UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

June 8, 2012

U.S. Army Corps of Engineers
Albuquerque District
Ms. Julie Alcon
4101 Jefferson Plaza NE
Albuquerque, NM 87109-3435

Dear Ms. Alcon:

In accordance with our responsibilities under Section 309 of the Clean Air Act (CAA), the National Environmental Policy Act (NEPA), and the Council on Environmental Quality (CEQ) regulations for implementing NEPA, the U.S. Environmental Protection Agency (EPA) Region 6 office in Dallas, Texas, has completed its review of the Draft General Reevaluation Report and Supplemental Environmental Impact Statement II (GRR/SEIS-II) prepared by the U.S. Army Corps of Engineers (USACE) for the Rio Grande Floodway, San Acacia to Bosque del Apache Unit, Socorro County, New Mexico.

EPA rates the Draft GRR/SEIS-II as "**EC-2**" i.e., EPA has "Environmental Concerns and Requests Additional Information" in the Final GRR/SEIS-II. The EPA's Rating System Criteria can be found here: http://www.epa.gov/oecaerth/nepa/comments/ratings.html. Detailed comments are enclosed with this letter which more clearly identify our concerns and the informational needs requested for incorporation into the Final GRR/SEIS-II. Responses to comments should be placed in a dedicated section and should include the specific location where the revision, if any, was made. If no revision was made, a clear explanation should be included.

EPA appreciates the opportunity to review the Draft GRR/SEIS-II. Please send our office one copy of the Final GRR/SEIS-II and an internet link or CD when it is sent to the Office of Federal Activities, EPA (Mail Code 2252A), Ariel Rios Federal Building, 1200 Pennsylvania Ave, N.W., Washington, D.C. 20004. Our classification will be published on the EPA website, http://www.epa.gov, according to our responsibility under Section 309 of the CAA to inform the public of our views on the proposed Federal action. If you have any questions or concerns, please contact John MacFarlane of my staff at macfarlane.john@epa.gov or 214-665-7491 for assistance.

Sincerely,

Rhonda Smith
Chief, Office of Planning
and Coordination

Enclosure

DETAILED COMMENTS ON THE
U.S. ARMY CORPS OF ENGINEERS'
DRAFT GENERAL REEVALUATION REPORT AND
SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT II
FOR THE
RIO GRANDE FLOODWAY, SAN ACACIA TO BOSQUE DEL APACHE UNIT
SOCORRO COUNTY, NEW MEXICO

BACKGROUND:

The General Reevaluation Report/Supplemental Environmental Impact Statement II (GRR/SEIS-II) addresses alternative plans to provide higher levels of flood risk management to floodplain communities along the Rio Grande from the San Acacia Diversion Dam downstream to Elephant Butte Lake, New Mexico. The GRR/SEIS-II determines (1) whether the Authorized Project is still implementable; (2) if any changes are necessary for implementation; and (3) if the changes are within the approval authority delegated to the Division Commander, the Corps, or if they require additional Congressional authorization. The GRR/SEIS-II is a complete Alternative Formulation Briefing document with recommendations on future actions to best meet the flood risk management needs within the study area.

CHAPTER 2 – EXISTING CONDITIONS

2.2.1 Climate (and Greenhouse Gases[1])

By statutes, Executive Orders, and agency policies, the Federal government is committed to the goals of energy conservation, reducing energy use, and eliminating or reducing greenhouse gas (GHG) emissions. EPA recommends the Final GRR/SEIS-II address GHG emissions and climate change. For guidance, please see CEQ's "Draft NEPA Guidance on Consideration of the Effects of Climate Change and Greenhouse Gas Emissions" dated February 18, 2010.

2.7.1 Demography and 2.7.5 Environmental Justice

The demographic analysis is incomplete as only information about the City of Socorro was included. Although the rest of the project area is basically rural, sparsely populated, and is not developed for industrial or commercial uses, it is important to fully characterize the demographic makeup of the entire project area. Data should be provided by census tract and block group for the area surrounding levee construction, to include minority and low-income populations.

Tiffany Basin

Section 5.1.10 - Fill, Borrow, and Disposal Requirements states "A spoil location within the Tiffany basin was identified as adequate for spoil subject to acquisition of the right to dispose in that area." As defined by 40 Code of Federal Regulations (CFR) §1508.25, using the Tiffany basin for a spoil disposal site is a connected action. Thus, the Final GRR/SEIS-II should fully

[1] EPA identified topic that should be addressed in the Final GRR/SEIS-II

characterize the existing conditions of the Tiffany basin and subsequently analyze the impacts to the basin and its resources from spoil disposal. In addition, any on- or off-site staging, disposal, and borrow sites that may be part of the proposed project, must be addressed in this same manner.

