April 6, 2009

Elizabeth Holland, Planning Division
U.S. Army Corps of Engineers, Sacramento Division
1325 J Street
Sacramento, CA 95814
Elizabeth.G.Holland@usace.army.mil

Dear Ms. Holland:

The Twin Rivers Unified School District (District) appreciates this opportunity to comment on the Draft Environmental Impact Statement (DEIS) and Draft Environmental Impact Report (DEIR) on the Natomas Levee Improvement Program, Phase 3 Landside Improvements Project (Project). A portion of the proposed levee improvements fall along the District’s East Natomas Education Complex (ENEC) south of Elkhorn Boulevard and north of the northern end of Sorrento Road.

Upon further discussion with District consultant, Sage Institute, Inc, the District wishes to receive further clarification regarding the specific methods for improvements adjacent to District property, specifically encroachment onto District property for access and/or construction purposes. For example, it is the District’s understanding that the Project would construct a cutoff wall and landside berm within the footprint of the existing levee on the ENEC property. This proposed project construction would likely require expansion of the levee footprint and/or construction access along the landside toe of the levee through the District’s property.

The District established a temporary 200-foot construction non-disturbance buffer zone for the giant garter snake along this reach, but is not obligated to preserve the buffer zone and therefore may have use for this buffer zone as a part of the ENEC.

Therefore, the District desires further clarification of how much, if any, land would be required for the proposed project improvements as well as acknowledgment that all appropriate regulatory compliance measures will be obtained by the Corps and/or the Sacramento Area Flood Control District.
Please forward appropriate response to Mr. Jeff Doyle at jeff.doyle@twinriversusd.org with copy to Dr. Joel Kirschenstein, Sage Institute Inc., at joel@sageii.com.

Sincerely,

Joel Kirschenstein, President
Sage Institute Inc.
District Consultant on behalf of Twin Rivers Unified School District

Cc: Mr. Alan Colombo, Asst Superintendent Facilities, TRUSD
    Mr. Jeff Doyle, Manager of Facilities Planning, TRUSD
L4-1

The proposed NEMDC west levee improvements from Elkhorn Boulevard south to Northgate Boulevard include construction of a cutoff wall in the existing levee. The existing maintenance area along the NEMDC west levee between the NEMDC Stormwater Pumping Station and Elkhorn Boulevard would not provide adequate space for levee reshaping proposed by the Phase 3 Project; thus SAFCA anticipates acquiring additional property owned by the Twin Rivers Unified School District. The precise area needed for acquisition is yet to be determined.

Per California Public Resources Code (PRC) Section 21151.4, SAFCA provided written notification to the Twin Rivers Unified School District on April 21, 2009, to provide notice and initiate discussion regarding the potential impacts to school sites within ¼ mile of the proposed construction along the NEMDC. SAFCA is committed to good communications with potentially affected property owners and businesses throughout project planning and implementation, and will coordinate and provide additional details and clarification to Twin Rivers Unified School District as needed.
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John Bassett  
Director of Engineering  
Sacramento Area Flood Control Agency  
1007 Seventh Street, 7th Floor  
Sacramento, CA 95814

SUBJECT: COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT (EIS)/ENVIRONMENTAL IMPACT REPORT (EIR) ON THE NATOMAS LEVEE IMPROVEMENT PROGRAM PHASE 3 LANDSIDE IMPROVEMENTS PROJECT.

Dear Mr. Bassett:

The Sacramento County Department of Transportation (SACDOT) has reviewed the DEIS/EIR for the Natomas Levee Improvement Program (NLIP), Phase 3 Landside Improvements Project, dated February 2009. We have previously submitted a comment letter on the NOP for DEIR/EIS of this project, dated August 13, 2008. We appreciate the opportunity to review this document. We have following comments to offer:

- Coordinate with the SACDOT staff in implementing the Traffic Safety and Control Plan for construction related truck traffic.
- Coordinate the improvements plans with SACDOT for review and approval of the public roadways, Teal Bend Golf Course driveway and private farms roads that will be modified as part proposed project.
- Coordinate the closure of Garden Highway with SACDOT that will affect the County residents.
- We are currently working with SAFCA staff to include the recreational bike/pedestrian path in the project description of the phase 4B DEIS/DEIR. SACDOT staff will provide the project description for the bike/pedestrian path to the SAFCA in a timely manner.
- Power poles relocations shall be coordinate with SMUD and SACDOT to avoid conflicts with the intended bike/pedestrian path.
Mr. John Basset
April 6, 2009
Page 2

