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

DEC 06 2013

Lisa Gibson
U.S. Army Corps of Engineers, Sacramento District
1325 J Street, Room 1350
Sacramento, California 95814

Subject: Final Environmental Impact Statement for the SunCreek Specific Plan Project, Sacramento County, California (CEQ# 20120309)

Dear Ms. Gibson:

The U.S. Environmental Protection Agency has reviewed the Final Environmental Impact Statement for the SunCreek Specific Plan Project pursuant to the National Environmental Policy Act, Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act.

EPA commented on the Draft EIS in a November 16, 2012 letter, in which we rated the DEIS Environmental Objections – Insufficient Information, based on significant impacts to aquatic resources and the potential inability to both comply with the 2008 Compensatory Mitigation Rule and achieve "no net loss of wetland functions and values." While we appreciate information in the FEIS that addresses our concerns regarding groundwater contamination, our objections to the project remain. Based on the FEIS, the proposed project continues to appear to have significant potential impacts on aquatic resources, as described in our comments on the DEIS. The project may also have significant challenges in complying with the 2008 Compensatory Mitigation Rule and SunRidge ROD (which requires mitigation for impacts to vernal pools in the Mather Core Recovery Area to occur in the same designated area), as well as generally achieving "no net loss of wetland functions and values." The availability of appropriate mitigation sites in the Mather Core Recovery Area and surrounding nearby areas has not been demonstrated. The fill of waters without proximate mitigation should be avoided. Additional outstanding issues are discussed below.

Section 1502.14 of the Council on Environmental Quality's Regulations for Implementing the National Environmental Policy Act states that the FEIS should identify the lead agency's preferred alternative unless another law prohibits expression of such a preference. The FEIS does not appear to identify the U.S. Army Corps of Engineers' preferred alternative. The absence of such information eliminates the opportunity for EPA, the public, and other stakeholders to comment on the selection of the preferred alternative. In future FEISs, please clearly identify the Corps' preferred alternative, or explain why it is not identified.

The practice of deferring, until the conclusion of the NEPA process, the disclosure of information needed to evaluate compliance with the Clean Water Act section 404(b)(1) Guidelines makes it difficult for agencies and the public to provide timely and substantive input on the evaluation of alternatives. Page 29 of the Corps South Pacific Division (SPD) February 8, 2013 Regulatory Program Standard Operating Procedure for Preparing and Coordinating EISs (12509-SPD) states:

> Districts will make 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.

The discussion of alternatives in the FEIS does not provide the information needed for the evaluation of alternatives under Section 404(b)(1). EPA, therefore, is still unable to evaluate whether the Proposed Action may be the LEDPA, or whether it complies with the other restrictions on discharge under the Guidelines. In the future, we strongly recommend that the Corps make information on compliance with the Guidelines and the Compensatory Mitigation Rule available to EPA, the public, and other stakeholders through the EIS process.

EPA's comments on the DEIS recommended that the FEIS include a table displaying criteria pollutant emissions estimates from projects within the cumulative air quality study area. The FEIS does not include this information. We note that quantitative information on cumulative air quality impacts was provided in DEISs for nearby Corps projects, including Placer Vineyards and Westbrook. Such information helps clarify the intensity of cumulative impacts, as well as future challenges the region would face in attaining federal air quality standards. We strongly recommend that the Corps include this information in future DEISs.

We appreciate the opportunity to review this FEIS, and are available to discuss our comments. If you have any questions, please contact Jen Blonn, the lead reviewer for this project. Ms. Blonn can be reached at 415-972-3855 or blonn.jennifer@epa.gov.

Sincerely,

for Jeff Scott, Director
Waste Management Division and
Communities and Ecosystems Division

Cc via email:
Mike McKeever, Sacramento Area Council of Governments