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

JUL 08 2013

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

Subject: Final Environmental Impact Statement for the Sierra Vista Specific Plan, Placer County, California (CEQ# 20120230)

Dear Ms. Norton:

The U.S. Environmental Protection Agency (EPA) has reviewed the Final Environmental Impact Statement (FEIS) for the Sierra Vista Specific Plan (SVSP) 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. We appreciate efforts by the U.S. Army Corps of Engineers (Corps) to coordinate with our agency throughout the environmental review process.

In response to Public Notice 200601050, issued for this project on March 28, 2008, EPA initiated the 404(q) elevation process by submitting "3a" and "3b" letters on April 28 and May 12, 2008, respectively, due to concerns over potential impacts to Aquatic Resources of National Importance. We provided comments on the Administrative Draft Environmental Impact Statement (DEIS) on February 22, 2013, and we commented on the DEIS on September 4, 2012. We rated the DEIS as EO-2 – Environmental Objections – Insufficient Information because the Proposed Action did not appear to be the least environmentally damaging practicable alternative (LEDPA), and did not propose appropriate compensatory mitigation for aquatic resource impacts. After reviewing the FEIS, EPA's objections to the project, as well as our concerns with cumulative impacts to air quality, remain. Specific issues are discussed below, and recommendations are provided for the Corps' permitting process and project implementation.

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

The practice of deferring, until the conclusion of the NEPA process, the disclosure of information needed for findings of compliance with the Guidelines makes it difficult for agencies and the public to provide timely and substantive input on the evaluation of alternatives. Our comments on the DEIS noted the absence of the 404(b)(1) Alternatives Analysis, as well as other critical products for determining compliance with the Clean Water Act. Although the Response to Comments (RTC) indicates that the Alternatives Analysis is provided in Appendix A of the FEIS, we find no such documentation in the record.

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). The analysis does not indicate whether the Proposed Action is the LEDPA, or whether it complies with the other restrictions on discharge under the Guidelines.

**Wetland Mitigation**

RTC B-9 asserts that the 2008 Mitigation Rule does not apply because SVSP's application was submitted before the Rule went into effect. Although the Corps has the discretion to take this position, EPA recommends against such "grandfathering", given that more than five years have passed since promulgation of the Mitigation Rule. We believe it is inappropriate, in 2013, to use the 2004 Habitat and Mitigation and Monitoring Guidelines to evaluate the SVSP Conceptual Mitigation Plan (CMP), given the decade of advances in scientific understanding regarding compensatory mitigation performance and best practices. We urge the Corps to reconsider its decision and, instead, apply the best available science when evaluating the CMP for the SVSP. We believe that this should include use of the South Pacific Division's Draft 2012 Mitigation and Monitoring Guidelines, which are intended to supplement the 2008 Mitigation Rule and standardize compensatory mitigation procedures across the South Pacific Division, using a watershed-based approach.

The EPA disagrees with statements made in RTC-8 regarding the quality and services of existing onsite habitat that would be impacted by the proposed action. Previous wet-season sampling in 2005 and 2006 confirmed the presence of vernal pool fairy shrimp (DEIS page 3.4-16). Although vernal pool tadpole shrimp were not detected during field surveys for this project, it appears that onsite wetlands are suitable habitat for special status species; Table 3.4-5 indicates that nearly 33.35 acres of wetlands onsite are potential habitat for listed invertebrate species. In addition, while the dwarf *downingia* is not a federal or state listed species, it is known to occur onsite, is considered by the California Native Plant Society as "[f]airly endangered in California" (DEIS page 3.4-13), and is considered a Special-Status plant species in Table 3.4.3. The project site contains important vernal pool habitat, and the CMP has not demonstrated that the proposed created riverine wetlands, adjacent to onsite creeks, could replace the loss of vernal pool and seasonal wetland habitats.

RTC-10 states that the Corps has "no reason to suspect that the wetlands proposed to be established on-site are for the purpose of treating or holding stormwater." EPA's review of the CMP, particularly Figure 2.0-4, indicates otherwise. Figure 2.0-4 illustrates storm drain outfalls connecting to bio swales that would discharge into the constructed wetlands. Furthermore, the geomorphic assessment of the compensatory mitigation plan by Cbec engineering (2009) called the constructed wetlands an "innovative approach to urban stormwater management in a proposed urban setting" (CMP page 2; not included in DEIS). This review appears to indicate that these constructed wetlands are being designed to manage stormwater rather than to replace the functions and values of the natural wetlands found on the project site. EPA recommends that the Corps reevaluate this issue and ensure that the mitigation plan avoids introducing any untreated or unpolished stormwater into any wetlands for which onsite compensatory mitigation credits would be issued.

**Wetlands Cumulative Impacts & Significant Degradation**

We continue to have concerns with cumulative impacts and significant degradation to aquatic resources. As shown in Figure 4.0-3 in the DEIS, nearly 73 percent of the land within the cumulative study area is projected to be converted to urban or agricultural uses by 2060, with only 7 percent set aside for conservation. These projections further demonstrate the importance of considering a broad set of

stressors on mitigation wetlands, as well as the prevalence and persistence of such stressors, in order to plan for adequate mitigation. For example, the quality of mitigation will likely be impacted by runoff from developments, chemical discharge, sedimentation, and habitat fragmentation. Based upon our review of the FEIS and information contained in the CMP, we continue to believe that the impacts from the SVSP will likely cause or contribute to significant degradation (as defined at 40 CFR 230.10) to aquatic resources within the study area, and the CMP should be revised to avoid these impacts.

**Cumulative Air Quality Impacts**

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 the recommended information. We note that quantitative information on cumulative air quality impacts was provided in the DEIS for the adjacent Westbrook Project. Such information helps clarify the intensity of cumulative impacts, as well as future challenges the region would face in attaining federal air quality standards.

EPA remains concerned with air quality impacts from this project, particularly when considered in concert with the numerous other development and major infrastructure projects proposed or in process within the region. We continue to strongly recommend that the Corps, City, County and Applicant coordinate with the Placer County Air Pollution Control District to ensure that construction and operational emissions from this project, combined with other reasonably foreseeable projects, will not exceed the relevant emission budgets in the State Implementation Plans.

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 Angeles Herrera, Associate Director
Communities and Ecosystems Division

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