Should you have any questions, please feel free to contact me at (916) 874-6121 or Kamal Atwal at (916) 875-2844

Sincerely,

Kamal Atwal

for Dean Blank, P.E.
Principal Civil Engineer
Department of Transportation

DB:ka

c:  Dan Shoeman, DOT
    Matt Darrow, DOT
    Kamal Atwal, DOT
    Ron Vicari, DOT
    Rizaldy Mananquil, DOT
    Steve Hong, County Engineering
    Tricia Stevens, Planning and Community Development Department
L5-1 Comment noted; SAFCA received the County of Sacramento Department of Transportation’s (SACDOT’s) comment letter on the NOP for the Phase 3 DEIS/DEIR and considered it during preparation of the Phase 3 DEIS/DEIR.

L5-2 Mitigation Measure 4.12-a, “Prepare and Implement a Traffic Safety and Control Plan for Construction-Related Truck Trips,” subpart (b) requires that the traffic safety and control plan be submitted to local jurisdictions, including Sacramento County, prior to initiation of construction-related activity involving high volumes of traffic.

L5-3 SAFCA will, as the commenter requests, coordinate with SACDOT for its review and approval of roadway improvement plans. Mitigation Measure 4.12-a, “Prepare and Implement a Traffic Safety and Control Plan for Construction-Related Truck Trips,” in the Phase 3 DEIS/DEIR requires: “before the start of the first construction season, SAFCA shall coordinate with Sacramento and Sutter Counties to address maintenance and repair of affected roadways resulting from increased truck traffic.” This would include public roadways that may be modified as part of the Phase 3 Project.

L5-4 Mitigation Measure 4.12-a has been revised in the FEIS to require SAFCA and its primary contractors to coordinate with Sacramento and Sutter Counties regarding any closures of Garden Highway that would be required for project construction.

L5-5 Comment noted; SACDOT is working with SAFCA on a project description, which will be provided to SAFCA in a timely manner, for a SACDOT sponsored recreational bike/pedestrian path to be included in the Phase 4b Project, which will be the subject of a separate EIS/EIR to be prepared in the future.

L5-6 Comment noted; power pole relocations will be coordinated with the Sacramento Municipal Utility District and SACDOT to avoid conflicts with the intended bike/pedestrian path. Mitigation Measure 4.17-b of the FEIS has been revised as such.
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Reach Seven Property Owners

April 2, 2009

John Bassett, Director of Engineering
SAFCA
1007 Seventh Street, 7th Floor
Sacramento, CA 95814

Elizabeth Holland, Planning Division
USACE, Sacramento District
1325 J Street
Sacramento, CA 95814

Dear SAFCA and USACE:

We are property owners in the Reach Seven area of the Natomas Levee Improvement Program and we are submitting the following comments as part of the joint EIR/EIS process for the Phase Three Landside Improvements Project.

1. By not making a final selection of the surface mines (borrow sites) required by the project, the EIR/EIS fails to meet the requirement of California Code of Regulations 15142(a) to identify “the precise location and boundaries of the proposed project”. Without specific locations, it is impossible for Reach 7 property owners to understand the scope and substantial impacts of the surface mining operations SAFCA will conduct in its neighborhood, potentially directly across the street from their homes. SAFCA’s denial of a California Public Records Act request for additional information about the Reach 7 borrow pits undermines confidence in SAFCA’s project planning process and calls into question SAFCA’s commitment to the full disclosure needed for the meaningful public review guaranteed by the California Environmental Quality Act and the National Environmental Policy Act. It is inconceivable that an EIR/EIS for a non-governmental agency would ever be approved without identifying specific surface mine locations.

