City's Traffic/Transportation Section's existing responsibilities.

31-3

As discussed in response to Comment 31-1, property owners would be compensated for loss of structures that are impacted by the project, including outbuildings, decorative or recreational structures such as fire pits, trees, or other property improvements.

31-4

Please see response to Comment 31-3.

31-5

Please see response to Comment 31-3.

31-6

Please see response to Comment 31-3.

31-7

Property owners would be compensated for any damage to property caused by construction activities. Section 2.4.23, Construction-Related Damage Assessment Plan, has been added to describe the procedure WSAFCA follows to document construction-related damage claims.

31-8

As described in Section 3.5, Air Quality, the contractor would be required to minimize the occurrence of construction related dust and debris through the implementation of a fugitive dust control plan, detailed in AIR-MM-2: Implement Fugitive Dust Control Plan. Such measures include posting a publicly visible sign with the telephone number and person to contact regarding dust complaints; watering active unpaved areas at all construction sites at least twice daily in dry conditions; and other measures.

31-9

One of the project requirements of a setback levee design would be an operations and maintenance road at the landside toe and crest of the levee, as shown in revised Plates 2-3b, 2-5b, and 2-6b. These O&M roads will be used by RD 900 and DWR for inspection, maintenance, and flood fighting purposes, and would be gated to prevent the public from driving on them.

31-10

Please see footnote discussion in Section 3.2, Water Quality and Groundwater Resources. While the project alternatives may result in varying degrees of seasonal groundwater elevation changes, all potential changes would be within the range of observed water levels present in the project area. Therefore, none of the alternatives is expected to affect swimming pools near the project area.

31-11

Section 3.1, Flood Risk Management and Geomorphic Conditions, describes possible effects from water runoff on levee slopes. While waterside runoff would be directed towards the river, potential significant effects of the project alternatives from landward side runoff is analyzed as described in Effect FR-3: Alteration of Existing Drainage Pattern of Site or Area. This effect states that project activities could cause surface runoff patterns and interference with drainage that could indirectly cause or exacerbate localized flooding. While the alternatives have the potential to interfere with existing drainage systems, such systems would be restored, and levee drainage directed to existing systems, by implementing Mitigation Measure FR-MM-1: Coordinate with Owners and Operators, Prepare Drainage Studies as Needed, and Remediate Effects through Project Design. Performance of FR-MM-1 would reduce the effect under all alternatives to less than significant.

31-12

No new recreation areas or parks are proposed as part of the Southport EIP alternatives. The only new recreation opportunity the project would provide is bicycle and pedestrian access along the levee-top O&M road required by Alternatives 2, 4, or 5, the setback levee alternatives. Such access would be similar to the recreation currently provided by the existing South River Road alignment, but with reduced vehicular traffic.

5.9 Letter 32—Cruz and Darlene Charles

Letter 32

Southport Sacramento River Early Implementation Project Draft EIS/EIR Public Meeting

WSAFCA West Sacramento Area Flood Control Agency — US Army Corps of Engineers – Sacramento District

Comment Card

Name: Cruz & Darlene Charles Date: 12-11-13

Telephone: 916 372 0507 Email: darchar@netzero.com

Affiliation: _____ Title (if applicable): _____

Street Address: 4485 South River Rd.

City: West Sacramento State: Ca. Zip: 95691

Thank you for your interest in this flood risk-reduction effort. The West Sacramento Area Flood Control Agency and the U.S. Army Corps of Engineers value your input. Please provide us with your comments regarding the content of the Draft Environmental Impact Statement/ Environmental Impact Report that has been prepared for this project. Please write legibly in the space below.

For your convenience, you may take this self-addressed card home, fill it out, and fold it in half and mail it. You may also send comments via email to Megan Smith at *megan.smith@icfi.com* or Tanis Toland at *tanis.j.toland@usace.army.mil*. **All comments must be received or postmarked by Monday, January 6, 2014**.

- Megan Smith, ICF International, 630 K Street, Suite 400, Sacramento, CA 95814
- Tanis Toland, U.S. Army Corps of Engineers, Sacramento District, Delta Programs Integration & Ecosystem Restoration, 1325 J Street Sacramento, CA 95814

32-1 I'm writing in regards to the Levee Project. My Concerns are when the Project is over, we will be left with a Dead End Road in front of our house. We would like to be assured that the Proper Signage will be installed at the entrance to S. River Rd. off Stregoy, informing the Public that it's a Dead End Road and "NO Public Parking is Allowed". We will need Signage at the turn around or in the vicinity also stating "No Parking Allowed". We are most Concerned that once people Know of the Dead End Road they will start Parking, Partying, Drinking and playing their Loud Music until all hours of the Day and Night which they do now at the Top of the hill. I would NOT want to Be Confronted by any one of them in front of my home. We would appreciate any help we can get Concerning this matter Thank You.

5.9.1 Responses to Letter 32

32-1

It is not currently known whether relocation of vehicles off South River Road would result in an appreciable increase in recreation-related parking in existing residential neighborhoods in the project vicinity. Determining appropriate parking restrictions, lighting, and signage for city streets is the responsibility of the City of West Sacramento Civil Works Department, Traffic/Transportation Section. The City has engaged the property owner in discussions regarding lighting and signage and will continue to monitor the need for additional measures as part of the City's Traffic/Transportation Section's existing responsibilities.

Additionally, in response to concerns raised in this comment, additional analysis has been conducted and documented in Section 3.16, Public Health and Environmental Hazards. Specifically, Effect HAZ-7, Safety Hazards from Offset Area Operation, was added to discuss the potential for illegal use of the offset area to cause disturbances to local residents. The effect is less than significant, as adequate law enforcement oversight, as well as the relative remoteness of the offset area, make disturbances unlikely. As with the potential for traffic and parking effects discussed above, WSAFCA and the City of West Sacramento will continue to communicate with residents to determine if project implementation is resulting in unanticipated effects.

5.10 Letter 33—Cruz and Darlene Charles

Letter 33

Southport Sacramento River Early Implementation Project Draft EIS/EIR Public Meeting

Comment Card

WSAFCA West Sacramento Area Flood Control Agency

US Army Corps of Engineers - Sacramento District

Name: Cruz & Darlene Charles Date: 12-11-13

Telephone: 9163720507 Email: darchar@netzero.com

Affiliation: _____ Title (if applicable): _____

Street Address: 4485 S. River Rd

City: West Sacramento State: Ca. Zip: 95691

Thank you for your interest in this flood risk-reduction effort. The West Sacramento Area Flood Control Agency and the U.S. Army Corps of Engineers value your input. Please provide us with your comments regarding the content of the Draft Environmental Impact Statement/ Environmental Impact Report that has been prepared for this project. Please write legibly in the space below.

For your convenience, you may take this self-addressed card home, fill it out, and fold it in half and mail it. You may also send comments via email to Megan Smith at *megan.smith@icfi.com* or Tanis Toland at *tanis.j.toland@usace.army.mil*. **All comments must be received or postmarked by Monday, January 6, 2014.**

- Megan Smith, ICF International, 630 K Street, Suite 400, Sacramento, CA 95814
- Tanis Toland, U.S. Army Corps of Engineers, Sacramento District, Delta Programs Integration & Ecosystem Restoration, 1325 J Street Sacramento, CA 95814

33-1 I'm writing in regards to the Levee Project. When the Utility Road (a & m utility Road) is completed is there any way the City of West Sacramento or Reclammation Department can discourage ATV's or small motor Bikes from using the Road? The Road will run along the side of our home and the ATV's and Motor Bikes create a lot of Noise and Dust. The ATV's and small motor Bikes are up on the old railroad tracks or what is now the "New Trailway" which is to the left of our home and it would be very disturbing to have them coming or going on the right side also. We would appreciate any help we can get Concerning this matter. Thank You.

5.10.1 Responses to Letter 33

33-1

As is common practice, O&M corridors and roadways are restricted access roadways, and public vehicular use is prohibited. In Section 2.2.3.3, Common Elements and Assumptions, information was added describing the roadways as reduced access, and gates and signage are now included in the project description.

5.11 Letter 34—Karen Kubo, c/o Richard and Anne Kubo

Letter 34

Southport Sacramento River Early Implementation Project Draft EIS/EIR Public Meeting

WSAFCA West Sacramento Area Flood Control Agency — US Army Corps of Engineers · Sacramento District

Comment Card

Name: Karen Kubo (daughter) Date: 12/20/13

Telephone: (916) 372-3244 Email: Ku98@aol.com

Affiliation: c/o Richard/Anne Kubo Title (if applicable):

Street Address: c/o 4480 S. River Road

City: West Sacramento State: CA Zip: 95691

Thank you for your interest in this flood risk-reduction effort. The West Sacramento Area Flood Control Agency and the U.S. Army Corps of Engineers value your input. Please provide us with your comments regarding the content of the Draft Environmental Impact Statement/ Environmental Impact Report that has been prepared for this project. Please write legibly in the space below.

For your convenience, you may take this self-addressed card home, fill it out, and fold it in half and mail it. You may also send comments via email to Megan Smith at *megan.smith@icfi.com* or Tanis Toland at *tanis.j.toland@usace.army.mil*. **All comments must be received or postmarked by Monday, January 6, 2014.**

- Megan Smith, ICF International, 630 K Street, Suite 400, Sacramento, CA 95814
- Tanis Toland, U.S. Army Corps of Engineers, Sacramento District, Delta Programs Integration & Ecosystem Restoration, 1325 J Street Sacramento, CA 95814

34-1 Do not want a Recreation area along the S. River Road
A. Trash left by people, no drinking, drugs, or curfew time.
B. Homeless people will be camping out along the River. Trash drugs, unsanitary conditions.
C. Rodents, gophers will be burrowing in the extension of the river. Need to be netted so small rodents can't burrow inside of Railroad river.
D. Requests: - No Outlet (sign outside of trestle).
- No Parking - Will be towed @ Owner's expense.
- Fined for littering

5.11.1 Responses to Letter 34

34-1

As noted in response to Comment 32-1, it is not currently known whether relocation of vehicles off South River Road would result in an appreciable increase in recreation-related parking in existing residential neighborhoods in the project vicinity. Determining appropriate parking restrictions, lighting, and signage for city streets is the responsibility of the City of West Sacramento Civil Works Department, Traffic/Transportation Section, which will continue to monitor the need for additional measures as part of the City's Traffic/Transportation Section's existing responsibilities.

Additionally, in response to concerns raised in this comment and others, additional analysis has been conducted and documented in Section 3.16, Public Health and Environmental Hazards. Specifically, Effect HAZ-7, Safety Hazards from Offset Area Operation, was added to discuss the potential for illegal use of the offset area to cause disturbances to local residents. The effect is less than significant, as adequate law enforcement oversight, as well as the relative remoteness of the offset area, make disturbances unlikely. As with the potential for traffic and parking effects discussed above, WSAFCA and the City of West Sacramento will continue to communicate with residents to determine if project implementation is resulting in unanticipated effects.

Lastly, rodent control is an important part of levee maintenance, which is presently the responsibility of RD 900. Existing rodent control measures would continue following project implementation, as described in Section 2.2.3.3, Common Elements and Assumptions.

5.12 Letter 35—Karen Diepenbrock, Diepenbrock Elkin, LLP on behalf of Albert & Judy Rodgers, Madeline M. Rodgers Trust Estate (c/o Albert Rodgers), Terry Annesley and Brett Culbreth, and Chris and Thami Lacomb

Letter 35

Diepenbrock Elkin LLP

Karen L. Diepenbrock
916-492-5026
Fax: 916-446-2640
kdiepenbrock@diepenbrock.com

January 6, 2014

VIA E-MAIL: tanis.j.toland@usae.army.mil
AND FAX: 916-557-7856

U.S. Army Corps of Engineers, Sacramento District
Attn: Ms. Tanis Toland, Environmental Resources Branch
1325 J Street
Sacramento, CA 95814-2922

Re: Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for 408 Permission to West Sacramento Area Flood Control Agency (WSAFCA) for the Southport Early Implementation Project (EIP)
Our File No. 8000-009

Dear Ms. Toland:

We are attorneys for Albert (Buck) and Judi Rodgers (APN: 046-230-056-000), Madeline M. Rodgers Trust Estate (APN: 046-260-016-000), Terry Annesley and Bret Culbreth (APN: 046-230-050-000), and Chris and Thami Lacomb (APN: 046-230-057-000) who own homes and land in Reach B of the EIP.

We appreciate all the work that has gone into the draft EIS/EIR and the careful analysis of impacts. As is likely inevitable for an EIS/EIR that covers such a substantial land area and analyzes multiple alternatives, it is sometimes difficult to glean detailed information about impacts on individual landowners as opposed to project-wide impacts, which are themselves very generally described. Yet, of course, specific information for individual owners is critical for those whose homes are impacted, lost or must be relocated or whose land is affected and this is the only environmental analysis available to us. Accordingly, the purpose of this letter is to ask questions regarding the impacts of **Alternative 5** on our clients' homes and properties in Reach B. We would appreciate your responses.

These questions are as follows:

35-1 1. Will Mr. and Mrs. Rodgers, Ms. Annesley and Mr. Culbreth or Mr. and Mrs. Lacomb need to relocate during construction? Please note that we appreciate that the Annesley/Culbreth home will need to be relocated. But, after it is relocated, will they be able to live in it during the balance of the construction period?

35-2 2. If our clients will not be required to relocate during the construction period, is it **recommended** that they relocate because of construction impacts on their homes? If so, what are the anticipated impacts?

35-3 3. While Congress has yet to pass a new Water Resources Development Act (WRDA) bill, it is widely anticipated that it will do so in early 2014 (the first such since 2007). Since the EIP is not one of the projects named or referred to in either the 2013 House of Representatives WRDA bill or the 2013 Senate WRDA bill, we know that the EIP will not be part of the final WRDA bill (assuming one is passed in 2014). Notwithstanding Congressman Shuster's stated desire to pass WRDA bills more regularly than every 7 years, it is possible Congress may not act promptly and that the 2014 WRDA bill may be the last for some years. What happens to the EIP if there is no federal funding for the EIP in the near future? Our clients are concerned that construction may start, but that there will not be sufficient funds to complete the two last reaches of the EIP without federal funding. Please advise as to source of funds and whether **to a certainty** the last two segments (A and B) of the EIP can be completed with local and state funding only.

35-4 4. Plate 1-5 identifies two large potential borrow sites very proximate to our clients' properties in Reach B. Will the EIP use either of or portions of these sites? If so, (i) where will the haul roads be located, (ii) how and when will the drainage be corrected to address the take of so much soil, and (iii) what will be the impacts of noise, dirt, dust, truck traffic, etc. on the properties in Reach B?

35-5 5. Plate 2-6a notes a levee breach location in Reach B in very close proximity to our clients' homes. What will be the impact of a levee breach in Reach B on homes in Reach B?

35-6 6. On page 3.11-41 the EIS/EIR states that there will be problems caused by alteration of existing drainage patterns, but that these problems can be addressed in the project design. What drainage pattern alterations will affect Reach B? How will they be addressed? If any proximate land will be used as borrow sites, how will this affect drainage patterns in Reach B? How will these problems be solved?

Thank you for your efforts. We would appreciate your answers to the questions posed above.

Very truly yours,

Diepenbrock Elkin, LLP

By: Karen L. Diepenbrock

KLD:rb
Cc: Buck and Judi Rodgers
Madeline M. Rodgers Trust Estate (c/o Buck Rodgers)
Terry Annesley and Bret Culbreth
Chris and Thami Lacomb

{00407472; 1}

1

5.12.1 Responses to Letter 35

35-1

It is presently expected that homes in Segment B relocated for construction of the project, and homes located in proximity to the project, could be occupied during construction, as access roads and utility service to homes would be in place. WSAFCA would address the need for temporary relocation of any specific homeowner or tenant directly with the affected residents or their representative.

35-2

Likely impacts to residents resulting from proximity to construction would be due to noise, dust, and increased or diverted traffic, as well as other construction-related nuisances described in Sections 3.4, Transportation and Navigation; 3.5, Air Quality; 3.7, Noise; and 3.13, Visual Resources. No need for relocation is expected for residents not directly displaced by construction activities. Should temporary relocation prove necessary, Environmental Commitment 2.4.5, Property Acquisition Compensation and Temporary Resident Relocation Plan, describes the process that would be followed.

35-3

WSAFCA is presently advancing the Southport EIP with state and local funding. WSAFCA is not anticipating or relying on Federal funding to complete the Southport EIP, including construction of Segments A and B, and has secured appropriations from the state to design and construct the project. WSAFCA secured a state appropriation of $37.1 million for fiscal year 2008–2009, an appropriation of $49.2 million for fiscal year 2009–2010, and an appropriation of $73.9 million for fiscal year 2011–2012; WSAFCA has secured a total of $160.2 million in state appropriations.

On July 16, 2007, WSAFCA announced that 70% of the weighted ballots returned by property owners in the district approved the annual flood protection assessment to generate local funding to match Federal and state funds. Additional information associated with the Assessment can be found in the Engineer's Report, West Sacramento Area Flood Control Agency, Assessment District. An in-lieu fee on new development was adopted by the City in November 2007 to generate additional matching funds to match Federal and state funds. In addition, two general sales tax measures within the City, Measures U & V, were approved by the citizens of West Sacramento on November 4, 2008. The City plans to allocate some of the sales tax revenue generated by Measure V to WSAFCA to fund flood risk-reduction efforts as a supplement to property assessments and in-lieu fees collected.

35-4

Likely impacts to residents due to noise, dust, and traffic, as well as other construction-related nuisances, are described in Sections 3.4, Transportation and Navigation; 3.5, Air Quality; 3.7, Noise; and 3.13, Visual Resources.

As shown in Plate 6-1 in Volume II, project borrow locations have been reevaluated during project development. It is currently expected that the parcels proximate to most Segment B property owners would not be used as a source of borrow material, but some parcels near the eastern end of

Segment B would still be considered for borrow material. Expected haul routes to the project area are shown in Plate 3.4-1. Off-road haul routes have not yet been determined.