Recreation Resources[1]

The Final GRR/SEIS-II should address recreation resources. The clearing of undeveloped land to construct the new levee could result in the loss or degradation of fish and wildlife habitat that are utilized for nature-based recreation. People traveling to the area for bird watching, fishing, and other nature-based recreational opportunities could see a decrease or alteration in the available natural areas that play host to these opportunities. Impacts to recreational resources would most likely occur on lands within the Bosque del Apache National Wildlife Refuge, as approximately 8.7 acres of vegetation would be removed.

CHAPTER 5 – DESCRIPTION OF THE FINAL ARRAY OF ALTERNATIVES:

According to 40 CFR 1502.14, the Alternatives section "should present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decisionmaker and the public." The Final GRR/SEIS-II should formulate the basis for comparison and include an alternatives screening analysis, including a comparison of alternatives and reasons why alternatives were eliminated or carried forward. The Final GRR/SEIS-II should include clear and concise rationale as to why the recommended plan was selected as the preferred alternative.

5.1.14 East Bank Excavation and Access

This section discusses a temporary river crossing downstream of the San Acacia Diversion Dam. The Section 404(b)(1) Guidelines Evaluation in Appendix B states "To access the East Bank Excavation area, a temporary crossing would be placed across the channel of the Rio Grande. The crossing would be 300 feet long with a top-width of 15 feet. The crossing would entail 1,000 CY of earthen material (from a portion of the previously excavated spoil bank) and six 60-inch-diameter, 30-feet-long corrugated metal pipes. The majority of these materials would be below the OHWM." This section and the 404(b)(1) evaluation should address when and how the crossing will be removed, where and how the material will be disposed of, impacts to appropriate resources, especially water quality, and how the area will be restored to pre-project conditions.

5.5 Levee Setback at River Mile 108

This alternative is a slight modification in the alignment of any of the four levee-construction alignments. The alignment of the new levee, Low Flow Conveyance Channel, and associated maintenance roads would be shifted to the west, thus reconnecting approximately 80 acres of the floodplain with the floodway.

The degradation of the Rio Grande and its associated bosque is well-documented among researchers and scientists who have studied the Rio Grande ecosystem. The GRR/SEIS-II states on page 2-14 "Changes to channel geometry have reduced overbank flooding and floodplain connectivity, limiting regeneration of riparian habitat. The long-term impacts of channel incision on wetland and riparian habitat are two-fold: a gradual reduction in the number of wetland and riparian plant species results in shrinking areas of these habitat types while at the same time, the lower ground water and surface water elevations relative to floodplain terraces reduce the probability of regeneration of these habitats."

As the preferred alternative would only exacerbate the degradation of the Rio Grande ecosystem, including altered river geomorphology, habitat fragmentation, habitat degradation, continued wetland loss, and adverse effects to rare plant and animal species, EPA recommends the Levee Setback at River Mile 108 alternative be implemented. This alternative would reconnect approximately 80 acres of floodplain to the floodway. EPA encourages expanding the carrying-capacity for floodwaters with levee setbacks that reconnect the historic floodplain throughout the portion of the Rio Grande watershed in the project area. The positive effects of floodplain reconnection are numerous, including but not limited to, native vegetation regeneration, downstream flood reduction, wetland formation, and positive effects to rare plant and animal species.

CHAPTER 6 – FORESEEABLE EFFECTS OF THE PROPOSED ACTIONS AND ALTERNATIVES

6.2.4 Water Quality

Page 6-8 states "Considering the relatively minor net effects described above, none of the levee construction alternatives would adversely affect water quality and waters of the United States." While adverse impacts to water quality may be minor and temporary, we do not agree that there will be no adverse effects whatsoever. Any construction activity, within a waterway would affect, to some degree, the physical, chemical, and/or biological characteristics of that waterway. This section should address, in detail, any impacts, the degree of the impacts (minor, moderate, or significant), and the longevity (short or long) of the impacts. Rip rap placement below the ordinary high water mark along 2.5 miles of the river should be specifically addressed and analyzed for impacts to water quality.

6.2.5 Air Quality

Any demolition, construction, rehabilitation, repair, dredging or filling activities have the potential to emit air pollutants and we recommend best management practices be implemented to minimize the impact of any air pollutants. Furthermore, construction and waste disposal activities should be conducted in accordance with applicable local, state and federal statutes and regulations.

EPA encourages the use of clean, lower-emissions equipment and technologies to reduce pollution. EPA's final Highway Diesel and Nonroad Diesel Rules mandate the use of lower-sulfur fuels in nonroad and marine diesel engines beginning in 2007.

6.4.1 Aquatic Habitat and Inundated Floodway

This section should identify impacts to aquatic habitat caused by the proposed construction project. Currently, this section only addresses flooding impacts (indirect) and the areal loss or gain to floodway and floodplain areas due to levee construction. The Final GRR/SEIS-II should address impacts to aquatic habitats due to construction, including impacts to the various aquatic organisms within the river.