Proposed change: Include a list of specific locations that SAFCA has decided will be used for surface mining.
2. The EIR/EIS does not commit SAFCA to seek a Surface Mining and Reclamation Act (CA PRC 2710) permit nor to comply with its disclosure, mitigation and reclamation provisions. California law recognizes the significant impact of surface mining operations and the importance of prompt, appropriate reclamation of closed mining sites. Reach 7 property owners are very concerned that SAFCA will be seeking an exemption from SMARA, especially when the Sacramento County Counsel’s Office that will be advising SAFCA on its exemption request will also provide advice to the County of Sacramento that will be acting as the lead agency in approving the same request. This blatant conflict of interest can best be resolved by having SAFCA agree to SMARA’s provisions that provide substantial health, safety, property value and reclamation protections for the environment and the residents of impacted area. Given the extended project timelines and funding difficulties clearly described in SAFCA’s March 19 2009 Staff Report (Item 8), it is essential Reach 7 property owners get full legal assurances that the surface mining activities will be completed quickly and cleaned up to the highest standards, including the affected surrounding lands protected by CA PRC 2733.

Proposed Change: SAFCA commits to fully complying with SMARA -- with Sacramento County eliminating any conflict of interest by delegating authority over SAFCA’s permit to the California Department of Conservation.

3. The EIR/EIS lists numerous “significant and unavoidable” health, safety and environmental impacts in the Reach 7 area but stops short of proposing permanent improvements or financial mitigations to offset them. It is particularly worrisome that SAFCA recognizes that the noise, air emissions, traffic and vibration impacts they intend to limit to 7:am to 6:pm weekday time period may have to be extended to 24 hours a day, seven days a week as a result of construction delays. By offering compensation to other property owners, SAFCA recognizes these operations will substantially impair their quality of life and property values on a temporary basis, but none is offered to the Reach 7 property owners who will suffer them for the duration of Phase Three work. Indeed, during a recent meeting, SAFCA staff absurdly said that Reach 7 property owners with a surface mine next to their properties would not experience any additional burdens beyond other area property owners. It would be most appropriate for SAFCA to reach a financial compensation agreement with impacted residents for losses to property value and enjoyment during the construction period and final reclamation of all surface mining impacts.
Proposed Change: Negotiate a financial compensation plan for “significant and unavoidable” impacts unique to Reach 7 property owners, including construction outside regular working hours and the loss of property use and value during the project.

4. Although the plan anticipates using construction roads for surface mine truck traffic, there will be an undeniable increase in traffic on the Garden Highway from other project related activities – a rural road that already supports recreational, agricultural and commercial uses. While these impacts are unavoidable, they can be mitigated by moving the Garden Highway to the center of the levee once construction is complete. Such an improvement would mitigate traffic impacts during the reclamation of Phase 3 and Phase 4 construction activities. Furthermore, moving the road away from driveways and providing wide shoulders would enhance traffic safety and recreational use after the project’s completion. Indeed, it would be negligent for the SAFCA and the County of Sacramento to pass up this opportunity to improve traffic safety on the Garden Highway, where serious and fatal accidents are all too common. Clearly county taxpayers would incur a glaring liability by government’s failure to act at this opportune moment.

Proposed Change: Commit to moving the Garden Highway to the center of the new levee crown.

5. We are concerned that SAFCA anticipates publishing a final EIR/EIS 30 days after the close of the comment period. We believe the issues raised here are significant enough to warrant a recirculation of a new draft: EIR/EIS, believing the current draft is so fundamentally inadequate and conclusory in nature that meaningful public review and comment are precluded.

Proposed Action: Re-circulate the EIR/EIS and allow an appropriate time to provide informed comment on the proposed changes.

The undersigned Reach 7 property owners recognize the importance of the NLIP to our region and do not intend to cause any delay in completion of the project. Furthermore, we recognize that the NLIP will permanently degrade the environment in our community and are willing to trade those losses for adequate compensation during the construction period and a permanent improvement in traffic safety along the Garden Highway. We are hopeful that SAFCA will agree to our proposed changes, but we are prepared to litigate should SAFCA provide an inadequate response to them. SAFCA’s refusal to provide information about its plans for our neighborhood
and its dismissal of our concerns to-date appears to favor confrontation over cooperation – a stance that is inconsistent with efficient project management and good public policy.