35-5

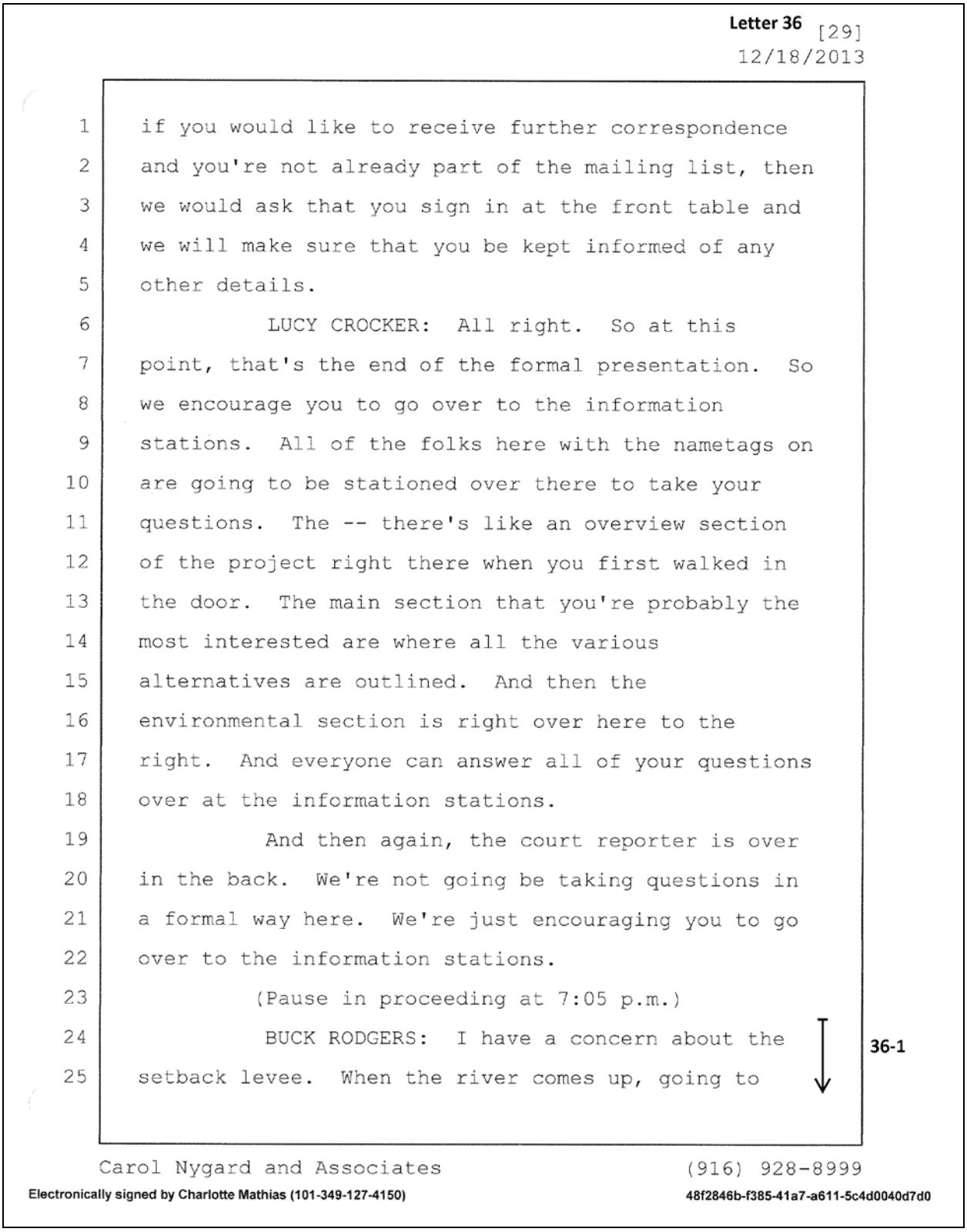
Plate 2-6a shows the construction activity likely under Alternative 5, the APA, which includes use of a setback levee. The setback levee, once constructed, would replace the flood risk-reduction function of the existing levee, and the portion of the existing levee that would remain in place in Segment B would be reinforced. Following construction of the new levee and reinforcement of the existing levee, degrade and/or breach of the remaining levee would not result in any increased risk to Segment B residents. Operation and maintenance procedures would be set in place to protect the new setback levee from erosion.

35-6

Section 3.1, Flood Risk Management and Geomorphic Conditions, describes possible effects from water runoff on levee slopes. While waterside runoff would be directed towards the river, potential significant effects of the project alternatives from landward side runoff is analyzed and described in Effect FR-3: Alteration of Existing Drainage Pattern of Site or Area. This effect states that project activities could cause surface runoff patterns and interference with drainage that could indirectly cause or exacerbate localized flooding. While the alternatives have the potential to interfere with existing drainage systems, such systems would be restored, and levee drainage directed to existing systems, by implementing Mitigation Measure FR-MM-1: Coordinate with Owners and Operators, Prepare Drainage Studies as Needed, and Remediate Effects through Project Design. Performance of FR-MM-1 would reduce the effect under all alternatives to less than significant.

Under all project alternatives, existing drainage patterns in segment B are not significantly altered. Generally, drainage sheet flows away from the levee and drains overland to an existing ditch. With installation of a setback levee in the northern portion of Segment B, the existing pattern would be maintained. Where structures would remain close to the levee, drainage would be evaluated to maintain drainage away from structures and avoid ponding, as described in FR-MM-1.

5.13 Letter 36—Albert Rodgers



Letter 36 [29]
12/18/2013

if you would like to receive further correspondence and you're not already part of the mailing list, then we would ask that you sign in at the front table and we will make sure that you be kept informed of any other details.

LUCY CROCKER: All right. So at this point, that's the end of the formal presentation. So we encourage you to go over to the information stations. All of the folks here with the nametags on are going to be stationed over there to take your questions. The -- there's like an overview section of the project right there when you first walked in the door. The main section that you're probably the most interested are where all the various alternatives are outlined. And then the environmental section is right over here to the right. And everyone can answer all of your questions over at the information stations.

And then again, the court reporter is over in the back. We're not going be taking questions in a formal way here. We're just encouraging you to go over to the information stations.

(Pause in proceeding at 7:05 p.m.)

BUCK RODGERS: I have a concern about the setback levee. When the river comes up, going to

36-1

Carol Nygard and Associates (916) 928-8999

Electronically signed by Charlotte Mathias (101-349-127-4150) 48f2846b-f385-41a7-a611-5c4d0040d7d0

fill up with water, the water is going to be moved back to the setback levee where there's never been any water before. I have some concerns about seepage from there, if it's going to seep worse than it does now. So you can doctor that up if you like, to make it -- I live on 4440 South River Road.

CHARLES ROBIA: I've never given dictation before. I'm a little worried about that. So, I live near one of soil borrow sites. And my concern is that there will be some foreseeable or unforeseeable consequences that could negatively impact me. And so, for example, maybe as this dirt is removed, all the animals that live there are going to be disturbed, and they're going to want to come and live at my house, like mice, rats, snakes, spiders.

So, I know there's plans for things like dust and probably there should be for noise and traffic and all this other stuff. But I just want to know is there going to be something for someone -- some way for me, if that situation should occur, to contact the City or somebody and say, "Hey, you guys need to come and fix my problem." Because it's going to be a problem that's caused by this activity.

So I don't know if there is that avenue, but I think that they definitely need to have

36-1 cont'd

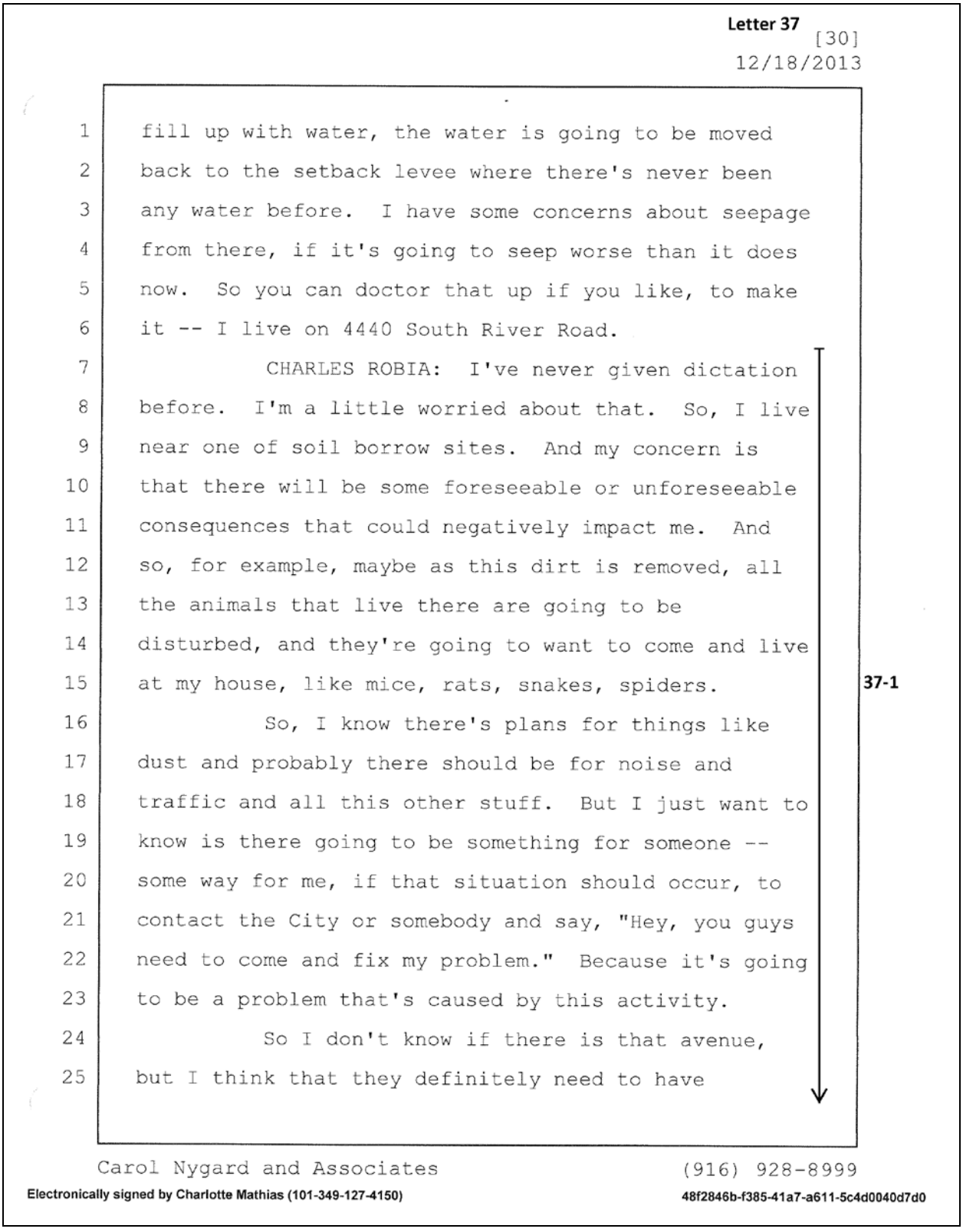
1

5.13.1 Responses to Letter 36

36-1

Each project alternative was designed with seepage avoidance as a primary goal. The potential for seepage along a newly-constructed setback levee would be addressed through proper project design, including such options as seepage berms and slurry cutoff walls. Section 2.2.3.3, Common Elements and Assumptions, describes the various flood risk-reduction measures proposed for the project. Subsequent sections describe the measures used for each alternative and levee segment.

5.14 Letter 37—Charles Tobia



Letter 37

[30]
12/18/2013

fill up with water, the water is going to be moved back to the setback levee where there's never been any water before. I have some concerns about seepage from there, if it's going to seep worse than it does now. So you can doctor that up if you like, to make it -- I live on 4440 South River Road.

CHARLES ROBIA: I've never given dictation before. I'm a little worried about that. So, I live near one of soil borrow sites. And my concern is that there will be some foreseeable or unforeseeable consequences that could negatively impact me. And so, for example, maybe as this dirt is removed, all the animals that live there are going to be disturbed, and they're going to want to come and live at my house, like mice, rats, snakes, spiders. 37-1

So, I know there's plans for things like dust and probably there should be for noise and traffic and all this other stuff. But I just want to know is there going to be something for someone -- some way for me, if that situation should occur, to contact the City or somebody and say, "Hey, you guys need to come and fix my problem." Because it's going to be a problem that's caused by this activity.

So I don't know if there is that avenue, but I think that they definitely need to have

Carol Nygard and Associates (916) 928-8999

Electronically signed by Charlotte Mathias (101-349-127-4150) 48f2846b-f385-41a7-a611-5c4d0040d7d0

something like that in place, when I'm sure complaints will start coming in.

(Pause in proceeding.)

KARL MACHSCHEFES: My question was how many acres of land will be lost from potential development by moving the levees for the different alternatives?

(Pause in proceeding.)

KIM McDONALD: And my problem with this project is, as he phrased it, multi-objective benefits. It's them coming in and putting in recreational areas and stuff to help fund the project by getting money from other government entities, to put in recreation area, riparian habitat, that my house, where it stands, there's going to be a setback levee coming in, so the ground that they take from me, the more they take, the more ground they use for mitigation for the environmental damage that they're doing in the area.

And, you know, I can see if it was an issue of solely safety, but to take my home -- but the recreational and -- like I say, how they call it is multi-objective benefits. I don't want my house being taken away, basically, for future person's houses. Because what they want to do is develop the area, which means it will be high-density housing.

37-1 cont'd

1

5.14.1 Responses to Letter 37

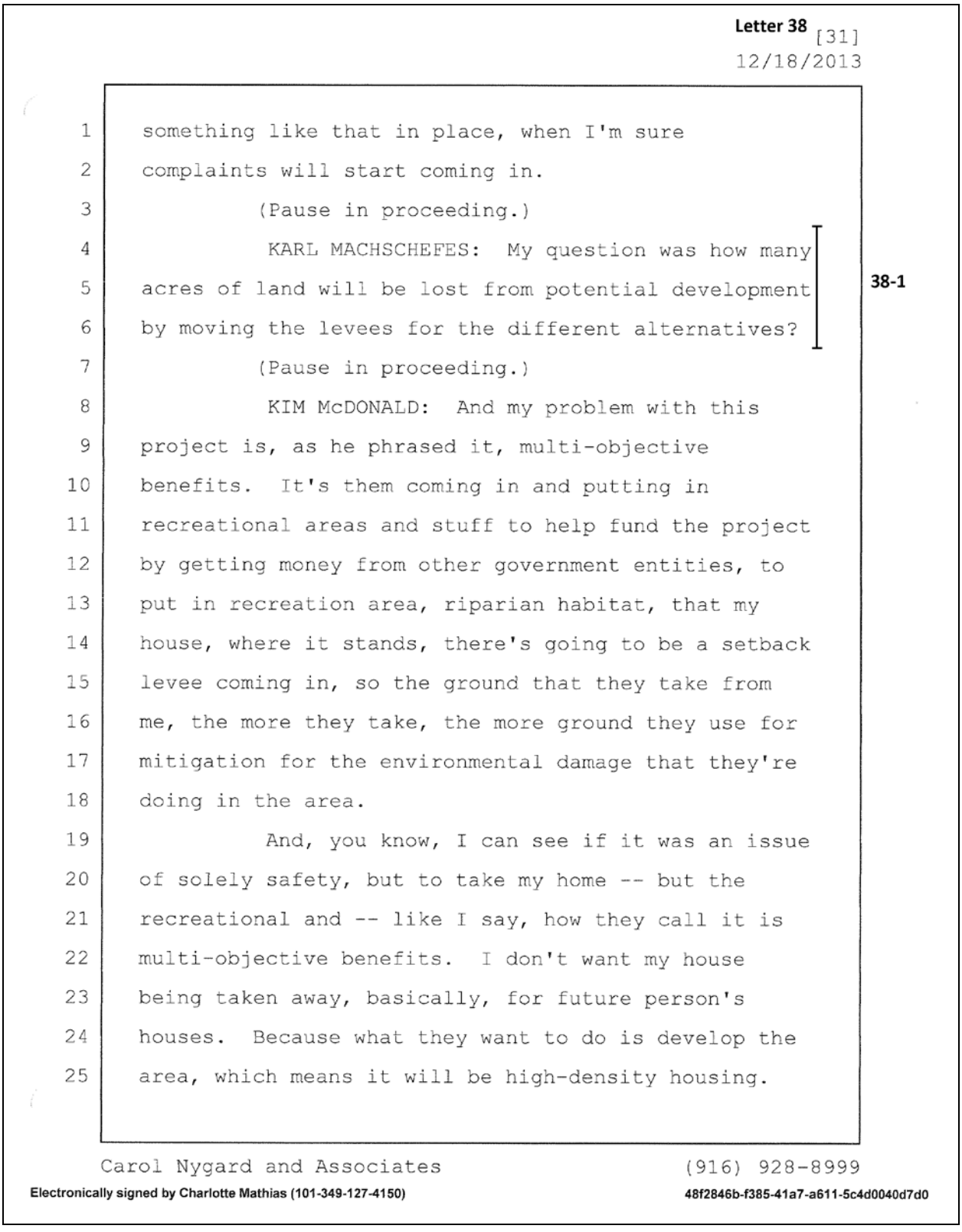
37-1

Initial disturbance of borrow sites would likely disturb and displace a number of common wildlife species including mice, voles, rats, squirrels, snakes, and lizards. There is a potential for a short-term increase in encounters with these species for residents living close to active borrow areas. However, these animals will look for and find new areas that provide suitable open-field habitat conditions. Therefore, their occupancy on a residential area of land would be limited by the ability of that land to provide sufficient forage and little competition from resident animals. As residential areas offer insufficient forage and high competition from resident animals, these areas would not support the wildlife species mentioned on a long-term basis, resulting in a less-than-significant effect on residents.

As described in Section 3.5, Air Quality, the contractor would be required to minimize the occurrence of construction-related dust and debris by implementing a fugitive dust control plan detailed in AIR-MM-2: Implement Fugitive Dust Control Plan. Such measures include posting a publicly visible sign with the contact information of the project point-of-contact regarding dust and other complaints; watering active unpaved areas at all construction sites at least twice daily in dry conditions; and other measures.

Additionally, prior to the start of construction, point-of-contact information and related project information would be distributed directly to all property owners/occupants in the project area with instructions on how and who to contact.

5.15 Letter 38—Karl Machschefes



Letter 38 [31]
12/18/2013

something like that in place, when I'm sure complaints will start coming in.

(Pause in proceeding.)

KARL MACHSCHEFES: My question was how many acres of land will be lost from potential development by moving the levees for the different alternatives? 38-1

(Pause in proceeding.)

KIM McDONALD: And my problem with this project is, as he phrased it, multi-objective benefits. It's them coming in and putting in recreational areas and stuff to help fund the project by getting money from other government entities, to put in recreation area, riparian habitat, that my house, where it stands, there's going to be a setback levee coming in, so the ground that they take from me, the more they take, the more ground they use for mitigation for the environmental damage that they're doing in the area.

And, you know, I can see if it was an issue of solely safety, but to take my home -- but the recreational and -- like I say, how they call it is multi-objective benefits. I don't want my house being taken away, basically, for future person's houses. Because what they want to do is develop the area, which means it will be high-density housing.

Carol Nygard and Associates (916) 928-8999

Electronically signed by Charlotte Mathias (101-349-127-4150) 48f2846b-f385-41a7-a611-5c4d0040d7d0

5.15.1 Responses to Letter 38

38-1

While loss of "developable land" is not a specific resource area of focus in CEQA and NEPA analysis, the effects of implementation of the project or its alternatives on the current land use designations in the project area are described in Section 3.11, Land Use and Agriculture. Specifically, Effect LU-2: Change in Land Use Designations or Potential to Conflict with Local Land Use Designations as a Result of Construction, determined that while the alternatives affect current planned land uses to varying degrees, each results in a significant and unavoidable effect. This effect is further described in Section 4.1, Growth-Inducing Effects, which notes in Section 4.1.3.1, Effects and Mitigation Measures, that "…the project would reduce the developable footprint adjacent to the levee because that area would be occupied by the project features." Areas proposed to be occupied by project features are shown on Plates 2-2a through 2-6b (Plates 2-3a, 2-3b, 2-5a, 2-5b, 2-6a, 2-6b are revised).

5.16 Letter 39—Kim McDonald

Letter 39 [31]
12/18/2013

something like that in place, when I'm sure complaints will start coming in.

(Pause in proceeding.)

KARL MACHSCHEFES: My question was how many acres of land will be lost from potential development by moving the levees for the different alternatives?

(Pause in proceeding.)

KIM McDONALD: And my problem with this project is, as he phrased it, multi-objective benefits. It's them coming in and putting in recreational areas and stuff to help fund the project by getting money from other government entities, to put in recreation area, riparian habitat, that my house, where it stands, there's going to be a setback levee coming in, so the ground that they take from me, the more they take, the more ground they use for mitigation for the environmental damage that they're doing in the area. 39-1

And, you know, I can see if it was an issue of solely safety, but to take my home -- but the recreational and -- like I say, how they call it is multi-objective benefits. I don't want my house being taken away, basically, for future person's houses. Because what they want to do is develop the area, which means it will be high-density housing.