6.5 Special Status Species

This section should address all species on the U.S. Fish and Wildlife Service (USFWS) list of threatened and endangered species within Socorro County, including candidate species. It should also address state listed species. A table should include the species, their preferred habitat, if the project area contains the preferred habitat, and potential impacts from the proposed project. We recommend the USACE contact the New Mexico Department of Game and Fish (NMGF) as to the appropriate state listed species to include in this analysis. The NMGF may have recommendations and mitigation plans relative to state listed species that would be important to employ during and after construction of this project.

The Final GRR/SEIS-II should include results of Section 7 consultation with the USFWS and coordination with NMGF. Where possible, we recommend that mitigation measures be identified for all special status species with the potential to be adversely affected by direct and indirect impacts of the project.

6.8.5 Environmental Justice

Utilizing the data collected in Section 2.7.5, this section should determine if there are disproportionately high and adverse human health or environmental effects to minority and/or low-income populations within the project area.

6.10 Cumulative Impacts

40 CFR §1508.7 states that cumulative impacts are those impacts "on the environment which result from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or persons undertake such actions." EPA suggests the Final GRR/SEIS-II include a thorough cumulative impacts analysis by establishing spatial and temporal boundaries for each applicable resource and including a list and description of past, present, and reasonably foreseeable future projects. These projects should be analyzed, in conjunction with the proposed project, as to their cumulative effects on the natural and human environment.

Please refer to the Council on Environmental Quality's "Considering Cumulative Effects Under the National Environmental Policy Act" and EPA's "Consideration Of Cumulative Impacts In EPA Review of NEPA Documents" for assistance with identifying appropriate boundaries and identifying appropriate past, present, and reasonably foreseeable future projects to include in the analysis.

CHAPTER 7 – POST AUTHORIZATION CHANGES

7.1.13 Public Involvement

From the current language in this section, it appears that there was no public involvement efforts except for those made in 1992 and 1999. EPA believes that the information provided and the public involvement afforded is insufficient for a project of this magnitude. However, a phone discussion and subsequent email from Mark Doles of the USACE Albuquerque District revealed that the USACE did make recent efforts to involve stakeholders and local, state, and federal agencies in project development. The USACE has agreed to provide additional information regarding their public involvement process. If the following language provided by the USACE is incorporated into the Final GRR/SEIS-II, EPA feels that the public participation process was sufficient.

"Public concerns as well as those of the coordinating resource agencies helped guide the development and formulation of the array of alternative plans presented in this GRR/SEIS-II. During the study, coordination within the Middle Rio Grande community was accomplished through Middle Rio Grande Endangered Species Collaborative Program (MRGESCP), Middle Rio Grande Levee Task Force, reservoir operation and water delivery functions. The MRGESCP is a partnership involving 16 current signatories organized to protect and improve the status of endangered species along the Middle Rio Grande (MRG) of New Mexico while simultaneously protecting existing and future regional water uses. The levee task force was created to study the status of levees in the Middle Rio Grande valley. Flood risk management issues as well as environmental or ecosystem health issues were communicated through these organizations and incorporated into the project objectives.

The lack of integrity of the existing spoil bank in the study reach and other locations in the Middle Rio Grande reach dictate the upper limits of releases from upstream dams. These limitations impact water delivery, sediment movement and floodplain ecosystem function. These three issues are intertwined and the subject of discussion and implementation for coordinating in the San Acacia to Bosque del Apache Unit. The USACE, as a member of these coordinating groups and involvement in water delivery effort for several years, is aware of the issues surrounding flood risk management levees in the study reach. Consideration of environmental impacts, endangered species requirements and river function was incorporated into the design of the current study.

In addition to many informal conversations with stakeholders, the USACE hosted an information and scoping meeting on 14 January 2011 for several stakeholder and interest groups to present the array of alternatives and tentatively selected plan. The group included members of the Save Our Bosque Taskforce, Audubon Society, Wild Earth Guardians, Rio Grande Restoration, the Water-Culture Institute, Bureau of Reclamation, and representatives from Senators Bingaman and Udall's offices. The input received from the meeting included additional forecasting of future conditions and evaluation of levee setbacks as presented in the GRR/SEIS-II.

A public meeting was held on 22 May 2012 at the Socorro city council chambers to coincide with the public review of the GRR/SEIS-II. There were eight attendees from interested citizens and agencies. No official comments were received during the public meeting. The attendance list and comments received during the public review period are included in Appendix G. The notice of this meeting appeared in the Santa Fe New Mexican (3 publications), The Albuquerque Journal (4 publications) and Socorro El Defensor-Chieftain (1 publication). Notices of availability of the public document for review appeared in each of the same newspapers. Paper copies of the document were made available at the Socorro City Library and the USACE office in Albuquerque. Electronic copies on compact disk were sent to approximately 50 stakeholders and agencies as well as made available on the USACE website."