Respectfully Submitted,

W Z L
Glen Boyd, 7027 Garden Highway

Dan Pellissier, 7021 Garden Highway
Laura Pellissier, 7021 Garden Highway

Mark Timmerman, 7011 Garden Highway

Pat Waltz, 7001 Garden Highway
Linda Waltz, 7001 Garden Highway

Chris Cully, 6991 Garden Highway
Raylene Cully, 6991 Garden Highway
O1-1 This comment suggests that SAFCA has violated the requirements of the State CEQA Guidelines, and cites CCR Section 15142(a). The quoted language actually comes from Section 15124(a), which requires that “the precise location and boundaries of the proposed project shall be shown on a detailed map, preferably topographic.” The commenter interprets this section to require the CEQA lead agency to identify a limited, discrete footprint in which borrow activity will occur, with no deviation from the activity described in the Phase 3 DEIS/DEIR.

The description of the Proposed Action is provided in Chapter 2.0, “Alternatives,” in the Phase 3 DEIS/DEIR. Potential borrow sites are described in Section 2.3.8, “Borrow Material” in the Phase 3 DEIS/DEIR. SAFCA has identified a number of potential borrow sites and evaluated the potential environmental impacts that would occur as a result of the use of these sites. The precise location of borrow removal from sites identified in Table 2-2 in the Phase 3 DEIS/DEIR may vary due to a variety of factors. Some sites may not have sufficient quantities of suitable material that meet the engineering specifications for the fill required for the proposed improvements. The precise quantity of suitable material that a site contains cannot be completely determined in advance of excavation. Furthermore, the western portion of the Natomas Basin that abuts the east bank of the Sacramento River is sensitive for buried archaeological deposits that exist below grade with little or no surface manifestation (USACE and SAFCA 2009: 4.10-11). Other factors such as the proximity to sensitive receptors may also require adaptive changes in the precise location of borrow material. Because of the need to retain flexibility in borrow supply planning, the Phase 3 DEIS/DEIR provides a program-level analysis of borrow sites, as described in Appendix J of the Phase 3 DEIS/DEIR. CEQA and NEPA specifically authorizes adaptive planning and flexibility for actions within a program (see State CEQA Guidelines CCR Section 15168[c][4] and CEQ Regulations Section 1502.20). Under Section 15168(c), SAFCA is authorized to consider borrow sites at a general level of detail. When SAFCA then identifies more precise locations within the Elkhorn Borrow Area that may supply fill for the Phase 3 Project improvements, this activity will be reviewed to determine if it would generate new impacts or greater impacts relative to those identified in the Phase 3 DEIS/DEIR as described in Appendix J of the Phase 3 DEIS/DEIR.

Since issuance of the Phase 3 DEIS/DEIR, SAFCA has narrowed the focus of its planning for the Elkhorn Borrow Area for the Phase 3 Project. See Chapter 2.0, “Alternatives,” of this FEIS for additional details.
This comment raises several issues relating to the application of and SAFCA’s compliance with the Surface Mining and Reclamation Act (SMARA) (California PRC Section 2710 et seq.). Each issue is addressed in turn.

First, the commenter suggests that the Phase 3 DEIS/DEIR does not commit SAFCA to obtain a SMARA permit or comply with the requirements of SMARA. However, SAFCA’s duty to comply with SMARA is a separate statutory obligation that is unrelated to and does not depend on CEQA. Nevertheless, this response reviews relevant text from the Phase 3 DEIS/DEIR to demonstrate that SAFCA is committed to complying with SMARA by either securing permits or demonstrating that a specific borrow operation qualifies for an exemption from SMARA. The Phase 3 DEIS/DEIR acknowledges that borrow activity is subject to regulation under SMARA (USACE and SAFCA 2009:4.3-2). Mitigation Measure 4.3-a(2), “Secure and Implement the Conditions of the California Surface Mining and Reclamation Act Permit,” provides that SAFCA will obtain approvals under SMARA as appropriate. The requirements of SMARA are also described in the Phase 3 DEIS/DEIR as follows:

Activities subject to SMARA include, but are not limited to, mining of minerals, gravel, and borrow material. The SMARA statute requires mitigation to reduce adverse impacts on public health, property, and the environment. Because SAFCA would require borrow material for project construction, SAFCA must comply with SMARA (USACE and SAFCA 2009:6-11).

As described in Section 6.2.2, “California Surface Mining and Reclamation Act,” in the Phase 3 DEIS/DEIR, SAFCA will satisfy SMARA by securing either a permit, with the attendant reclamation plan and financial assurances, or an exemption consistent with the SMARA statute and local codes (see, e.g., Sacramento County Code Section 20.04.040[A] through 20.04.040[F]).