Carol Nygard and Associates (916) 928-8999

Electronically signed by Charlotte Mathias (101-349-127-4150) 48f2846b-f385-41a7-a611-5c4d0040d7d0

And right now it's all acreage farm ground out in that area. And so, basically, they want to put in riparian areas so when they put in the houses, there will be parks and a riparian habitat. I really take offense every time they put recreational areas in these things to get everybody all excited about it.

(Pause in proceeding.)

CAROLYN RECH: My comment is that this environmental document is incomplete and inaccurate and should not have ever been released for public comment in this condition. It's not -- was not ready for public release because it is inadequate and incomplete, and inaccurate also.

(Whereupon, the proceedings were adjourned at 8:00 p.m.)

39-1 cont'd

1

5.16.1 Responses to Letter 39

39-1

The West Sacramento Levee Improvements Program (WSLIP), and the projects implemented as part of this program, have multiple objectives where feasible, including operation and maintenance, habitat restoration, and enhancement of area recreation opportunities. However, none of the Southport project alternatives includes any designed recreation features, and no private property would be acquired for that purpose.

The land on the waterside of the setback levee alternatives is intended for flowage, habitat restoration, and other compatible uses, not development. The proposed restoration features would provide vital habitat to threatened and endangered animals. That area would then be unavailable to future development, as the habitat would be protected by Federal and state law, and development on the waterside of levees is extremely limited under the oversight of the Central Valley Flood Protection Board.

All alternatives result in the need for private property acquisition, not just the setback levee alternatives. Identification of Alternative 5 as WSAFCA's preferred project alternative was based on a number of considerations including:

- Engineering requirements and constraints (erosion and seismic vulnerability)
- Project borrow needs
- Habitat mitigation requirements
- Impacts on adjacent property owners
- Cost effectiveness
- Fiscal impacts on the community.

5.17 Letter 40—Carolyn Rech

And right now it's all acreage farm ground out in that area. And so, basically, they want to put in riparian areas so when they put in the houses, there will be parks and a riparian habitat. I really take offense every time they put recreational areas in these things to get everybody all excited about it.

(Pause in proceeding.)

CAROLYN RECH: My comment is that this environmental document is incomplete and inaccurate and should not have ever been released for public comment in this condition. It's not -- was not ready for public release because it is inadequate and incomplete, and inaccurate also. **40-1**

(Whereupon, the proceedings were adjourned at 8:00 p.m.)

5.17.1 Responses to Letter 40

40-1

The lead agencies have collaboratively drafted and reviewed the Draft EIS/EIR, and consider it to be adequate and complete to fulfill their responsibilities under NEPA and CEQA.

Chapter 6
Revisions to the Applicant Preferred Alternative

6.1 Refined Project Description

Design of the APA has been refined since the release of the Draft EIS/EIR, which has resulted in changes to various portions of the proposed project. The refinements are proposed based on the alternative's effectiveness in addressing deficiencies, compatibility with land uses, minimization of real estate acquisition, avoidance of adverse effects, and cost. The refined project design (Refined APA) is discussed in the sections below, and is compared against Alternative 5 as it is described in Chapter 2, "Alternatives."

6.1.1 Common Elements and Assumptions

The Common Elements and Assumptions described in Section 2.2.3.3 of Volume I would all apply to the Refined APA. However, refinements to borrow sites located on open land within the city or close to the city limits have been made, resulting in a significant reduction in parcels considered by WSAFCA for borrow extraction, and are shown on Plate 6-1 (Volume II). The borrow parcel on the west side of the Sacramento Deep Water Ship Channel and the borrow parcel at the northern limit of the project area are sites where material has been previously stockpiled, and both sites are highly disturbed. No excavation would occur at either of these parcels.

6.1.2 Refined Applicant Preferred Alternative

The Refined APA includes a combination of setback levees, cutoff walls, and seepage berms. Table 6-1 provides a comparison of flood risk–reduction measures between the Draft APA and the Refined APA. The measures described in Table 6-1 are shown in Plates 6-2a and 6-2b (Volume II).

Table 6-1. Flood Risk–Reduction Measure Changes

Segment	Draft EIS/EIR APA Measures	Refined APA Measures
A	Waterside slope flattening, slurry cutoff wall, and rock slope protection	Slurry cutoff wall
B	Adjacent levee, slurry cutoff wall, and rock slope protection	Slurry cutoff wall
	Adjacent levee, slurry cutoff wall, landside seepage berm, and rock slope protection	Slurry cutoff wall and landside seepage berm
	Setback levee, slurry cutoff wall, and landside seepage berm	Setback levee, slurry cutoff wall, and landside seepage berm
C	Setback levee, slurry cutoff wall, and landside seepage berm	Setback levee, slurry cutoff wall, and landside seepage berm
		Setback levee and slurry cutoff wall
D	Setback levee and slurry cutoff wall	Setback levee and slurry cutoff wall
E	Setback levee and slurry cutoff wall	Setback levee and slurry cutoff wall
	Setback levee, landside seepage berm, and slurry cutoff wall	Setback levee, slurry cutoff wall, and landside seepage berm
F	Setback levee, slurry cutoff wall, and landside seepage berm	Setback levee, slurry cutoff wall, and landside seepage berm
G	Adjacent levee, slurry cutoff wall, and rock slope protection	Slurry cutoff wall

Construction of the Refined APA would be similar to Alternative 5, but would involve importing less embankment fill material for the construction of project features. The Refined APA also includes changes in the relocation of South River Road, the construction of Village Parkway, and in erosion site repair design.

6.1.2.1 Refined APA Flood Risk–Reduction Measure Changes

Setback Levee

Under the Refined APA, the setback levee would be built along the extent of Segments C, D, E, F, and the northern portion of Segment B, similar to Alternative 5. However, construction of the setback levee would occur over the first 2 years of construction. Whereas Alternative 5 would construct the Segment C, D, E, and F portions in their entirety in Year 1, and the Segment B portion in Year 2, under the Refined APA the foundation and working platform would be constructed during Year 1 for the whole length of the setback levee alignment, and the remaining buildup would be completed in Year 2. Setback levee construction would be completed as described in Section 2.2.9.7, Setback Levee.

Slurry Cutoff Wall

During design refinement, it was determined that a slurry cutoff wall by itself would be sufficient to provide 200-year level of performance in areas where slope flattening and adjacent levees had been previously proposed under Alternative 5. Therefore, there would be no slope flattening or adjacent levee construction as part of the Refined APA (Plate 6-2a) (Volume II). In Segment A, South River Road would not need to be relocated because construction of the slurry cutoff wall would occur entirely within the footprint of the existing levee. During Year 1 of construction, a 26- to 36-foot-deep cutoff wall would be constructed along the setback levee alignment in Segments B through F, if

weather allows. Remaining portions of the setback levee cutoff wall would be constructed in Year 2. Also in Year 2, a 36-foot-deep cutoff wall would be constructed in Segment A and a 34.5- to 101.5-foot-deep cutoff wall would be constructed in Segment G. Slurry cutoff wall construction would be completed as described in Section 2.2.9.2, Detailed Measure Descriptions.

Seepage Berm

Under the Refined APA, seepage berms would be constructed along the same areas as under Alternative 5, but the berm widths would be narrower (Plates 6-2a and 6-2b) (Volume II). Seepage berms for the Refined APA would vary from 50 to 100 feet wide, depending on seepage conditions along the area of identified levee deficiency. Seepage berm construction would be completed as described in Section 2.2.9.1, Seepage Berm.

Rock Slope Protection

Design refinements determined that, unlike the adjacent levee and waterside slope-flattening approaches utilized in Alternatives 1, 3, and 4, rock slope protection would not be necessary along areas where slope flattening and adjacent levees would be constructed under Alternative 5 (RD 900 2014). Under the Refined APA, rock slope protection would only be placed as part of bank erosion site repairs and levee breach construction, which are described below in Section 6.1.2.2, Construction Details (Volume II). No additional rock slope protection would be placed other than at the erosion sites and levee breaches.

6.1.2.2 Construction Details

Structure and Road Demolition and Utility Relocation

Structure and road removal and utility relocations would be performed as described under Section 2.2.3.3, Common Elements and Assumptions, and under Alternative 2. However, construction of the Refined APA would only require the demolition of nine residences in Segment B, one residence in Segment D, and two residences in Segment F. Also, in addition to removal along the levee crown in Segments B through F, South River Road would be removed in Segment G as well. However, South River Road on the landside of the levee in Segment A would not be removed.

Cellular Tower Relocation

An existing monopine cellular tower located at the corner of Linden Road and South River Road would be relocated approximately 620 feet west of its current location. The relocated tower would be located on private property and would be accessed from Linden Road. The relocated tower would be of a similar height, would have a similar number of cellular service carriers, and would use a similar amount of power as the present facility. The coverage area provided by the new tower would be equal to that of the existing one. Construction of the new tower would require the removal of six trees, which would be removed as part of construction of the flood risk–reduction measures.

Vegetation Removal

Vegetation removal would be performed as described under Section 2.2.3.3, Common Elements and Assumptions, and under Alternative 5.

Remnant Levee Degrade

Design of the existing levee degrade in Segments B through F has also progressed since the Draft EIS/EIR. The objective, design and construction, and operations and maintenance of the remnant levee are described below.

Objective

Once the setback levee is completed, the existing levee in Segments B through F would no longer be part of the Federal project levee. Most of the remnant levee in these areas would be degraded in order to provide additional borrow material for constructing seepage berms or for reclamation of other borrow areas. The remnant levee in Segment E would remain as is in order to maintain access to Sherwood Harbor Marina and Sacramento Yacht Club. Also, the portion of Segment F south of breach N2 would have the roadway removed up to the Sacramento Yacht Club access road, but would not be degraded in order to help protect the marinas during high flow events (Plate 6-2a) (Volume II).

Design and Construction

Prior to excavation, the area to be degraded would be cleared, grubbed, and stripped. The remnant levee would be degraded to an elevation of +30 feet NAVD 88, with a crown width of 20 feet and a landside slope of 3:1. Front-end loaders would load haul trucks with the excavated material. Haul trucks would then transport the material to stockpile areas in the staging areas for later use for berms, or to borrow areas for use in site restoration. Material used for borrow area restoration would be spread evenly using motor graders and compactors. The waterside slope would not be excavated, with the exception of the area above elevation +30 feet NAVD 88. Disturbed areas would then be planted as part of the offset area restoration plantings, and an unpaved O&M corridor would be established at the landside toe of the remnant levee.

Equipment and materials necessary to construct a setback levee are listed in Table 6-2.

Table 6-2. Remnant Levee Excavation—Phases, Equipment, and Materials

Phases of Construction	Equipment	Materials
Site preparation (clearing, grubbing, and stripping)	Scraper Bulldozer	
Embankment excavation	Bulldozer Loader Haul truck Motor grader Scraper	
Site restoration and demobilization	Haul truck Motor grader Sheepsfoot roller Water truck	Topsoil Hydroseed

Operations and Maintenance

Postconstruction, there would be no continued maintenance of the remnant levee. However, the remnant levee would be monitored periodically to ensure that future erosion does not jeopardize

the flood risk–reduction measures. The landside toe O&M corridor would provide access for inspection and erosion repair, if needed. Plantings on the remnant levee would be maintained as described in the Draft MMP (Appendix A, Volume II).

Bank Erosion Sites

Whereas Alternative 5 involved repair of a total of eight erosion sites, the Refined APA would only have repairs at three sites. Design and construction methods have been advanced as part of the Refined APA and are described below.

Objective

Three bank erosion sites requiring repairs were identified in the project reaches along the Sacramento River; two sites are in Segment C and the third site is in Segment G (Plate 6-2a) (Volume II). The Segment C sites would not be subject to the USACE vegetation policy, as they would be on the remnant levee; however, the Segment G site would be located on the Federal project levee and would comply with the vegetation policy. Therefore, the design of the Segment C sites differs from that of the Segment G site, as described below. The repairs at all three sites are designed to protect against erosional forces that threaten levee stability, such as wind, waves, boat wake, and fluvial forces.

Remnant Levee Sites

The two erosion sites on the remnant levee are Sites C1 and C2, which are adjacent to each other. Once the setback levees for the project are complete, the existing levee in Segment C would no longer be part of the Federal project levee. Site C1 has a top length of 160 linear feet and tapers near the bottom of the slope. The proposed repairs at Site C1 would address a scour hole that has formed on the slope between elevations of -33 feet NAVD 88 and +11 feet NAVD 88, as well as slumping that has occurred at the base of the slope. Site C2 would include repairs along 547 linear feet of Segment C. Repairs at Site C2 would address general erosion problems that have been created by wave erosion.

Design and Construction

Erosion site repairs on the remnant levee would be designed both to control erosion and to maintain existing vegetation and instream woody material (IWM). This would be accomplished by incorporating rock benches that serve as buffers against erosion while providing space for planting riparian vegetation and creating a platform to support aquatic habitat features (Plates 6-3a and 6-3b) (Volume II). Rock would be placed onto the levee slope from the waterside by means of barges; one barge would hold the stockpile of rock to be placed, and a second barge would hold the crane that would place the rock on the channel slopes. A backhoe would be used from the bank to shape the rock. Clean rock fill would be placed over existing riprap between elevations of -33 feet NAVD 88 and +5 feet NAVD 88, and type C graded stone would be placed over the clean rock fill in a 2.5-foot thick layer with a 2:1 slope from the toe of the slope to an elevation of +7 feet NAVD 88. The clean rock fill and graded stone at the top of the erosion site would be placed to form a planting bench at an elevation of +7 feet NAVD 88 in order to match the average annual low-water surface elevation, and the bench would have an average width of approximately 10 feet. At Site C1, stone would be placed at the upstream and downstream ends of the site in thickened sections in order to address problems created by a scour hole along the site. These sections would extend up and down the bank

and would be approximately 5 feet thick and 12.5 feet wide, and would transition laterally to 2.5-foot thickness at a 1:1 slope.

Once the rock has been placed along the slope of the erosion sites, a 1-foot thick layer of 0.75-inch crushed clean rock would be placed at the upslope end of the stone bench to create a filter between the topsoil and the stone bench. Topsoil would then be placed above the newly constructed bench at a 3:1 slope to meet the existing bank, and coir fabric would be placed over the soil to keep it in place. Topsoil would be placed from a barge, similar to the process for placing the rock. Pole plantings would then be hand-placed in the planting bench between elevations of +7 feet NAVD 88 and +11.5 feet NAVD 88. Beaver fencing would be installed at the upslope and downslope extents of the topsoil installation. IWM would be anchored along the remnant levee erosion sites to achieve at least 40% shoreline coverage, and would be placed between 1 and 3 feet below the elevation of the average annual low water surface. IWM would likely come from trees removed in other portions of the project area, and would be selected based on suitability for the site. Existing vegetation and riprap at the erosion site would be retained.

The two erosion sites on the remnant levee are located on the outer bank of a bend in the river and are therefore subject to greater erosive forces. Given the location of these two erosion sites, rock would be placed along the toe of the bank (toe rock) at both sites, as well as upstream and downstream of the erosion sites to further protect the bank of the remnant levee. The toe rock would begin approximately 850 feet upstream of Site C1, would extend through both erosion sites, and would terminate approximately 300 feet downstream of Site C2. Portions of this area are currently riprapped, and the additional toe rock to be placed would be limited to areas where there is currently no rock below an elevation of +7 feet NAVD 88.

Equipment and materials necessary for bank erosion site repairs along the remnant levee are listed in Table 6-3.

Table 6-3. Remnant Levee Erosion Site Repair—Phases, Equipment, and Materials

Phases of Construction	Equipment	Materials
Rock placement	Crane Barges Backhoe	Rock
Biotechnical element installation	Crane Barge Hand tools	Topsoil Coir fabric Pole cuttings Beaver fencing

Operations and Maintenance

Postconstruction, only the rock protection, native vegetation, and other biotechnical features would be permanent. Anticipated O&M actions include regular visual inspections of the site, vegetation maintenance and irrigation for up to 3 years, and periodic repairs, as needed, to prevent or repair localized scour along the bank and rock toe of the site. Plantings on the levee would be maintained as described in the Draft MMP (Appendix A, Volume II).

Active Levee Erosion Site

Site G3 is located in Segment G and would be part of the Federal project levee. Site G3 would include 410 linear feet of repairs to the top of the erosion scarp and the creation of a planting bench and vegetated slope to protect against boat wake and fluvial erosion.

Design and Construction

The design and construction equipment, methods, and materials for Site G3 would be similar to those described for Sites C1 and C2. However, Site G3 would require additional rock armoring and soil fill (up to elevation +25 feet NAVD 88) to repair the erosion scarp and meet Federal levee protection standards. The proposed design includes riprap toe protection, earth and rock fill to restore the levee prism between elevation -10 feet NAVD 88 and +25 feet NAVD 88, a soil-covered bench (10:1 slope) and bank (3:1 slope) planted with pole cuttings and large container plantings, and IWM anchored between 1 and 3 feet below the elevation of the average annual low water surface (Plate 6-3c) (Volume II).

Operations and Maintenance

Operation and maintenance for Erosion Site G3 would be similar to activities described above for Erosion Sites C1 and C2, but the site would also be monitored as part of the federal levee system.

Levee Breaches

Levee breach construction under the Refined APA would be similar to that of Alternative 5; however, design of the breaches has progressed and is described in detail below.

Objective

Portions of the existing levee would be breached to allow Sacramento River flows into two separate offset areas during high flow events (Plate 6-2a) (Volume II). The northern offset area breaches, from north to south, are N1 and N2 (both in Segment F), and the southern offset area breaches, from north to south, are S1 (Segment C), S2 (Segment C), and S3 (Segment B). Construction of the breaches would occur during the summer/fall period to take advantage of low flows in the Sacramento River, and to comply with CVFPB regulations.

Design and Construction

The proposed breaches would be constructed in phases, with breaches S3 and N1 being constructed first, and the remaining breaches likely being constructed 2 years later in order to allow offset area restoration areas to establish before being exposed to through flows. To construct the breaches, the existing levee would be degraded down to an elevation of +10 feet NAVD 88 using excavators. Existing revetment found to be in good condition would be retained up to an elevation of +10 NAVD 88.

Until breaches S1, S2, and N2 are constructed, culverts would be installed at their proposed locations in order to drain the offset area between the new Federal levee and the degraded remnant levee. These culverts would be used to equilibrate hydraulic pressure on both sides of the degraded levee (i.e., between the offset area and Sacramento River channel), as well as to provide drainage for the associated offset segment in order to minimize fish stranding and extended inundation of restored habitats. Each culvert would be 54 inches in diameter and approximately 140 feet long

(Plate 6-4) (Volume II). The culverts would be placed at approximately +7 NAVD in order to fully drain the offset area behind them. Each culvert would utilize existing riprap located at the mouth of each structure on the Sacramento River.

The breach shoulders would be armored with rock from the top extent of the existing riprap at +10 NAVD 88 on the waterside, up and over the degraded remnant levee crown, and down the landside slope (Plate 6-5a) (Volume II). Along the alignment of the remnant levee, rock would be placed from the base of the inlet shoulder in the breach to the top of the degraded remnant levee, and would extend an additional 100 feet from the top edge of the shoulder on each side of the breach. A 25-foot riprap apron would then extend out from the landside toe of the breach shoulder at an elevation of roughly +10 NAVD 88, as well as from the toe of the shoulder in the breach. All rock for the shoulder and apron armoring would be placed in a layer approximately 2.5 feet thick.

The upstream shoulder of breach N1 and the downstream shoulder of breach S3 would have slightly different erosion control measures than the other breach shoulders, as both of these breaches would have transitions from the newly constructed setback levee to the existing levee (Plates 6-5b and 6-5c) (Volume II). Rock armoring would be placed on the slope of the waterside berm of the setback levee. Rock placement on these transition shoulders would be contiguous with the apron zone and riverbank zone protection measures.