Second, the commenter suggests that there is a conflict of interest because Sacramento County Counsel would advise both SAFCA and the County on the application and validity of any exemptions under SMARA. This is incorrect; SAFCA has its own Agency Counsel.

Additionally, from October 2008 through April 2009 Sacramento County Counsel provided a Supervisor Deputy who acted as SAFCA’s interim Agency Counsel for limited purposes. This Supervisor Deputy County Counsel did not advise either SAFCA or Sacramento County on SMARA issues. Moreover, there is a Senior Planner in both Sacramento and Sutter Counties who determines a project’s compliance with SMARA. Accordingly, for any borrow activity in Sacramento County, SAFCA would submit an application for a permit, including a reclamation plan, and financial assurances to the Sacramento County Planning and Community Development Department or provide the County with evidence demonstrating that the activity qualifies for an exemption from SMARA. Sacramento County’s designated Senior Planner would then review SAFCA’s permit application or its request for an exemption and determine SMARA compliance.

The purpose of SMARA is to ensure “adverse environmental effects are prevented or minimized and that mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses” (California PRC Section 2712[a]). This requirement is satisfied in one of two ways. Mine operators may satisfy this requirement by securing an approved reclamation plan and financial assurance that demonstrates how mined lands would be restored and ensures that funds are available to do so. In other instances, the nature of the project itself ensures that the general requirement that mined lands are reclaimed would be satisfied at a specific site. These situations may fall within the exemption provided in California PRC Section 2714(b). Sutter County approved an exemption from SMARA, under this section, for the Brookfield borrow site in the northern portion of the Natomas Basin (Mueller 2009) and Sacramento County likewise has
approved an exemption for the Airport North Bufferlands (Gamel 2009). In no instance would SAFCA undertake borrow operations without either a permit, including an approved reclamation plan, and financial assurance, or an exemption. The impact of borrow activity, including generation of noise, dust, and vehicle emissions, is covered in the discussion of noise and air quality impacts in the Phase 3 DEIS/DEIR.

O1-3 Financial compensation to individuals is beyond the required scope of analysis required under NEPA and CEQA. However, USACE and SAFCA are committed to maintaining good communications with potentially affected residents and business owners throughout project planning and construction. See also Master Response: 24/7 Cutoff Wall Construction.

O1-4 Mitigation Measure 4.12-b, “Implement Mitigation Measure 4.12-a, [Prepare and Implement a Traffic Safety and Control Plan for Construction-Related Truck Trips],” in the Phase 3 DEIS/DEIR addresses temporary increases in traffic and traffic hazards on local roadways from construction of the Phase 3 Project. Although moving the Garden Highway away from driveways on the water side of the levee to provide a wider shoulder could potentially improve traffic safety, existing traffic safety conditions along the highway is not an impact of the Phase 3 Project, and neither NEPA nor CEQA requires USACE or SAFCA to mitigate these existing conditions.

It should be noted that under the Proposed Action, in which an adjacent setback levee would be constructed in Reaches 5A–9B of the Sacramento River east levee, the new levee would be higher than the existing levee on which the Garden Highway is currently located (see Plate 15 in the Phase 3 DEIS/DEIR). The levee height deficiencies that the Proposed Action would address are shown on Plate 3 in the Phase 3 DEIS/DEIR. Relocating the Garden Highway to the centerline of the widened levee would likely result in the northbound lane of the highway being 1–2 feet above the southbound lane. This split-level highway configuration would potentially create new traffic safety hazards and complicate access to and from waterside driveways.

O1-5 Recirculation is required based upon new information arising under CEQA if, after public notice of availability for the Draft EIR, any of the following conditions occur:

- substantial new environmental impacts are identified,
- a substantial increase in the severity of identified impacts occurs, or;
- new feasible alternatives or mitigation measures are identified that would substantially reduce the severity of identified impacts but the lead agency declines to adopt such mitigation (State CEQA Guidelines CCR Section 15088.5).

NEPA contains a similar standard that requires preparation of a supplemental EIS after preparation of a draft or final EIS if the NEPA lead agency identifies substantial changes, information, or circumstances related to the proposed action’s effect on the environment (40 CFR Section 1502.9[c][1]).

The comments from the Reach Seven Property Owners are noted. However these comments and the responses in this document identify no substantial new impacts, information, or circumstances related to the Proposed Action. In a similar fashion, the comment identifies no substantial increase in the severity of identified impacts, or feasible mitigation within the scope of NEPA and CEQA that USACE or SAFCA declines to adopt (see Response to Comment O1-3 regarding financial mitigation). Therefore, there is no basis for recirculation of the Phase 3 DEIS/DEIR.

O1-6 This comment raises two issues. First, the commenter argues that the Proposed Action would “permanently degrade” the environment in the community of homes in Reach 7 of the Sacramento River east levee. Second, the comment argues that this effect should be mitigated
through financial compensation. It is true that the Proposed Action would result in some permanent impacts, such as conversion of farmland; the scope of these impacts is discussed in the Phase 3 DEIS/DEIR. The Proposed Action would also result in temporary conversion of farmland at some borrow sites; however, these sites would be returned to agricultural production after shallow grading to remove borrow, or converted to managed marsh or grassland for habitat functions. The commenter provides no factual link between any permanent impacts associated with the Proposed Action and specific harm to the Reach 7 property owners that is amenable to analysis and mitigation under NEPA or CEQA. See Responses to Comments O1-1 through O1-5 for a review of the relevant planning framework, environmental impacts, and mitigation measures that USACE and SAFCA are committed to performing.
April 3, 2009

John Bassett, Director of Engineering  
SAFCA  
1007 7th Street, 7th Floor  
Sacramento, CA  95814

AND

Elizabeth Holland, Planning Division  
U.S. Army Corps of Engineers  
1325 J Street, Room 1480  
Sacramento, CA  95814

RE: Comments on ENVIRONMENTAL IMPACT STUDY NATOMAS LEVEE IMPROVEMENT PROGRAM PHASE 3; SAFCA’S REQUEST FOR 408 PERMISION AND 404 PERMIT

SAFCA and US Army Corps of Engineers:

Garden Highway Community Association (GHCA) is an incorporated community association whose membership includes nearly all waterside and landside property owners along the Garden Highway in the area addressed in SAFCA’s Natomas Levee Improvement Program (NLIP). The GHCA supports increased flood protection for the Natomas basin, as long as it is done in a fiscally responsible, environmentally conscious, and scientifically sound manner. At the same time, as most GHCA members live on or next to the NLIP, they have an enormous interest and concern in how this project is implemented.

Below is a list of comments and concerns regarding the Draft Environmental Impact Study (DDEIS) / Draft Environmental Impact Review (DDEIS) pertaining to SAFCA’s Phase 3 of the NLIP and US Army Corps Permitting.

1. Overall Vagueness:

This DEIS is 484 pages, refers to numerous other documents of similar size and appears to have taken years to prepare. Many portions are unintelligible to the average property owner and, taken as a whole, certainly cannot be fully researched and understood in the timeframe required. As a result, the GHCA prefaces this comment letter by advising that there may be numerous additional issues requiring comment of which the GHCA is not currently cognizant. The GHCA has tried to use every relevant numbering (paging) system in the DEIS (.pdf file) to facilitate its comments.
2. **No-Action Alternative:**

Paragraph 2.2.1.1 (page 2-10 in DEIS or 104 in .pdf) states:

require removal within the Phase 3 Project footprint. Although Chapter 4.0, “Environmental Consequences and Mitigation Measures,” discusses the impacts related to the No-Action Alternative, it is not appropriate in this EIS/EIR to propose mitigation measures for the No-Action Alternative because SAFCA as the project proponent, has no authority or jurisdiction over USACE’s proposed guidelines, impacts, or timing or implementation of mitigation required to mitigate impacts as a result of implementation of such guidance. Mitigation implementation would be the responsibility of USACE and will be the subject of a future, separate environmental document prepared by USACE. Environmental permits and other regulatory approvals would also be required, which may include California Fish and Game Code Section 1602 Streambed Alteration Agreement, Clean Water Act Section 401 permit, and/or Clean Water Act Section 404 permit.