On the waterside of the breaches, new riprap would be placed from the toe of the bank slope up to an elevation of +7 feet NAVD 88 in areas where the existing riprap is lacking. Coir fabric would be placed between elevations of +7 feet NAVD 88 and +10 feet NAVD 88, and this “riverbank zone” would be planted with species suitable for coppicing in order to create a vegetated bench. Coppicing is a method of woodland management in which young tree stems are repeatedly cut down to a predetermined height, which takes advantage of the fact that many trees make new growth from the remaining stumps. The vegetation in this area would be coppiced in order to maintain a region of nearly uniform hydraulic resistance and prevent erosion due to concentration of flows between clumps of trees. Coir fabric would also be placed in the “apron zone” between the edge of the +10 feet NAVD 88 elevation and the centerline of the breach, with jute netting continuing landward of the termination of the coir fabric for 100 feet. This area would be planted with cuttings, rootstock, or container plants. The draft design of the breaches is included in the Draft MMP (Appendix A, Volume II).

Rock would be placed onto the levee slope from atop the degraded levee, from the breach sill, from the waterside by means of barges, or by a combination of the three methods. Rock required within the channel, both below and slightly above the surface of the water at the time of placement, would be placed by a crane located on a barge and then spread by an excavator located on top of the levee or in the breach sill. Construction would require two barges—one barge to carry the crane and another to hold the stockpile of rock to be placed on the channel slopes—and one excavator located in the breach. Rock required on the upper portions of the slopes would be placed by an excavator located on top of the levee. Rock placement from atop the levee would require one excavator for each potential placement site. The loader would bring the rock from a permitted source within 25 miles of the project area and dump it within 100 feet of the levee breach. The excavator would move the rock from the stockpile to the waterside of the levee. Equipment and materials necessary for constructing the breaches are listed below in Table 6-4.

Table 6-4. Levee Breach Construction—Phases, Equipment, and Materials

Phases of Construction	Equipment	Materials
Breach excavation	Excavator	
Rock placement	Crane Barges Excavator	Rock
Biotechnical element installation	Hand tools	Jute netting Coir fabric Pole cuttings Container stock

Operations and Maintenance

O&M access to the breaches would be provided by O&M corridor roads that cross the cellular berms described in under Offset Floodplain Area Restoration, below, and by the O&M corridor located along the landside toe of the remnant levee in the offset areas. Access to the N1 and S3 breaches would also be from where the setback levee transitions to the existing levee.

Offset Floodplain Area Restoration

Offset floodplain area restoration under the Refined APA would be similar to that of Alternative 5; however, the Refined APA includes construction of cellular berms within the offset areas. Permanent berms would be constructed between the setback levee and the remnant levee downstream of breaches N1, S1, and S2 to reduce erosive conditions during flood events in the offset area (Plate 6-2a). Berms would have a top elevation of +20 feet, top width of 20 feet, and side slopes no steeper than 10:1; they would overtop once water levels reach +20.0 feet NAVD 88. Offset areas upstream and downstream of the berms would be graded with positive drainage away from the berms and to the closest existing levee breach location.

Operations and Maintenance

O&M access to the offset areas would be provided by O&M corridors at the waterside toe of the setback levee and by unpaved O&M roads that cross the cellular berms. Turnaround areas would be located at the breach shoulders.

Backwater Interim Condition

The backwater interim condition that would occur under the Refined APA would be the same as what would occur under Alternative 5, except the interim condition would begin after construction Year 3 instead of Year 1, and would remain until the remaining breaches are constructed in Year 5.

Road Construction, Marina Access, and Bees Lakes

Village Parkway would be constructed as described under Alternative 5; however, there would be no connection between the Village Parkway and South River Road in Segment F. The existing alignment of South River Road in Segment A would be retained under the Refined APA, as would the railroad abutments at the southern end of Segment A. However, a detour or permanent realignment of South River Road would be constructed at the south end of Segment A to maintain access on

South River Road south of the project area during and after construction. Access roads would be built in Segment B to connect residences to the new Village Parkway alignment. Year 1 would include the construction of this section of the future Village Parkway and the associated residential and marina access roads (Plate 6-2a). "No parking" signs would be installed at the new residential roads in Segment B. At the project's northern extent, South River Road would be demolished. Where practicable, culverts would be constructed in ditches that are crossed by proposed roadways. Drainage ditches would be constructed along both sides of the new Village Parkway alignment, with an average width of 5 feet.

In order to maintain access between Sherwood Harbor Marina and Sacramento Yacht Club, South River Road would continue in its current alignment on the existing levee at Segment E and a portion of Segment F. However, the existing levee structure would no longer serve a flood risk–reduction function. In order to maintain access to the marinas, two new roads would be constructed that would be routed over the levee crown, with embankment crests of +40 feet NAVD 88 and 3:1 side slopes. The first road would be constructed just north of the Bees Lake area, and the second would be constructed on the southern side of the Bees Lake area. The road embankments would link the setback levee and the existing levee. While these embankments would not be part of the flood risk–reduction features, they would prevent hydraulic surface connectivity between Bees Lakes and the Sacramento River. Linden and Davis Roads would be connected to the new Village Parkway alignment to restore traffic circulation, and a cul-de-sac would be added at the end of Linden Road, past the intersection with Village Parkway.

Access ramps would be constructed along the levee alignment to provide O&M and emergency access to the levee-top patrol road. There would be one ramp in Segment B where South River Road currently descends from the existing levee to meet Gregory Avenue; one ramp in Segment C; one ramp in Segment D at the terminus of Davis Road; one ramp In Segment F at the terminus of Linden Road; and one ramp in Segment G near the northern end of the project alignment. Access to the levee-top patrol road would also be provided where the Sherwood Harbor Marina and Sacramento Yacht Club access road embankments cross the proposed setback levee crown. Access ramps would be gated and would have "no parking" signs.

6.1.2.3 Construction Schedule

Construction of the project would occur in more than one annual construction season, with construction of flood risk–reduction measures beginning in April of 2015, and likely finishing in 2017. Construction and restoration of the offset area would likely continue after 2017, with final remnant levee breaches constructed in 2020. A small portion of Village Parkway construction and utility relocations would possibly begin in fall of 2014, but most of the work for those portions of the project would be done in 2015. Under the Refined APA, all proposed haul routes would be available for use through Years 1 and 2. A description of construction activities by construction year is provided below.

Year 1

- Village Parkway construction and utility relocation would be completed.
- The entire length of the setback levee would be started in Year 1, beginning with the foundation and working platform. Construction of the cutoff wall would follow if weather allows.

Year 2

- The setback levee cutoff wall and remaining buildup of the setback levee would be constructed to a finished elevation of +40 feet NAVD 88.
- South River Road detour at south end of Segment A.
- Seepage berms would be constructed following completion of the setback levees.
- Segment A and the southern portion of Segment B would be degraded to an elevation of +31 feet NAVD 88, and in Segment G the levee would be degraded to an elevation of +34.5 feet NAVD 88. Cutoff walls would then be constructed in these segments, tying into the setback levee cutoff walls in Segments B and F. The levee crown in Segment A and the southern portion of Segment B would then be built back up to a finished elevation of +39 feet NAVD 88, and the levee in Segment G would be built back up to a finished elevation of +40 feet NAVD 88. The slurry cutoff wall toe would be at an elevation of -5 feet NAVD 88 through Segments A, B, C, and D; at 0 feet NAVD 88 for Segments E, F, and the southern portion of G; and would be at -67 feet NAVD 88 for the remainder of Segment G.
- The remnant levee in Segments B, C, D, and F would be degraded to an elevation of +30 feet NAVD 88, and would have a 20-foot-wide crown.
- Offset area grading would begin.
- Erosion site repairs at C1, C2, and G3 would be constructed late in the construction season once the remnant levee has been degraded.

Year 3

- Offset area grading would be completed, with the exception of the cellular berms.
- Breaches N1 and S3 would be constructed. Culverts would be installed through the remnant levee at the other breach locations to allow water to flow into, and drain out of, the offset areas during the interim condition.
- Offset area planting would begin and would continue through Year 6.

Year 4

- Offset area planting would continue.

Year 5

- The three remaining breaches and the offset area cellular berms would be constructed, and the southern offset area would be contoured.

Year 6

- Offset area planting would be completed.

Flood risk–reduction measure construction activities would primarily occur during the typical construction season, April 15 to October 31, although extension of the CVFPB encroachment permit may be sought if weather conditions permit. All construction activities, including, but not limited to, structure and vegetation removal, roadway removal and replacement, revegetation, and utility

removal and replacement, that may occur outside the primary construction season would be subject to the conditions of environmental and encroachment permits and authorizations to be issued by CDFW, Regional Water Board, CVFPB, USACE, USFWS, NMFS, County of Yolo, City of West Sacramento, and others.

At the end of each primary construction season, the levee system would be restored, at a minimum, to the level of flood risk–reduction performance existing at the project outset. During construction Years 1 and 2, "tie-ins" would be built connecting the existing levee up- and downstream to the segments constructed that season, as needed. These tie-ins would be achieved by benching the existing levee and installing compacted lifts to completely bond the new and existing levee materials. During the flood season, maintenance of the flood risk–reduction structures would be undertaken by the maintaining agency, RD 900.

6.1.2.4 Construction Staging

As opposed to the three staging areas that would be used under Alternative 5, the Refined APA would use five staging areas, which are depicted on Plate 6-2a. These staging areas would be located on the landside of the levee at Segments C, D, and E, and would occupy approximately 25.2 acres in total. These areas would be used for staging construction activities and to house construction equipment and materials before and during construction activities. Areas where seepage berms are proposed would also be used for staging until construction begins on the seepage berms.

To facilitate project construction, temporary earthen ramps would be constructed to permit equipment access between the levee crown and the staging area(s). The earthen ramps would not affect any delineated water bodies and would be removed when construction is complete.

6.1.2.5 Recreation Enhancements

Similar to Alternative 5, an aggregate-base maintenance road would be built on top of the entire length of the proposed setback levee, as well as along the levee-top in Segments A and B. These maintenance roads would be opened to public use by bicyclists and pedestrians, with appurtenant access controls and safety signs. The Refined APA would also involve construction of bike lanes along Village Parkway, as described under Alternative 5.

6.2 Refined APA Environmental Consequences

The following discussion explains the environmental consequences of the refinements and revisions made to the Applicant Preferred Alternative since release of the Draft EIS/EIR, and compares those effects to the effects expected to result from implementation of the Draft EIS/EIR APA, Alternative 5. As discussed below, none of the changes to the Refined APA result in new or significant environmental effects not disclosed and analyzed in the Draft EIS/EIR as part of Alternative 5.

6.2.1 Flood Risk Management and Geomorphic Conditions

Effect FR-1: Change in Flood Risk Associated with Water Surface Elevation

Local, Upstream, and Downstream Effects

Local, upstream, and downstream direct and indirect effects associated with Effect FR-1 under the Refined APA are identical to those described for Effect FR-1 under Alternative 5. The Refined APA would have less-than-significant direct and indirect local effects on flood risk related to water surface elevation change, less-than-significant indirect effects on upstream reaches, and no indirect effect on downstream water surface elevations and resulting levels of flood risk.

Effect FR-2: Decrease in Risk of Levee Failure as a Result of Erosion or Seepage

Under the Refined APA, direct and indirect effects associated with Effect FR-2 would be similar to those described for Effect FR-2 under Alternative 5. The direct effect on the project levee would be beneficial, but to a lesser extent than with Alternative 5 because only a slurry cutoff wall would be used in Segments A and G, as opposed to slope flattening and an adjacent levee. There would be no indirect effect on upstream or downstream levees.

Effect FR-3: Alteration of Existing Drainage Pattern of Site or Area

Direct and indirect effects associated with Effect FR-3 under the Refined APA are identical to those described for Effect FR-3 under Alternative 5, and would be significant. Implementation of Mitigation Measure FR-MM-1 would reduce these effects to a less-than-significant level.

Effect FR-4: Increase in Channel Bed Incision and Bank Erosion Attributable to Heightened Levees

Direct and indirect effects associated with Effect FR-4 under the Refined APA are identical to those described for Effect FR-4 under Alternative 5.

Effect FR-5: Decrease in Levee Erosion through Rock Slope Protection

Direct effects associated with Effect FR-5 under the Refined APA are similar to those described for Effect FR-5 under Alternative 5, but to a much lesser extent since placement of rock slope protection would be limited to three erosion sites and the five levee breaches. However, this would still have a beneficial effect on decreasing levee erosion in the project reach. There would be no effect on upstream or downstream levees.

Effect FR-6: Decrease in Through- and Under-Seepage

Direct effects associated with Effect FR-6 under the Refined APA are similar to those described for Effect FR-6 under Alternative 5. While there would be no adjacent levee construction in Segments B and G, and seepage berm widths would be reduced, the flood risk–reduction measures proposed under the Refined APA are designed to provide the same level of performance as under Alternative 5. Implementation of the Refined APA would result in direct beneficial effects on flood conditions in the project reach. There would be no indirect effect on upstream or downstream levees.

Effect FR-7: Change in Stream Energy and Modification of Floodplain Scour/Deposition

Direct and indirect effects associated with Effect FR-7 under the Refined APA are identical to those described for Effect FR-7 under Alternative 5 and would be significant. Mitigation Measure FR-MM-2 would reduce these effects to a less-than-significant level.

6.2.2 Water Quality and Groundwater Resources

Effect WQ-1: Effects on Surface Water Quality from Excessive Turbidity or Total Suspended Solids

The Refined APA involves construction activities, and effects on surface water quality from excessive turbidity or TSS would be similar to those that would occur under Alternative 5. The effects on surface water quality would be significant, but to a lesser extent due to the reduced amount of rock slope protection that would be placed under the Refined APA. Implementing the SWPPP and turbidity monitoring ECs described in Section 2.4, Environmental Commitments, would reduce potential direct and indirect effects to a less-than-significant level.

Effect WQ-2: Release of Contaminants into Adjacent Surface Water Bodies from Construction-Related Hazardous Materials

The Refined APA involves construction activities, and construction-related contamination effects would be similar to those that would occur under Alternative 5. Implementing the SWPPP, SPCCP, BSSCP, and turbidity monitoring program ECs, described in Section 2.4, Environmental Commitments, would make potential direct and indirect effects less than significant.

Effect WQ-3: Effects on Groundwater or Surface Water Quality Resulting from Contact with the Water Table

The Refined APA involves construction activities, and effects associated with contacting the water table would be similar to those that would occur under Alternative 5. To contain construction-related contaminants and prevent them from entering dewatered areas or groundwater wells, as described in Effect WQ-3 of Alternative 5, the contractor would adhere to the SWPPP, SPCCP, BSSCP, and Groundwater Well Protection Measures ECs. Implementing these ECs and Mitigation Measure WQ-MM-1 would reduce direct and indirect effects to a less-than-significant level.

Effect WQ-4: Effects on Groundwater Levels and Quality from Construction of Slurry Cutoff Walls

Slurry cutoff wall construction and effects under the Refined APA would be the same as under Alternative 5. Direct effects would therefore be less than significant. No mitigation is required.

Effect WQ-5: Release of Contaminants into Adjacent Surface Water Bodies from Disturbance of Existing Ambient Contaminants

The Refined APA involves construction activities, and effects of contact with contaminated substrate would be similar to those that would occur under Alternative 5. Implementation of the Soil Hazards Testing and Soil Disposal Plan EC described in Section 2.4, Environmental Commitments, would make potential direct and indirect effects less than significant.

6.2.3 Geology, Seismicity, Soils, and Mineral Resources

Effect GEO-1: Negative Effects on Levee Stability

Under the Refined APA, this direct effect would be the same as described under Alternative 5. This effect is considered beneficial. No mitigation is required.

Effect GEO-2: Negative Effects on Streamflow Erosion of Levees

Under the Refined APA, this direct effect would be the same as described under Alternative 5. This effect is considered beneficial. No mitigation is required.

Effect GEO-3: Potential Earthquake Damage to Flood Management Structures

Under the Refined APA, direct and indirect effects would be the same as described under Alternative 5. This effect is considered less than significant. No mitigation is required.

Effect GEO-4: Accelerated Erosion and Sedimentation Resulting from Construction-Related Ground Disturbance

Under the Refined APA, this direct effect would be similar to the effect described under Alternative 5, but to a lesser extent due to reduced ground disturbance. This direct effect is considered less than significant with the EC requiring implementation of a SWPPP, described in Section 2.4, Environmental Commitments. No mitigation is required.

Effect GEO-5: Potential Structural Damage from Encountering Expansive Soils

Under the Refined APA, direct and indirect effects would be the same as described under Alternative 5. This effect is considered less than significant. No mitigation is required.

Effect GEO-6: Decrease in Supply of Mineral Soil as a Result of Its Use for Levee Material

Under the Refined APA, direct and indirect effects would be the same as described under Alternative 5, and would be less than significant.

Effect GEO-7: Potential Loss of Soil Productivity and Change in Site Usability of Borrow Areas

Under the Refined APA, direct and indirect effects would be the same as described under Alternative 5, and would be less than significant.

6.2.4 Transportation and Navigation

Effect TRA-1: Temporary Increase in Traffic Volumes from Construction-Generated Traffic

Relative to Alternative 5, construction of the Refined APA would generate fewer average daily trips on proposed haul routes due to reduced need for borrow material. The availability of all haul routes for use during Years 1 and 2 would not increase the severity of the effect under the Refined APA, as Alternative 5 used the highest construction trips among the two years of construction to conduct the analysis and represents a worst-case scenario for project impacts. Although WSAFCA is committed to implementing the traffic control and road maintenance plan EC described in Chapter 2,

"Alternatives," to reduce the effects of construction traffic on all haul routes, the direct construction traffic volumes effects would be temporarily significant and unavoidable.

Effect TRA-2: Temporary Road Closures

Temporary road closures required during construction of the Refined APA would be the same as those under Alternative 5, but to a slightly lesser degree because the reduced borrow needs of the Refined APA would result in fewer haul truck trips, which would reduce temporary road closures. The EC to develop and implement a traffic control and road maintenance plan, as described in Chapter 2, "Alternatives," would reduce this direct effect to a less-than-significant level. No mitigation is required.

Effect TRA-3: Increase in Safety Hazards Attributable to Construction-Generated Traffic

The effects on increased safety hazards would be the same as under Alternative 5. Execution of the EC to develop and implement a traffic control and road maintenance plan, described in Section 2.4, Environmental Commitments, would minimize construction-related traffic hazards and reduce the intensity of this effect. This direct effect would be less than significant. No mitigation is required.

Effect TRA-4: Disruption of Alternative Transportation Modes as a Result of Temporary Road Closures

Effects on bicycle travel from temporary road closures would be the same as those under Alternative 5. Implementation of the traffic control and road maintenance plan EC, described in Section 2.4, Environmental Commitments, would minimize construction-related traffic conflicts with bicycle travel. Therefore, this direct effect would be less than significant. No mitigation is required.

Effect TRA-5: Temporary Changes to Navigation

Effects on navigation would be the same as those under Alternative 5. WSAFCA is committed to minimizing construction-related effects on navigation, as described in Section 2.4, Environmental Commitments. Therefore, this direct effect would be less than significant. No mitigation is required.

Effect TRA-6: Permanent Changes in Circulation Patterns

Permanent changes to circulation patterns as a result of realigning South River Road would be the same as those under Alternative 5. This direct effect would be less than significant. No mitigation is required.

6.2.5 Air Quality

Effect AIR-1: Conflict with or Obstruct Implementation of an Applicable Air Quality Plan

Operation of the Refined APA would be similar to the operation of Alternative 5 and would not conflict with or obstruct the implementation of air quality plans. This direct effect would be less than significant. No mitigation is required.