It appears that impact statements 4.6-b, 4.8-a, 4.8-b, 4.9-b, 4.9-f, 4.9-h, and 4.16-a (ES-15 to ES-39 in DEIS / pages 39 – 63 in .pdf) contradict each other regarding what would be impacted and what mitigation would be required under the ‘No-Action’ Alternative. It appears that either SAFCA is unaware of future impacts and therefore contends no mitigation is required, or SAFCA understands the impacts and believes no mitigation is feasible. The GHCA believes the ‘No-Action’ Alternative, based on current USACE standards, will result in significant and irreparable harm to the environment, with no feasible mitigation. This does not appear to be legally permissible under current environmental laws.

3. **Utility Disruption:** (Paragraph 4.17-b (page ES-41 in DEIS, p. 65 in .pdf)

One can only assume this non-quantified description is based on “accidental” disruption and not the intentional disconnection and/or disruption of service. The GHCA is unable to locate any provision in the DEIS where SAFCA addresses loss of utility services to property owners due to power pole relocation or otherwise. This vague and superficial description certainly gives members of the GHCA inadequate notice regarding issues potentially impacting their utilities, especially in light of the enormity of power outages in a community with no public gas and/or water supply, dependent solely upon electricity for all services. A detailed plan and schedule for planned disruption must be disclosed and studied before the work begins.

4. **Habitat Conservation:** (Paragraph 2.3.3 (p. 2-18 in DEIS, p. 112 in .pdf) “Habitat Conservation Components”)

Compensatory habitat creation that would be implemented as part of the Phase 2 Project in advance of the Phase 3 Project includes the creation of approximately:

- 310 acres of managed grasslands,
- 29 acres of canals,
- 28 acres of associated uplands, and
- 30 acres of landside woodlands

Additionally, the following would be preserved as part of the Phase 2 Project in advance of the Phase 3 Project

- 19.3 acres of landside woodlands,
- over 80 acres of field crops, and
- approximately 175 acres of rice fields
The actual location of habitat created and/or preserved should be described with sufficient detail to enable individuals to visit the sites before, during and after the work in order to gauge the results. Moreover, one must question how Phase 2 work can be performed “in advance of Phase 3” when both phases may be ongoing simultaneously.

5. **Encroachments/Levee Prism:**

Paragraph 2.3.5 (page 2-23 in DEIS or page 117 in .pdf) “Additional Actions…” states:

and maintenance requirements. Should any of these existing encroachments be determined to reduce the integrity of the levee, increase flood risk unacceptably, or impede visibility or access to the waterside levee slope, the encroachments would need to be removed. Removal of some waterside slope encroachments may be required by the end of 2010 to ensure that the levee system meets Federal criteria for the 100-year level of protection. Along

SAFCA has repeatedly advised members of the GHCA that the “adjacent” levee adopted by the NLIP “should” remove the waterside trees, landscaping, fencing, and other vegetation and improvements from the “levee prism.” In other words, SAFCA believes implementation of the NLIP would spare these items from removal under even the most aggressive encroachment standards. Thus, the GHCA is concerned with the apparent unchanged position regarding encroachments as described in the current DEIS.

SAFCA has also advised the GHCA it has maps of approximately 30,000 encroachments and all associated easements on the waterside of the levee. Oddly, SAFCA has thus far refused to share this information with the GHCA and/or its individual members. Research has revealed some vague, inadequately mapped easements dating back to the early 1900’s which appear to show little or no support for any planned encroachment removal.

SAFCA also stated “on the record” that it is willing to grant “post-facto” permits for encroachments that do not endanger the levee. Unfortunately, because the property owners have no information as to what items SAFCA feels are permitted or not, the members of the GHCA are left to guess about the future of their properties.

The members of the GHCA are very concerned about which “encroachments” might require removal and with the various easements SAFCA and/or its partners will attempt to claim. SAFCA has promised to work with each property owner to discuss and resolve issues regarding alleged encroachments, but thus far has taken no such action. The Phase 2 construction is about to start, yet no affected property owners have been contacted regarding encroachment or easement plans. This not only impacts existing improvements, but future improvements. The uncertainty also creates resale problems and negatively affects property values.