Effect AIR-2: Violate Any Air Quality Standard or Substantial Contribution to Existing or Projected Air Quality Violation—CEQA

The construction emissions for the Refined APA would be lower than those of Alternative 5, as the reduced project footprint would require fewer truck trips for hauling borrow material. However, construction of the Refined APA would still exceed SMAQMD's and BAAQMD's NO_X thresholds, as well as YSAQMD's NO_X and PM10 thresholds. Therefore, construction of the Refined APA would result in a significant effect. Mitigation Measures AIR-MM-1 through AIR-MM-3 are available to reduce this effect.

After mitigation, construction-related emissions still would exceed the YSAQMD's emission thresholds for NO_X and PM10, exceed the SMAQMD's emission threshold for NO_X, and exceed the BAAQMD's emission threshold for NO_X. Because NO_X emissions would exceed SMAQMD's threshold after the implementation of Mitigation Measures AIR-MM-1 through AIR-MM-3, WSAFCA will be required to pay an offsite mitigation fee for NO_X emissions within the SVAB (Mitigation Measure AIR-MM-4) and SFBAAB (Mitigation Measure AIR-MM-5). With the implementation of Mitigation Measures AIR-MM-4 and AIR-MM-5, NO_X emission effects in the SVAB (both YSAQMD and SMAQMD) and SFBAAB would be reduced to a less-than-significant level.

While AIR-MM-1 through AIR-MM-5 would reduce NO_X emissions in the YSAQMD, BAAQMD, and SMAQMD to less than significant, PM10 emissions in YSAQMD would still exceed applicable air district thresholds. This would be a direct adverse effect. Consequently, Effect AIR-2 is significant and unavoidable within YSAQMD for daily PM10.

Effect AIR-3: Violate Any Air Quality Standard or Substantial Contribution to Existing or Projected Air Quality Violation—NEPA

Under the Refined APA, this direct effect would be similar to the effect described under Alternative 5, but to a lesser extent since the reduced project footprint would require fewer truck trips for hauling borrow material. Construction-related NO_X emissions would be fully offset to zero through implementation of Mitigation Measure AIR-MM-4 after the implementation of feasible onsite mitigation as described in Mitigation Measure AIR-MM-1. Mitigation Measure AIR-MM-4 will ensure the requirements of the mitigation and offset program are implemented and conformity requirements are met. Therefore, this direct effect would be reduced to a less-than-significant level.

Effect AIR-4: Result in a Cumulatively Considerable Net Increase of Any Criteria Pollutant for Which the Project Region is a Nonattainment Area under NAAQS and CAAQS

Cumulative air quality effects under the Refined APA would be similar to those under Alternative 5, but to a lesser extent since the reduced project footprint would require fewer truck trips for hauling borrow material. Implementation of AIR-MM-1 through AIR-MM-5 would reduce NO_X emissions in the YSAQMD, BAAQMD, and SMAQMD to less than significant. However, PM10 emissions in YSAQMD would still exceed applicable air district thresholds even after implementation of AIR-MM-1 through AIR-MM-5. This would be a direct adverse effect. Consequently, construction of Alternative 5 would result in a significant and unavoidable cumulative impact in YSAQMD for daily PM10.

Effect AIR-5: Expose Sensitive Receptors to Substantial Fugitive Dust Concentrations

Construction of the Refined APA would result in slightly lower short-term dust emissions from grading and earth moving activities in the SVAB, relative to Alternative 5. However, the indirect

effect would still be significant. Implementation of Mitigation Measure AIR-MM-2 would reduce dust emissions during construction to a less-than-significant level.

Effect AIR-6: Expose Sensitive Receptors to Substantial Diesel Particulate Matter Concentrations

Construction of the Refined APA would result in slightly lower short-term DPM emissions in the SVAB, relative to Alternative 5. Indirect health effects would be less than significant. In addition, implementation of Mitigation Measure AIR-MM-1, which is required under other air quality effects, would further reduce exhaust emissions during construction.

Effect AIR-7: Create Objectionable Odors Affecting a Substantial Number of People

Odors associated with diesel exhaust emissions from onsite construction equipment in the SVAB may be slightly lower than under Alternative 5. Therefore, this direct effect would be less than significant. In addition, implementation of Mitigation Measures AIR-MM-1 and AIR-MM-3, which are required under other air quality effects, would further reduce exhaust emissions and provide advance notification of construction activities.

6.2.6 Climate Change

Effect CC-1: Generate GHG Emissions That May Have a Significant Effect on the Environment

The Refined APA would generate fewer GHG emissions, relative to Alternative 5, and emissions would be well below the BAAQMD's GHG threshold. Construction-related GHG emissions are not anticipated to indirectly contribute to climate change; this effect is considered less than significant. Implementation of Mitigation Measure CC-MM-1 would further reduce this effect.

Effect CC-2: Conflict with an Applicable Plan, Adopted for the Purpose of Reducing GHG Emissions

Effect AIR-1 under the Refined APA would be the same as under Alternative 5. The Refined APA would not directly conflict with or obstruct the implementation of applicable GHG emission reduction plans. This indirect effect is less than significant.

6.2.7 Noise

Effect NOI-1: Exposure of Sensitive Receptors to Temporary Construction-Related Noise

Under the Refined APA, this direct effect would be the same as described under Alternative 5. Implementation of Mitigation Measure NOI-MM-1 would reduce the effect, but it is not anticipated that feasible measures would be available in all situations to reduce noise to below the applicable noise ordinance limits. This direct effect therefore is considered to be significant and unavoidable.

Effect NOI-2: Exposure of Sensitive Receptors to Temporary Construction-Related Vibration

Effects under the Refined APA associated with exposure of sensitive receptors to construction-related vibration are the same as those under Alternative 5. Implementation of mitigation measure NOI-MM-2 would reduce this effect; however, it is not anticipated that feasible measures would be

available in all situations to reduce vibration to below the applicable levels. This direct effect, therefore, would be significant and unavoidable.

Effect NOI-3: Exposure of Sensitive Receptors to Traffic Noise from the Extension of Village Parkway

Under the Refined APA, direct and indirect effects would be the same as described under Alternative 5. As described under Alternative 5, Mitigation Measure M.M. 4-8.1 in the Southport Framework Plan Draft EIR would reduce this effect to a less-than-significant level.

6.2.8 Vegetation and Wetlands

Effect VEG-1: Disturbance or Removal of Riparian Habitat as a Result of Project Construction

Under the Refined APA, this effect would be similar to that described for Alternative 5 except that less riparian habitat would be permanently lost along the Sacramento River and along ditches due to the reduction in rock slope protection placement and reduced seepage berm widths. Segments A, B, and G would also have less permanent loss of landside vegetation because constructing only a slurry cutoff wall in these segments would reduce the construction footprint.

Construction of the Refined APA would permanently remove a total of approximately 9.76 acres of cottonwood riparian woodland, 1.22 acres of valley oak riparian woodland, 2.17 acres of walnut riparian woodland, and 3.29 acres of riparian scrub (Table 6-5). Loss of riparian habitat would constitute a direct effect.

As with Alternative 5, perennial open water and riparian habitat restoration would be created in parts of the breach locations in Segments B, C, and F. Also as described for Alternative 5, construction of the proposed setback levees would restore part of the historical Sacramento River floodplain in Segments B, C, D, and F, and riparian and oak woodland habitats would be restored.

Indirect effects on riparian habitat adjacent to the construction area could occur because of changes in offsite drainage patterns caused by grading during construction.

Permanent loss of riparian habitat as a result of constructing the Refined APA would occur within the parts of the breach locations that require revetment for erosion control. Implementation of the EC to comply with the City's tree ordinance (Section 2.4.2, Protection of Regulated and Riparian Trees) and implementation of Mitigation Measures VEG-MM-1, VEG-MM-2, VEG-MM-3, and VEG-MM-4 would reduce the level of permanent direct effects and would prevent temporary and indirect effects on riparian habitat. Due to the length of time required for newly planted trees to reach mature size, however, permanent effects on riparian habitat would remain significant and unavoidable.

The new riparian habitat that would be created within the expanded floodplain would compensate for the loss of riparian habitat at a ratio of at least 2:1 and would be considered a beneficial effect, as described below in Effect VEG-7.

Table 6-5. Temporary and Permanent Effect Acreages under the Refined APA

Project Component	Cottonwood Riparian Woodland	Valley Oak Riparian Woodland	Walnut Riparian Woodland	Riparian Scrub	Valley Oak Woodland	Walnut Woodland	Emergent Wetland[1]	Pond[1]	Perennial Drainage[1]	Ditch[1]
Project Footprint										
Temporary	0.03	0	0	0	0.20	0	0	0	0	0
Permanent	9.76	1.22	2.17	3.29	13.78	0.71	0	0	10.31	2.21
Total All Effects	***9.79***	***1.22***	***2.17***	***3.29***	***13.98***	***0.71***	***0***	***0***	***10.31***	***2.21***

[1] These types are under the jurisdiction of the U.S. Army Corps of Engineers, based on verification of the delineation of Waters of the United States.

Effect VEG-2: Loss of Waters of the United States as a Result of Project Construction

Under the Refined APA, this effect would be similar to that described for Alternative 5. Construction of the Refined APA would result in the permanent loss of 10.31 acres of perennial drainage and 2.21 acres of unvegetated ditches. These losses constitute a direct adverse effect. This extent of effect is based on the verified delineation of waters of the United States and waters of the State in the project area. Indirect effects on wetlands and other waters adjacent to the construction area could also occur because of changes in offsite drainage patterns caused by grading during construction.

The Refined APA would have a substantial adverse effect on Federally protected waters of the United States through direct removal, filling, and hydrological interruption; therefore, this effect would be considered significant. Implementation of the EC to develop a SWPPP (Section 2.4.12, Stormwater Pollution Prevention Plan) and Mitigation Measures VEG-MM-2, VEG-MM-3, VEG-MM-4, and VEG-MM-5 would reduce the level of permanent effects and would prevent temporary and indirect effects on wetlands and other waters. In addition, the project would have a beneficial effect due to the partial restoration of the Sacramento River and creation of open water and emergent wetland habitat in Segments B, C, D, and F. This created habitat would compensate for the loss of waters of the United States elsewhere in the project area at a ratio of at least 2:1. No additional mitigation is required to reduce permanent direct effects to a less-than-significant level.

Effect VEG-3: Disturbance or Removal of Protected Trees as a Result of Project Construction

Under the Refined APA, this effect would be similar to that described for Alternative 5, except that the effect would occur in a reduced footprint due to the narrowed berm widths and the use of just a slurry cutoff wall in Segments A and G, and the southern portion of Segment B. The removal or harming of heritage trees as a result of construction activities associated with the Refined APA and postconstruction conditions would conflict with the City's tree ordinance, and this would be a significant effect. Implementing the EC to comply with the City's tree ordinance (Section 2.4.2, Protection of Regulated and Riparian Trees) and Mitigation Measures VEG-MM-2, VEG-MM-3, VEG-MM-4, and VEG-MM-6 would reduce direct and indirect effects to less-than-significant levels. Construction of slurry cutoff walls under the Refined APA would have no effect on vegetation, as described in Alternative 5.

Effect VEG-4: Potential Loss of Special-Status Plant Populations Caused by Habitat Loss Resulting from Project Construction

Under the Refined APA, this effect would be similar to that described for Alternative 5. Because the presence and extent of any special-status plants in the project construction area is unknown, this would be a potentially significant direct effect. Implementation of Mitigation Measures VEG-MM-2, VEG-MM-3, VEG-MM-4, VEG-MM-7, and VEG-MM-8 would reduce this effect to a less-than-significant level.

Effect VEG-5: Introduction or Spread of Invasive Plants as a Result of Project Construction

Under the Refined APA, this effect would be the same as described for Alternative 5. Direct and indirect effects are considered less than significant with the implementation of the EC to avoid or minimize the spread or introduction of invasive plant species (Section 2.4.3, Invasive Plant Species Prevention). No mitigation is required.

Effect VEG-6: Conflict with Provisions of an Adopted HCP/NCCP or other Approved Local, Regional or State Habitat Conservation Plan

Under the Refined APA, this effect would be the same as described for Alternative 5. There would be no effect, and no mitigation is required.

Effect VEG-7: Opportunity for Habitat Restoration in Enlarged Floodplain Following Project Construction

Under the Refined APA, this effect would be similar to that described for Alternative 5, except there would be a 2-year backwater interim condition in the offset areas. This longer interim condition would allow restoration plantings more time to establish than under Alternative 5 and would increase the likelihood of long-term planting success. As described for Alternative 5, it is anticipated that wetland, riparian scrub, and cottonwood riparian woodland would be established and would transition to valley oak riparian habitat as the distance from the river increases. The size of the restoration area under the Refined APA would be similar to that under Alternative 5. This would be a beneficial effect.

6.2.9 Fish and Aquatic Resources

Effect FISH-1: Temporary Disturbance of Fish and Degradation of Habitat during Construction Activities

Direct and indirect effects of the Refined APA on fish resources and aquatic habitat related to increases in suspended sediment and turbidity are expected to be similar to that of Alternative 5. Therefore, in-water construction activities during this period could have significant adverse direct and indirect effects on these special-status species. However, with implementation of the SWPPP EC to control erosion and sedimentation (Section 2.4.12, Stormwater Pollution Prevention Plan), turbidity compliance monitoring (Section 2.4.15, Turbidity Monitoring in Adjacent Water Bodies), and Mitigation Measure FISH-MM-1, these effects would be reduced to a less-than-significant level.

Effect FISH-2: Adverse Effects on Fish Health and Survival Associated with Potential Discharge of Contaminants during Construction Activities

Based on similarities in project construction, design, and ECs, direct and indirect effects of the Refined APA on fish resources and aquatic habitat related to the potential release of contaminants are expected to be similar to that of Alternative 5. Therefore, implementation of spill prevention and control procedures as part of the project ECs (Section 2.4.14, Spill Prevention, Control, and Countermeasure Plan) are expected to make these potentially significant effects less than significant. No mitigation is necessary.

Effect FISH-3: Loss or Degradation of Riparian and SRA Cover Associated with Levee Breaching

Direct and indirect effects of the Refined APA on fish resources and aquatic habitat related to losses of riparian and SRA cover are expected to be similar to that of Alternative 5, but to a lesser extent due to the reduced amount of rock slope protection that would be placed. However, riparian and SRA cover losses are still expected to be substantial, resulting in significant adverse effects on fish resources and aquatic habitat. Implementation of Mitigation Measure FISH-MM-2 would reduce permanent effects on riparian and SRA cover and, over time, substantially reduce long-term deficits

in habitat values along the affected shoreline. Additional onsite compensation would likely be achieved through the creation and expansion of riparian and wetland habitat adjacent to the river within the levee breaches (Mitigation Measure FISH-MM-3).

Effect FISH-4: Adverse Effects on Fish and Aquatic Resources from the Introduction of Aquatic Invasive Species

Based on similarities in construction methods that could allow for the introduction of aquatic invasive species, direct and indirect effects of the Refined APA on fish and aquatic resources related to potential introductions of aquatic invasive species are expected to be similar to those of Alternative 5. Implementation of the Aquatic Invasive Species Prevention EC (Section 2.4.22, Aquatic Invasive Species Prevention) is expected to reduce these potentially significant effects to less-than-significant levels. No mitigation is necessary.

Effect FISH-5: Contamination of Aquatic Habitat Associated with Excavation and Exposure of Contaminated Borrow Material

Based on similarities in setback levee construction, design, and assumptions, direct and indirect effects of the Refined APA on fish resources and aquatic habitat related to the potential release of soil contaminants are expected to be similar to that of Alternative 5. Implementation of the EC described in Section 2.4.18, Soil Hazards Testing and Soil Disposal Plan, would reduce these direct and indirect effect to a less-than-significant level.

Effect FISH-6: Fish Stranding in Offset Area Associated with Floodplain Inundation

Based on similarities in setback levee construction, design, and assumptions, direct effects of the Refined APA on fish resources and aquatic habitat related to potential stranding of fish on the restored floodplain are expected to be similar to that of Alternative 5. The potential magnitude of fish stranding would be considered significant. Implementation of Mitigation Measure FISH-MM-4 would reduce this significant effect to a less-than significant level.

Effect FISH-7: Increases in Aquatic Habitat Associated with Offset Floodplain Area

Based on similarities in setback levee construction, design, and assumptions, the direct beneficial effect of the Refined APA on fish resources and aquatic habitat related to reconnection and restoration of functional floodplain habitat are expected to be similar to that described for Alternative 5. This effect would be beneficial.

6.2.10 Wildlife

Effect WILD-1: Disturbance or Loss of VELBs and Their Habitat (Elderberry Shrub)

Direct effects on VELBs and their habitat from implementation of the Refined APA are similar to those described for Alternative 5. Under the Refined APA, up to 18 elderberry shrubs would be removed or transplanted, and up to 23 elderberry shrubs would be affected by other construction activity. Implementation of Mitigation Measures VEG-MM-3, WILD-MM-1, WILD-MM-2, and WILD-MM-3 for the Refined APA would reduce potential effects on VELBs to less than significant.

Effect WILD-2: Disturbance or Loss of Western Pond Turtles and Their Habitat

The Refined APA would result in temporary and permanent direct and indirect effects on western pond turtles in agricultural ditches, as described for Alternative 5. Effects on western pond turtles would be significant. Implementation of Mitigation Measures VEG-MM-3 and WILD-MM-4 for the Refined APA would reduce potential effects on western pond turtles to less than significant.

Effect WILD-3: Disturbance or Loss of Giant Garter Snakes and Their Habitat during Construction

The Refined APA would result in direct and indirect effects on giant garter snakes in agricultural ditches similar to those described for Alternative 5. The Refined APA would result in the permanent loss of approximately 2.24 acres of suitable upland habitat for giant garter snakes, but would have no loss of suitable aquatic habitat. The Refined APA would result in no temporary effects on aquatic habitat for giant garter snakes in the construction footprint, including staging areas. Fewer than 155 acres of suitable upland are present in the borrow sites, of which only a portion would be temporarily affected during construction of the Refined APA. Implementation of Mitigation Measures VEG-MM-3, WILD-MM-5, WILD-MM-6, and WILD-MM-7 for the Refined APA would reduce potential effects on giant garter snakes to less than significant.

Effect WILD-4: Loss of Swainson's Hawk Foraging and Nesting Habitat

The Refined APA would result in direct effects on Swainson's hawk foraging habitat similar to those described for Alternative 5. Under the Refined APA, project implementation would result in the permanent loss of approximately 194 acres of suitable Swainson's hawk foraging habitat and temporary loss (restored within 1 year) of approximately 80 acres of suitable foraging habitat. In addition to foraging habitat losses, Alternative 5 would result in permanent effects on approximately 38 acres of known and potential Swainson's hawk nesting habitat. Disturbance of Swainson's hawk foraging habitat in borrow areas would be the same as described under Alternative 5.

The loss of foraging and nesting habitat is considered a direct significant effect because it could result in a substantial decrease in the local population of Swainson's hawks. Implementation of Mitigation Measures VEG-MM-1 and VEG-MM-3 (described in Section 3.8, Vegetation and Wetlands), as well as WILD-MM-8 and WILD-MM-9, would avoid, minimize, and/or compensate for direct effects on Swainson's hawks' foraging and nesting habitat, thereby reducing the effect to a less-than-significant level.

Effect WILD-5: Disturbance or Loss of Western Burrowing Owls and Their Habitat

The Refined APA would result in direct effects on burrowing owls similar to those described for Alternative 5. Conversion of the existing habitat associated with the Refined APA would result in the permanent loss of approximately 194 acres of potential burrowing owl nesting and foraging habitat. The Refined APA also would result in temporary effects on approximately 80 acres of potential burrowing owl nesting and foraging habitat from construction and up to 1,603 acres of potential habitat from borrow sites. This direct effect would be significant, but implementation of Mitigation Measures VEG-MM-3, WILD-MM-10, and WILD-MM-11 would avoid and minimize direct effects on burrowing owls, thereby reducing effects to a less-than-significant level and avoiding violation of the MBTA and CFGC.

Effect WILD-6: Loss or Disturbance of Tree-, Shrub-, and Ground-Nesting Special-Status and Non-Special-Status Migratory Birds and Raptors

The Refined APA would result in direct and indirect effects on migratory bird and raptor nesting habitat as described for Alternative 5. These direct and indirect effects would be significant, but implementation of Mitigation Measures VEG-MM-1, VEG-MM-3, and WILD-MM-8 would avoid and minimize effects on nesting birds and raptors, thereby reducing effects to a less-than-significant level and avoiding violation of the MBTA and CFGC.

Effect Wild-7: Loss or Disturbance of Bats and Bat Roosts

The Refined APA would result in direct effects on roosting bats similar to those described for Alternative 5. These direct effects would be significant because the subsequent population decline could affect the viability of the local bat populations. Implementation of Mitigation Measures VEG-MM-1, VEG-MM-3, and WILD-MM-12 would reduce this direct effect to a less-than-significant level.

Effect WILD-8: Disturbance to or Loss of Common Wildlife Species' Individuals and Their Habitats

The Refined APA would result in direct and indirect effects on individuals of common wildlife species, as described for Alternative 5. No mitigation is required.

Effect WILD-9: Disruption of Wildlife Movement Corridors

The Refined APA would result in temporary direct and indirect effects on wildlife movements similar to those described for Alternative 5. Disruption of movement through the project area is considered a less-than-significant direct and indirect effect. No mitigation is required.

Effect WILD-10: Conflict with Provisions of an Adopted HCP/NCCP or other Approved Local, Regional or State Habitat Conservation Plan

As described for Alternative 5, there is no adopted HCP/NCCP applicable to the project area. Therefore, implementation of the Refined APA would not conflict with provisions of an adopted HCP/NCCP. There would be no direct or indirect effect.

6.2.11 Land Use and Agriculture

Effect LU-1: Temporary Changes in Land Uses to Accommodate Staging, Haul Routes, and Stockpiling of Soil Materials

This direct effect would be the same as described under Alternative 5, except there would be five staging areas, which would occupy a total of 25.2 acres (Plate 2-6a) (revised). This effect is considered less than significant. No mitigation is required.

Effect LU-2: Change in Land Use Designations or Potential to Conflict with Local Land Use Designations as a Result of Construction

This effect would be similar to that described under Alternative 5, but less extensive due to the reduced footprint of the flood risk–reduction measures. However, this effect would still be significant. As discussed under Alternative 5, no mitigation is feasible. Accordingly, this effect is significant and unavoidable.

Effect LU-3: Loss of Important Farmland and Agricultural Production Value

This direct effect would be the same in type as described under Alternative 5, but the effect would be reduced because of the smaller footprint of the flood risk–reduction measures proposed under the Refined APA. However, implementing the Refined APA would result in the permanent loss of approximately 27 acres of prime farmland in the construction area, and up to 509 acres of prime farmland and 16 acres of farmland of statewide importance in potential borrow areas and staging areas could be temporarily affected. Implementation of the Refined APA would also result in the loss of agricultural production value as a result of permanent conversion of agricultural lands in the construction area, but to a lesser extent than under Alternative 5. This effect is significant and unavoidable because of the irretrievable conversion of 27 acres of prime farmland. Implementation of Mitigation Measures GEO-MM-1, discussed in Section 3.3, Geology, Seismicity, Soils, and Mineral Resources, LU-MM-1, and LU-MM-2 would help to offset and avoid the conversion of prime farmland in the county but would not reduce the project's effects to a less-than-significant level.

6.2.12 Environmental Justice, Socioeconomic, and Community Effects

Effect EJSOC-1: Temporary Increase in Employment in the Region during Construction

This effect would be the same as described under Alternative 5. This indirect effect on regional economic activity would be beneficial.

Effect EJSOC-2: Temporary or Permanent Displacement of Residents due to Project Construction

The Refined APA would require the demolition of nine residences in Segment B, one residence in Segment D, and two residences in Segment F. Seven fewer residences would be demolished under this alternative when compared to Alternative 5. Appropriate compensation would be provided to displaced landowners and tenants, and residents would be relocated to comparable replacement housing. These overall direct and indirect effects on residents and the community would be the same as those described under Alternative 5 and would be significant and unavoidable.

6.2.13 Visual Resources

Effect VIS-1: Result in Temporary Visual Effects from Construction

Under the Refined APA, temporary visual effects from construction would be similar to those under Alternative 5, but to a greater degree. While the Refined APA would have a smaller surface area of new earthen surfaces due to the reduced construction footprint, construction activities associated with Refined APA would occur over 4 more years than under Alternative 5 and would extend the length of this temporary effect by preventing access to scenic vistas for a longer period of time. As under Alternative 5, the construction's proximity to residential viewers who are highly sensitive and the displacement of residents would result in direct adverse effects. Effects would also be adverse because major construction is not a common visual element. Implementation of Mitigation Measure VIS-MM-3 and the Property Acquisition Compensation and Temporary Resident Relocation Plan EC described in Chapter 2, "Alternatives," would help mitigate the effect of nighttime construction on residential viewers, but effects still would be adverse. This direct effect is significant and unavoidable.

Effect VIS-2: Adversely Affect a Scenic Vista

Under the Refined APA, direct effects on scenic vistas would be similar to those under Alternative 5, but to a greater degree due to the longer amount of time scenic vistas would be inaccessible. This effect would be adverse, and there is no available mitigation. Accordingly, this effect is significant and unavoidable. Ongoing maintenance would be similar to existing levee maintenance and would not result in direct adverse effects.

Effect VIS-3: Substantially Degrade the Existing Visual Character or Quality of the Site and Its Surroundings

Under the Refined APA, direct effects on the existing visual character or quality of the site and its surroundings would be similar to those under Alternative 5, and changes in views would be perceived by all viewer groups. Therefore, the proposed project would have an adverse effect on the existing visual character and quality of the site and its surroundings, and there is no available mitigation. Accordingly, this effect is significant and unavoidable. Ongoing maintenance would be similar to existing levee maintenance and would not result in direct adverse effects.

Effect VIS-4: Create a New Source of Substantial Light or Glare That Would Adversely Affect Day or Nighttime Public Views

This direct effect would be similar to that under Alternative 5. However, relative to Alternative 5, adverse effects would be reduced under this alternative because the displacement of agricultural fields, vegetation, and development occurs over a smaller area due to reduced seepage berm widths and the reduced construction footprint in Segments A, B, and G. However, this effect would still be adverse, and there is no available mitigation. Accordingly, this effect is significant and unavoidable. Ongoing maintenance would be similar to existing levee maintenance and would not result in direct adverse effects.

6.2.14 Recreation

Effect REC-1: Temporary Disruption of Recreation Opportunities during Construction

Under the Refined APA, this direct effect would be the same as described under Alternative 5. This effect is less than significant with the EC requiring notification of construction area closure (described in Section 2.4.8, Construction Area Closure Notification). No mitigation is required.

Effect REC-2: Temporary Obstruction of Access to Marina Facilities during Construction

Under the Refined APA, this direct effect would be the same as described under Alternative 5. This effect is less than significant with the EC to preserve marina access (described in Section 2.4.10, Preserve Marina Access). No mitigation is required.

Effect REC-3: Temporary Disruption of Recreational Boating Activities during Construction

Under the Refined APA, this direct effect would be the same as described under Alternative 5, but to a lesser degree because of the reduction in rock slope protection placement. This effect is less than significant with the EC to reduce construction-related effects on navigation (described in Section 2.4.9, Minimize Construction-Related Effects on Navigation). No mitigation is required.

Effect REC-4: Long-Term Reduction in Quality of Existing Recreation Opportunities in the Levee Corridor

Under the Refined APA, this direct effect would be the same as described under Alternative 5. Because a large portion of mature riparian woody vegetation would be preserved under this alternative, and because construction of the setback levees would open up a significant amount of land to public recreational use, this effect is less than significant.

Effect REC-5: Incompatibility with Planning Documents

Under the Refined APA, this indirect effect would be the same as described under Alternative 5. Because Alternative 5 alone would not preclude development of River Park, and because its lost functions would be replaced with the Parkway described in the Southport Sacramento River Corridor Recreation Program, this effect is less than significant.

6.2.15 Utilities and Public Services

Effect UTL-1: Potential Temporary Disruption and Damage of Domestic Water Supply and Irrigation/Drainage Facilities due to Project Construction

Direct and indirect effects and mitigation associated with Effect UTL-1 under the Refined APA are identical to those described under Alternative 5. Because the potential exists for damage to cause delay in provision of water supply and drainage infrastructure elements, this potential construction direct and indirect effect is considered significant. Mitigation Measure UTL-MM-1 would reduce this potential effect to a less-than-significant level.

Effect UTL-2: Decrease in Domestic and Irrigation Water Supply

Indirect effects and mitigation associated with Effect UTL-2 under the Refined APA are identical to those described under Alternative 5. This would be an indirect effect on pumped well capacity. However, the predicted effects are limited to Segment G, and there are very few wells in this area. These effects are considered to be significant. Mitigation Measure UTL-MM-2 would reduce the effects to a less-than-significant level.

Effect UTL-3: Damage of Public Utility Infrastructure and Disruption of Service as a Result of Project Construction

Direct effects and mitigation associated with Effect UTL-3 under the Refined APA are identical to those described under Alternative 5. Because the potential exists for damage and service interruptions to existing utilities, the direct effect of this potential construction effect is considered significant. Mitigation Measure UTL-MM-3 would reduce this potential effect to a less-than-significant level.

Effect UTL-4: Increase in Solid Waste Generation due to Project Construction

Indirect effects associated with Effect UTL-4 under the Refined APA are identical to those described above under Alternative 5. This indirect effect would be less than significant.

Effect UTL-5: Increase in Emergency Response Times during Project Construction

Direct effects associated with Effect UTL-5 under the Refined APA are similar to those described under Alternative 5. Implementation of the Traffic Control and Road Maintenance Plan EC, described

in Section 2.4.6, Traffic Control and Road Maintenance Plan, would minimize construction-related effects on emergency response times. This direct effect would be less than significant. No mitigation is required.

6.2.16 Public Health and Environmental Hazards

Effect HAZ-1: Incidental Release of Hazardous Materials during Construction

Direct and indirect effects associated with Effect HAZ-1 under the Refined APA are identical to those described under Alternative 5. As discussed in Chapter 2, "Alternatives," the implementation of ECs, including a SWPPP, a BSSCP, and an SPCCP, would ensure that the risk of accidental spills and releases into the environment would be minimal and that the direct effect on water quality would be less than significant. Direct and indirect effects are considered less than significant. No mitigation is required.

Effect HAZ-2: Exposure of Hazardous Materials Encountered at Project Site

Direct effects associated with Effect HAZ-2 under Alternative 5 are identical to those described under Alternative 5. Implementation of the Soil Hazards Testing and Soil Disposal Plan detailed in Section 2.4.18, Soil Hazards Testing and Soil Disposal Plan, would limit this direct effect to a less-than-significant level. No mitigation is required.

Effect HAZ-3: Safety Hazards from the Construction Site and Vehicles

Direct effects associated with Effect HAZ-3 under the Refined APA are identical to those described under Alternative 5. Proper signage and detours would be provided as stated in the ECs to provide notification of construction area closure (described in Chapter 2, "Alternatives"). These measures would reduce the risk to the public when construction is under way and when it is not. Therefore, this direct effect would be less than significant. No mitigation is required.

Effect HAZ-4: Exposure of People or Structures to Flood Risk-Related Hazards

Direct effects associated with Effect HAZ-4 under the Refined APA are identical to those described under Alternative 5. Implementation of the Refined APA's flood risk–reduction measures would reduce the level of flood risk in the city of West Sacramento from its present level, resulting in a direct beneficial effect.

Effect HAZ-5: Accidental Release of Hazardous Materials into the Environment during Project Construction or Operation

Direct effects associated with Effect HAZ-5 under the Refined APA are identical to those described under Alternative 5. Therefore, this direct effect would be significant. Implementation of Mitigation Measure HAZ-MM-1 would reduce this effect to a less-than-significant level.

Effect HAZ-6: Changes in Exposure to Mosquitoes

Under the Refined APA, the existing levee would be breached as described in Section 6.1.2.2, Construction Details, which would create a 2-year backwater interim condition as opposed to the 1-year interim condition under Alternative 5. While the effect would be similar to that described under Alternative 5, the longer interim condition would extend this effect under the Refined APA.

However, WSAFCA would coordinate with SYMVCD to ensure that abatement measures are enacted consistent with the Mosquito and Vector Control Management Plan specified in Section 2.4, Environmental Commitments. The long-term effects of the Refined APA relating to mosquito exposure would be the same as described under Alternative 5. This effect is less than significant.

Effect HAZ-7: Safety Hazards from Offset Area Operation

Under the Refined APA, direct and indirect effects associated with Effect HAZ-7 under Alternative 5 are identical to those described under Alternative 5. Direct and indirect effects are considered less than significant. No mitigation is required.

6.2.17 Cultural Resources

Effect CUL-1: Effects on Architectural (Built Environment) Resources and Cultural Landscapes

The portion of Sacramento River Levee in the study area appears to meet NRHP and CRHR criteria. Under the Refined APA, construction related to the project would demolish or substantially alter the physical characteristics of the levee or cause a major change to its engineering design or overall setting. This would constitute a significant effect under CEQA (14 CCR 15064.5) and an adverse effect under Section 106 of the NHPA and NEPA. Therefore, the direct effect on the levee would be significant. While implementation of Mitigation Measure CUL-MM-1 would reduce the intensity of the effect, the effect would still be significant and unavoidable.

Effect CUL-2: Change in the Significance of an Archaeological Resource

Direct effects and mitigation associated with Effect CUL-2 under the Refined APA are identical to those described under Alternative 5. The direct effect on archaeological resources would be significant. While implementation of Mitigation Measures CUL-MM-2 and CUL-MM-3 would reduce the intensity of the effect, the effect would still be significant and unavoidable.

Effect CUL-3: Disturbance of Native American and Historic-Period Human Remains

Direct effects and mitigation associated with Effect CUL-3 under the Refined APA are identical to those described under Alternative 5. The disturbance of any human remains is considered a significant direct effect. Implementation of the human remains discovery provisions in Mitigation Measure CUL-MM-4 would likely reduce the severity of this effect, but it would still be considered significant and unavoidable.

Effect CUL-4: Effects on Cultural Resources Associated with Excavation of Borrow Material

Direct effects and mitigation associated with Effect CUL-4 under the Refined APA are identical to those described under Alternative 5. WSAFCA and USACE would complete an inventory, evaluation, and findings of effect, and implement treatment as necessary for cultural resources that may occur in the borrow areas, as required under Mitigation Measures CUL-MM-1, CUL-MM-2 and CUL-MM-3. WSAFCA would prioritize preservation in place for archaeological resources as required under State CEQA Guidelines Section 15126.4(b). In addition, human remains would be managed and protected as required under Mitigation Measure CUL-MM-4. These mitigation measures have been adopted for all borrow activities under Mitigation Measure CUM-MM-5. However, because sites and associated human remains may be buried with little surface manifestation, some register-eligible archaeological resources may be disturbed before they can be discovered. In addition, preservation

of sites, remains, and built environment resources that may be discovered may not be feasible in all instances because of the need to coordinate protection of other natural resources and the need to locate suitable material for implementation of flood risk–reduction measures. For these reasons, this direct effect remains significant and unavoidable.

6.2.18 Growth-Inducing and Cumulative Effects

6.2.18.1 Growth-Inducing Effects

Under the Refined APA, there would be no change in growth-inducement relative to Alternative 5, and growth-inducing effects would be the same as described in Section 4.1.3, Environmental Consequences.

6.2.18.2 Cumulative Effects

Under the Refined APA, direct effects would be similar to those described under Alternative 5, resulting in contributions to cumulative effects consistent with those described in Section 4.2.4, Cumulative Effects by Resource. There would be no additional cumulatively considerable effects.

Chapter 7
References

7.1 Chapter 2

California Department of Fish and Wildlife. 2013. *Final Lake or Streambed Alteration Agreement, Notification No. 1600-2013-0024-R3, Pioneer Bluff Bridge Project.* June 3, 2013. Bay Delta Region, Napa, CA.

HDR, Inc. 2014. *EIS/EIR Disturbed Borrow Area*. Technical Memorandum. June. Sacramento, CA.

7.2 Chapter 3

Jones, Matthew. Senior Air Quality Planner. Yolo-Solano Air Quality Management District. April 2014—Telephone interview with Laura Yoon, ICF International, Sacramento, CA.

7.3 Chapter 6

Reclamation District 900. 2014. *Erosion Protection in Segments C, D, E, and F.* June. Prepared for: West Sacramento Area Flood Control Agency, West Sacramento, CA.

Chapter 8
List of Recipients

Pursuant to State CEQA Guidelines Section 15095, a copy of the Final EIR will be filed with the planning departments of the City of West Sacramento, County of Yolo, City of Sacramento, and County of Sacramento. Upon certification, a copy of the certified Final EIR will be provided to each responsible agency.

Additionally, in compliance with State CEQA Guidelines Section 15088, WSAFCA provided the Final EIR, containing its proposed response to comments from public agencies, at least 10 days prior to certification of the Final EIR to the following public agencies.

8.1 Government Departments and Agencies

8.1.1 Federal Agencies

- Federal Emergency Management Agency, Region IX
- U.S. Army Corps of Engineers
- U.S. Environmental Protection Agency, Region IX
- U.S. Fish & Wildlife Service

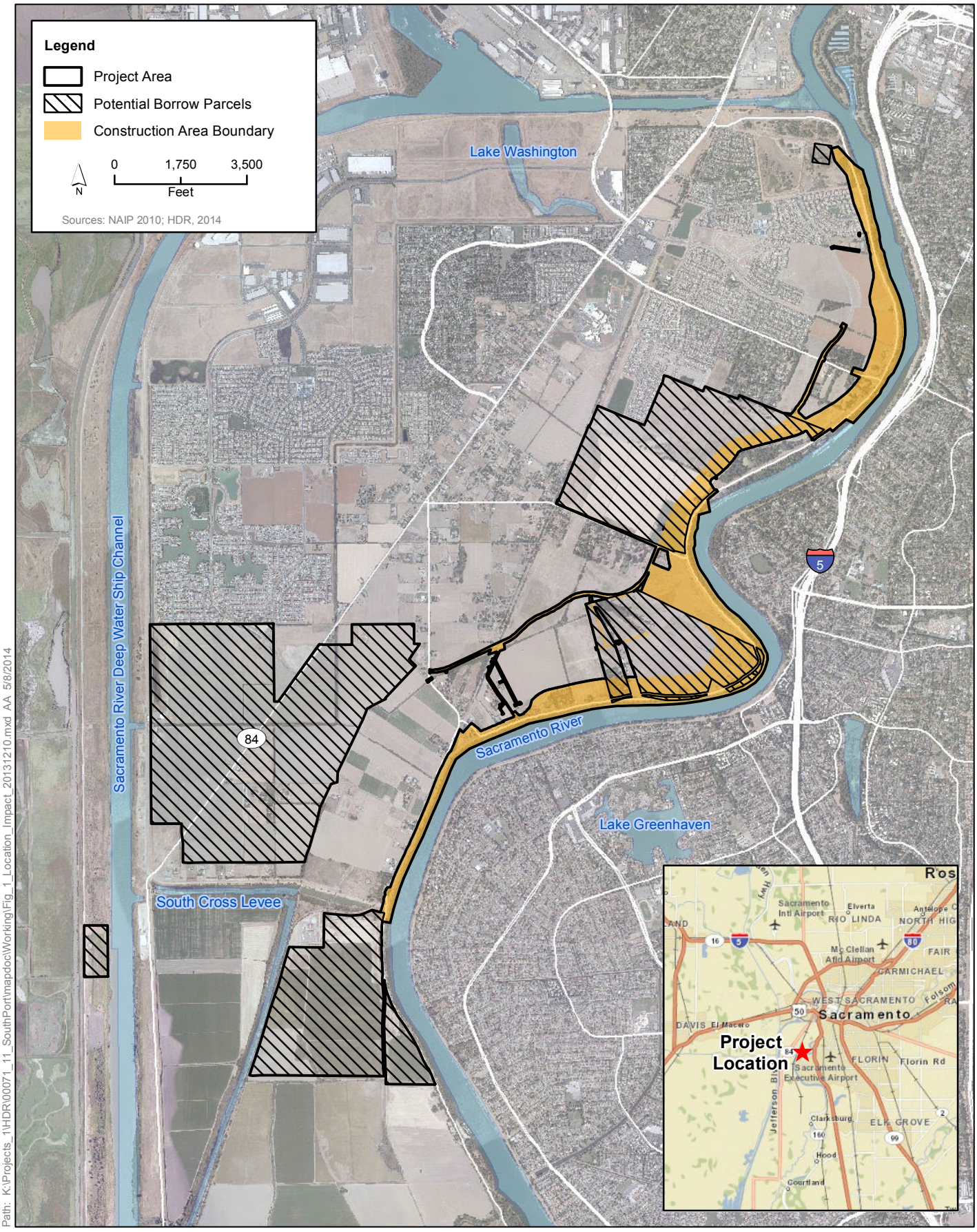
8.1.2 State Agencies

- California Department of Fish and Wildlife, Bay Delta Region
- California Department of Transportation, District 3
- California State Lands Commission
- Delta Stewardship Council

8.1.3 Regional, County, and City

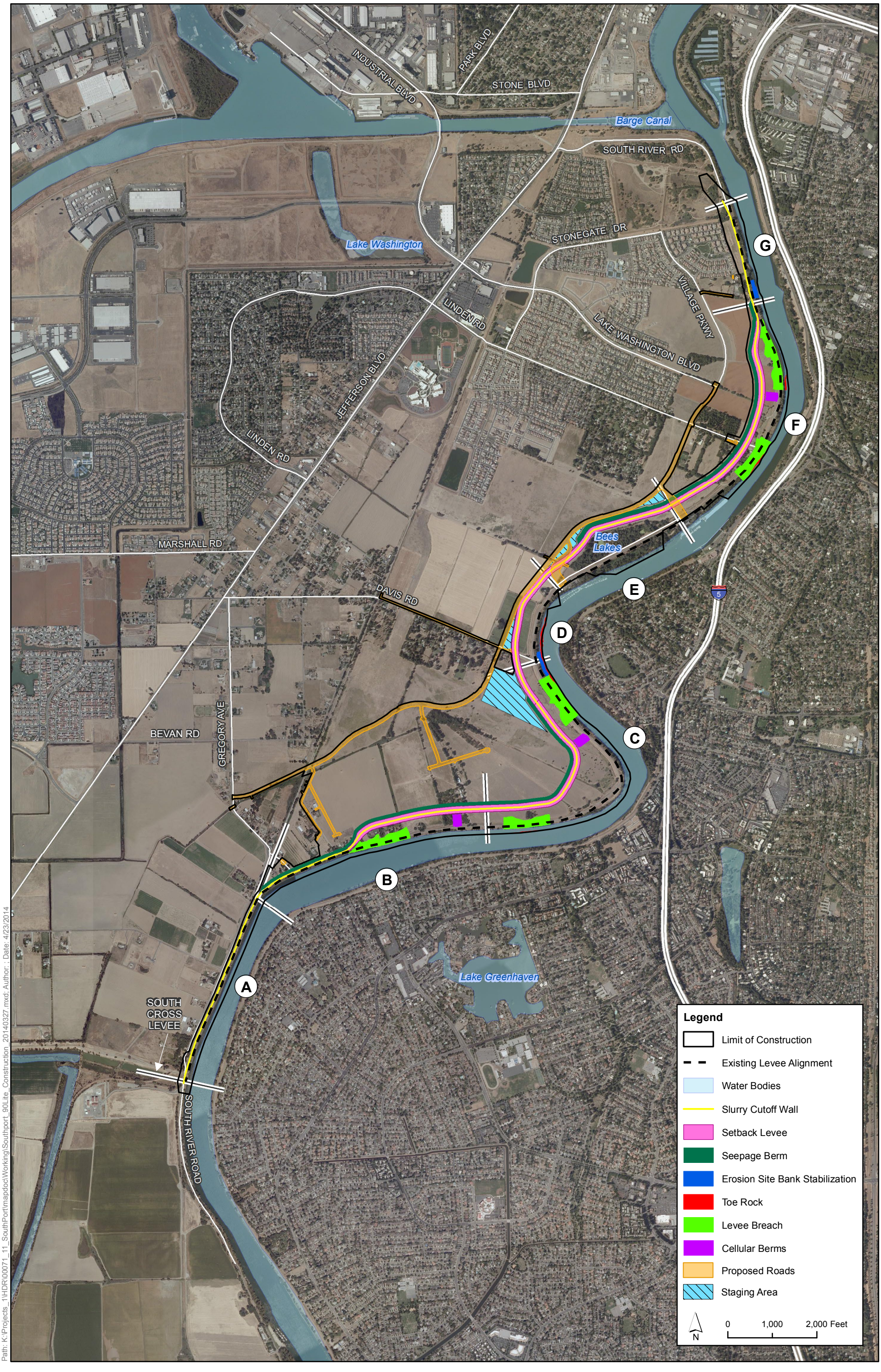
- County of Yolo
- Sacramento Metropolitan Air Quality Management District
- Sacramento Municipal Utility District
- Sacramento Regional County Sanitation District
- Yolo-Solano Air Quality Management District

Plates



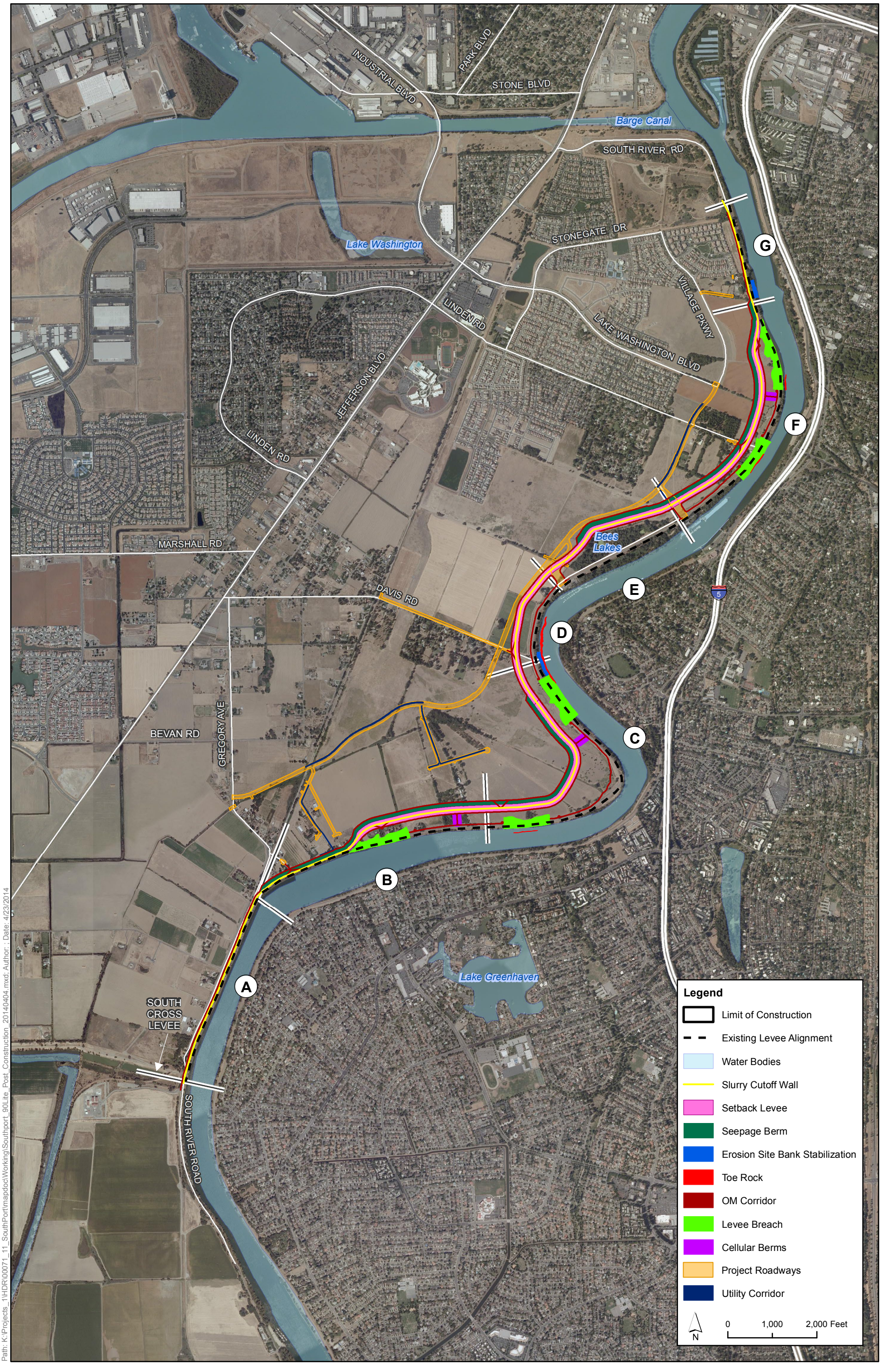
Path: K:\Projects_1\HDR\00071_11_SouthPort\mapdoc\Working\Fig_1_Location_Impact_20131210.mxd AA 5/8/2014

Plate 6-1
Project Location



Path: K:\Projects_1\HDR\00071_11_SouthPort\mapdoc\Working\Southport_90Lite_Construction_20140327.mxd; Author: ; Date: 4/23/2014

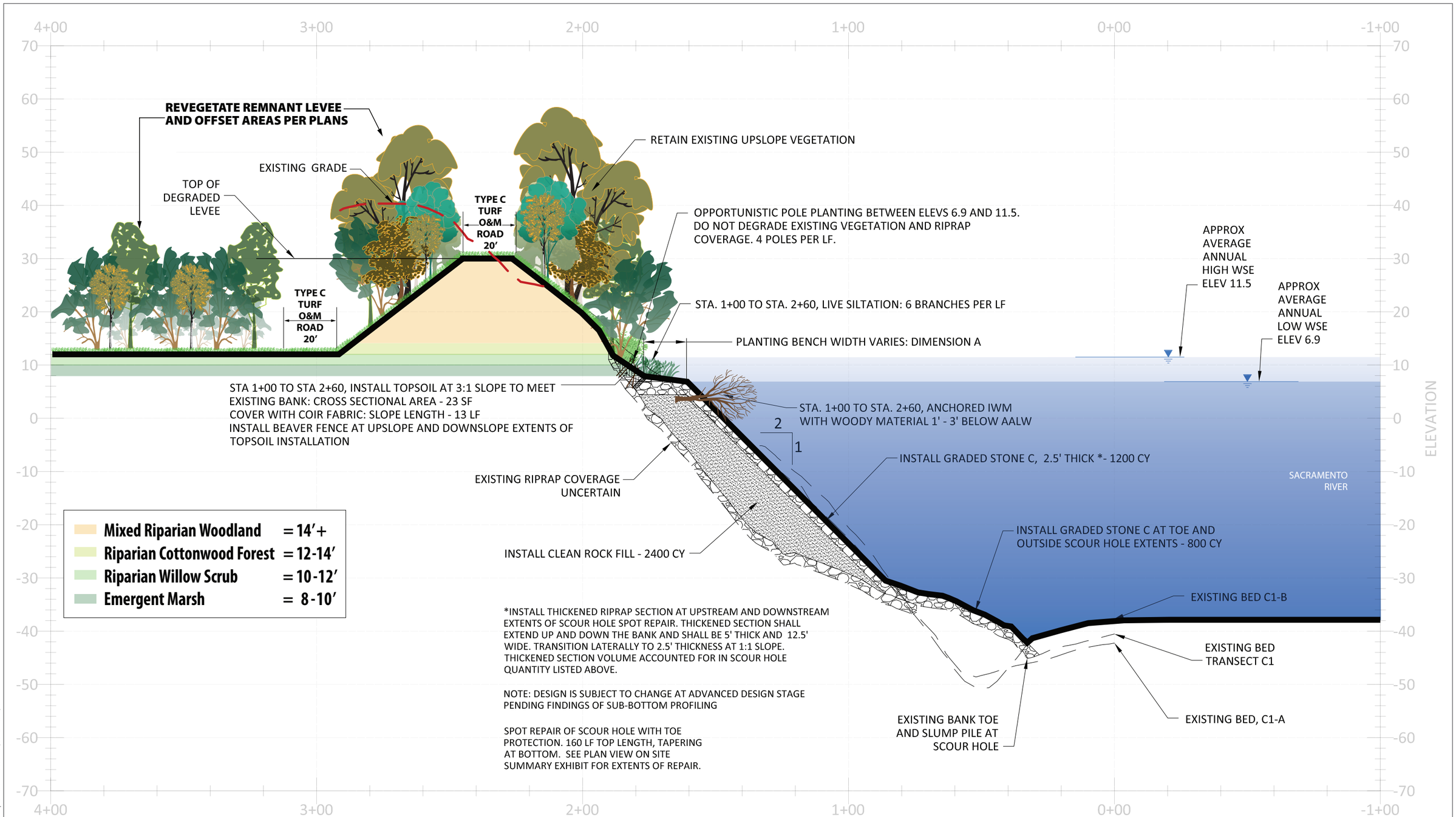
Plate 6-2a
Southport Sacramento River Early Implementation Project Construction Components - Refined APA



Path: K:\Projects_1\HDR\00071_11_SouthPort\mapdoc\Working\Southport_90Lite_Post_Construction_20140404.mxd; Author: ; Date: 4/23/2014

Plate 6-2b

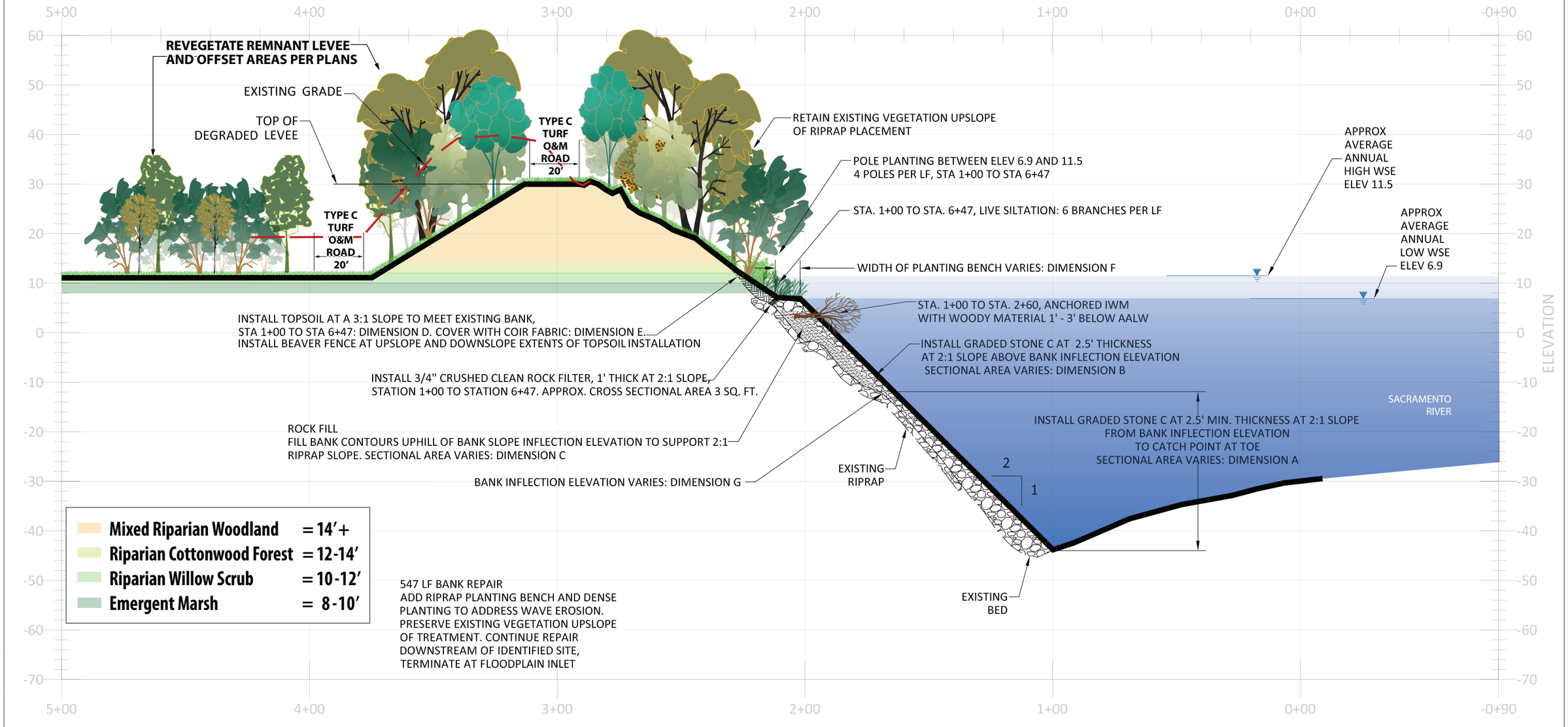
Southport Sacramento River Early Implementation Project Post-Construction Conditions - Refined APA



Source: cbec, inc.

00071.11 Southport/Cross Sections (05-08-2014) SS

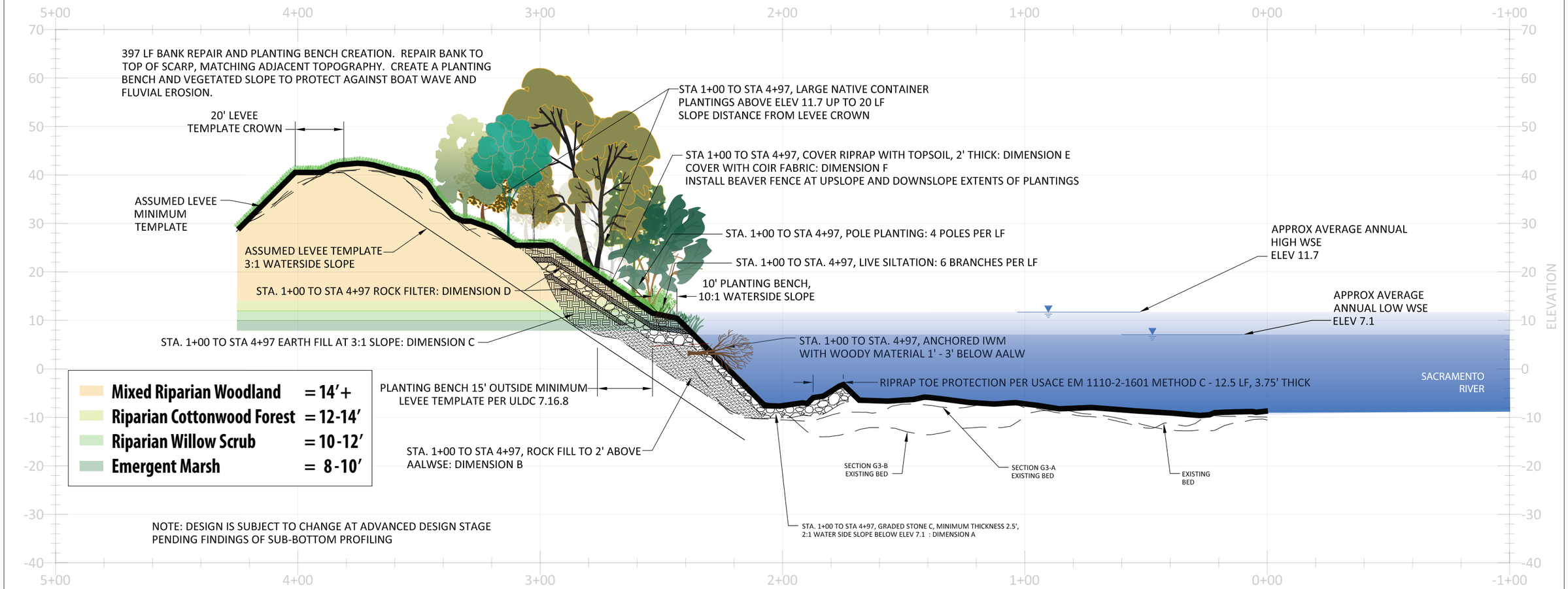
Plate 6-3a
Typical Section of Bank Armoring, Fill, and Restoration Plantings
Erosion Site C1, Remnant Levee, and O&M Roads
Existing Levee Station 166+00



Source: cbec, inc.

00071.11 Southport/Cross Sections (05-08-2014).SS

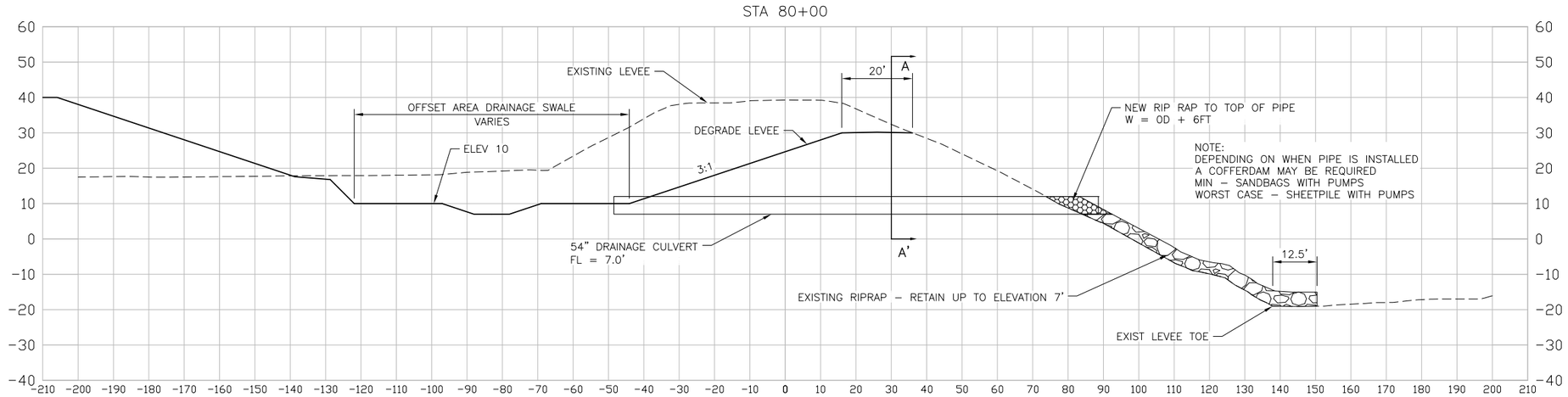
Plate 6-3b
Typical Section of Bank Armoring, Fill, and Restoration Plantings
Erosion Site C2, Remnant Levee, and O&M Roads
Existing Levee Station 160+00



Source: cbec, inc.

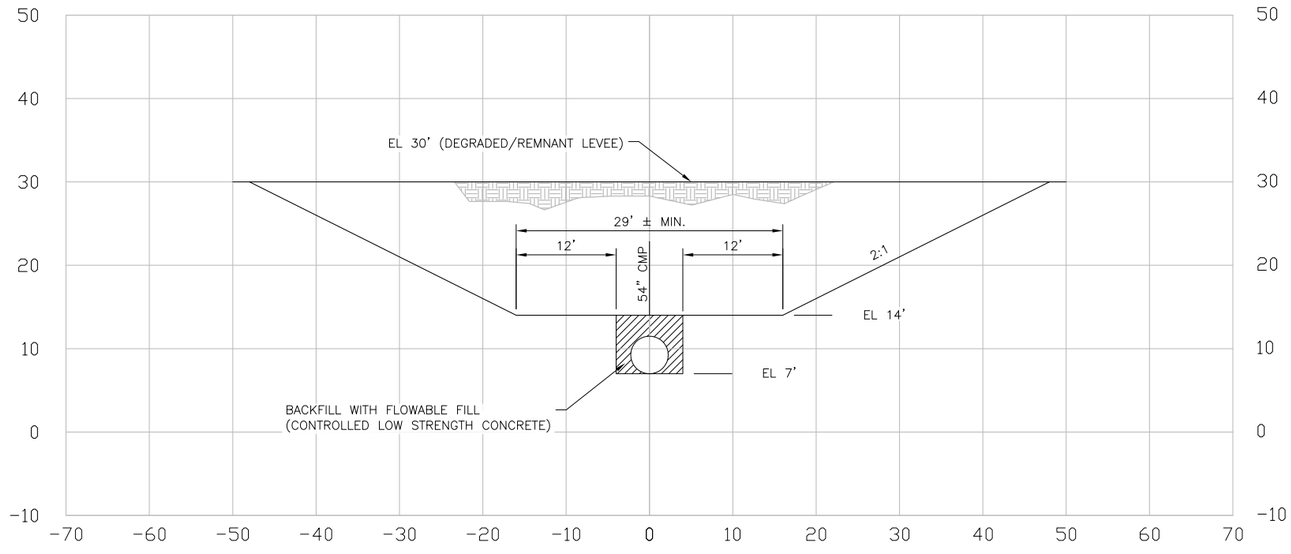
00071.11 Southport/Cross Sections (05-08-2014) SS

Plate 6-3c
Typical Section of Bank Armoring, Fill, and Restoration Plantings
Erosion Site G3
Existing Levee Station 275+00



TYPICAL SECTION

SCALE: 1" = 20'



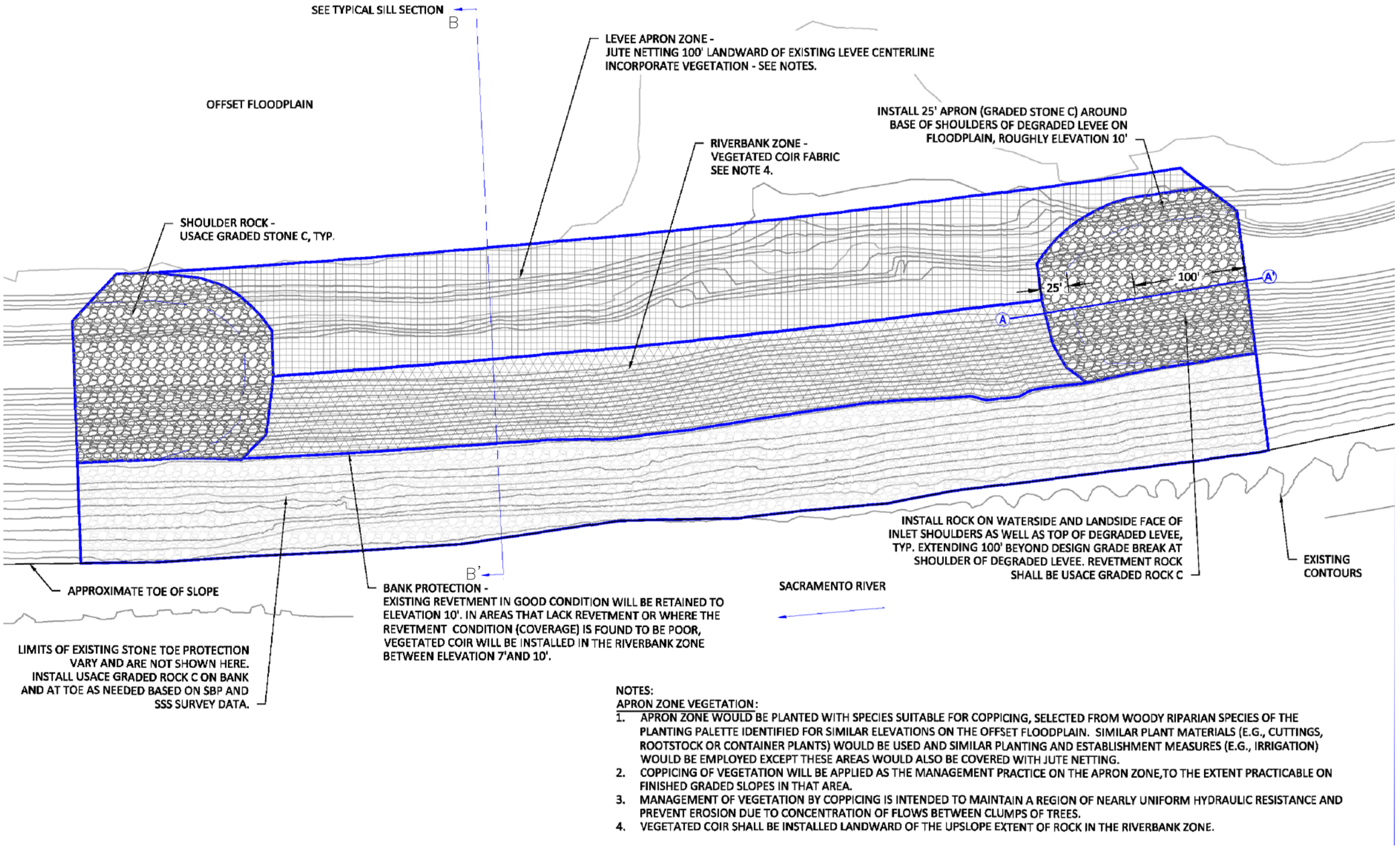
TYPICAL TRENCH SECTION A–A'

SCALE: 1" = 10'

Source: HDR (2014)

00071.11 Southport/EIS-EIR (06-27-2014) SS

Plate 6-4
Typical Culvert Section
Breaches N2, S1, S2



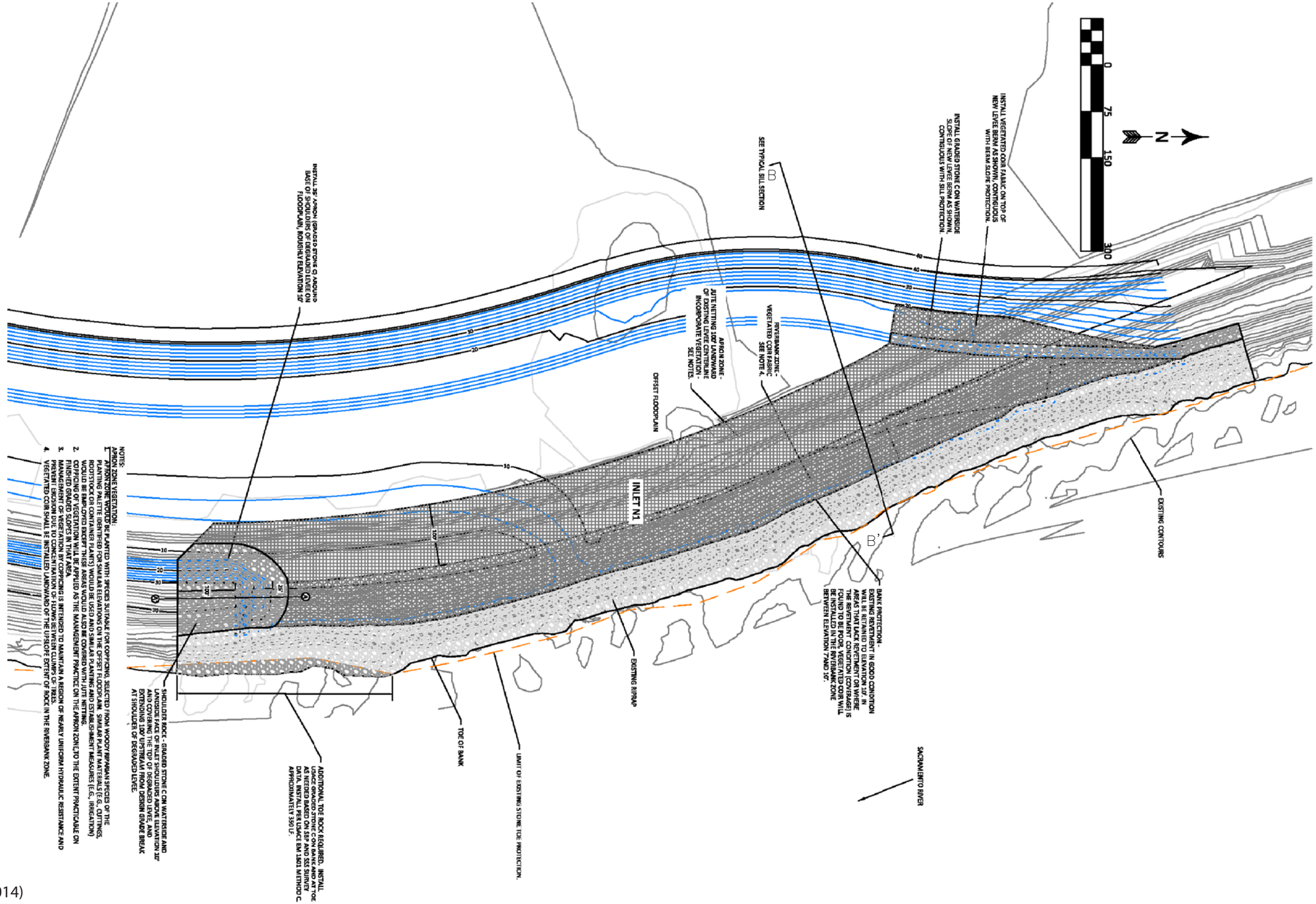
NOTES:

APRON ZONE VEGETATION:

1. APRON ZONE WOULD BE PLANTED WITH SPECIES SUITABLE FOR COPPICING, SELECTED FROM WOODY RIPARIAN SPECIES OF THE PLANTING PALETTE IDENTIFIED FOR SIMILAR ELEVATIONS ON THE OFFSET FLOODPLAIN. SIMILAR PLANT MATERIALS (E.G., CUTTINGS, ROOTSTOCK OR CONTAINER PLANTS) WOULD BE USED AND SIMILAR PLANTING AND ESTABLISHMENT MEASURES (E.G., IRRIGATION) WOULD BE EMPLOYED EXCEPT THESE AREAS WOULD ALSO BE COVERED WITH JUTE NETTING.
2. COPPICING OF VEGETATION WILL BE APPLIED AS THE MANAGEMENT PRACTICE ON THE APRON ZONE,TO THE EXTENT PRACTICABLE ON FINISHED GRADED SLOPES IN THAT AREA.
3. MANAGEMENT OF VEGETATION BY COPPICING IS INTENDED TO MAINTAIN A REGION OF NEARLY UNIFORM HYDRAULIC RESISTANCE AND PREVENT EROSION DUE TO CONCENTRATION OF FLOWS BETWEEN CLUMPS OF TREES.
4. VEGETATED COIR SHALL BE INSTALLED LANDWARD OF THE UPSLOPE EXTENT OF ROCK IN THE RIVERBANK ZONE.

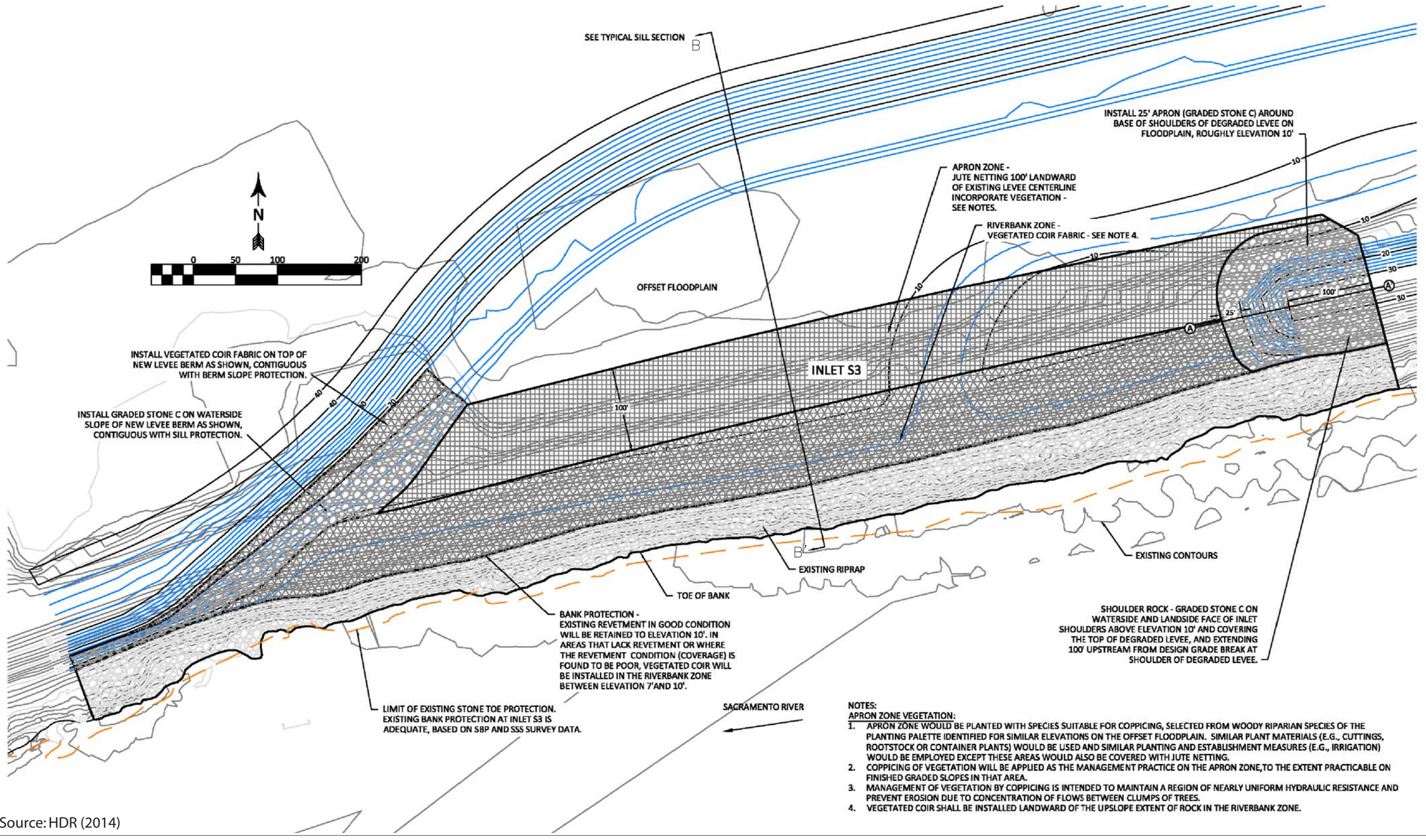
Source: HDR (2014)

Plate 6-5a
Breach S1, S2, N2
Typical Plan View



Source: HDR (2014)

Plate 6-5b
Breach N1 Plan View



Source: HDR (2014)

00071.11 Southport/EIS-EIR (06-27-2014) SS

Plate 6-5c
Breach S3 Plan View