6. **Construction Standards:**

California Title 23 (Waters) Division 1, Chapter 1, Article 8, Paragraph 133 states:

*These standards apply only to the construction, reconstruction, or repair of dwellings and associated improvements on the left bank waterward berm and waterward levee slope of the Sacramento River between levee miles 0.00 and 18.60, Unit 1, Reclamation District 1000. These standards supplement and, where in conflict with, supersede the standards in section 111*
through section 137. While these standards are not specifically for commercial construction, in general, the principles in this section will apply to commercial development. …

These rules were specifically designed to accommodate the unique characteristics of the Natomas (RD 1000) section of California levees. Although not discussed in this document, they are referenced and appear to be important to SAFCA’s claim that the “adjacent setback levee” would move the “levee prism” further landside and significantly reduce the need to remove waterside improvements and vegetation.

The Central Valley Flood Protection Board (CVFPB) is currently initiating a major revision to Title 23, but the GHCA was unable to locate any revisions to this section based on the new levee prism. The GHCA feels that if SAFCA is confident its design will move the levee prism further “landside”, it should advocate appropriate revisions to this section of the documents. The failure to do so causes the DEIS to fall into direct contradiction with the promises and assurances SAFCA has made to the GHCA, and results in further concern about the true intentions of SAFCA’s mitigation promises. As SAFCA and CVFPB are “working together”, the GHCA believes joint consensus and a final determination on these issues should be straightforward.

7. **24/7 Construction:** (Paragraph 2.3.7.1 (page 2-25 in DEIS or 119 in .pdf) “24/7 Construction of Cutoff Walls”)

SAFCA contends Cutoff Walls, and perhaps additional aspects of the project, will require a 24/7 construction schedule - **highly invasive and disruptive to residents and property owners.** Various sections of the document provide explanation for this schedule but the GHCA feels an “engineering” explanation should be provided to support this schedule. SAFCA has built other Cutoff Walls without the need for 24/7 construction. Members of the GHCA should not be subjected to 24/7 construction simply because SAFCA is running behind schedule on what might be perceived as an overly ambitious project.

SAFCA has offered to pay for hotels for residents subject to 24/7 construction while the construction is taking place within 500’ of their residence. On the other hand, there is no explanation for the length of time that relocation might be necessary. Projects of this size usually encounter unanticipated delays, and there is a HUGE difference between a family or business being displaced for a few nights, versus several weeks. The GHCA proposes that SAFCA offer “relocation allowances” so individual homeowners can make their own decisions as to whether hotel relocation is in their best interest.

The GHCA also challenges the 500’ distance standard for relocation. As all GHCA members learned during the 2007-2008 “Bank Protection” project, construction work along the water and in the open expanses along the rural banks of the Sacramento River, construction sound and reverberation can and do travel for miles. 24/7 construction was periodically attempted during sections of that project with dismal impacts on the residents of Garden Highway. It is anticipated 24/7 construction during subsequent phases of the NLIP would have an exponentially adverse impact on property owners spanning many miles in all directions. Moreover, the use of trucks to get to and from the actual “construction” sites will expand the location of the impact far beyond the limited construction sites addressed by SAFCA.
Lastly, when an DEIS concludes that an impact is “significant” and cannot be mitigated, CEQA requires that the certifying body (SAFCA) perform a balancing test - balancing the significance of the impact (damage to environment) to the benefits of the protected interests (people, property, etc.). The certifying body must also make “findings on the record” that a balancing test was performed and how the results were determined. The GHCA does not believe this requirement has been met with regard to 24/7 construction, and other important aspects of the NLIP. The GHCA also does not believe SAFCA has adequately investigated alternatives to 24/7 construction which cannot be summarily dismissed solely on account of additional cost.

Furthermore, page 4.16-4 (page 351 in the .pdf) states:

construction. With the exception of construction of the seepage cutoff walls (e.g., 24/7 construction), construction is not generally anticipated to be conducted after 8:00 p.m.; however, it is possible that occasional construction activities may be required during nighttime hours (except for borrow areas in the Airport Critical Zone), in which

The GHCA believes this “loop hole” is overbroad and could be interpreted as giving SAFCA the unfettered discretion to disregard all adopted construction restraints to obtain permission for the NLIP. Moreover, 8:00 p.m. is not a reasonable baseline. The GHCA believes any construction after 6:00 p.m. is highly disruptive, unnecessary and virtually assures disruption of the quiet enjoyment of all property owners within the construction zone and surrounding sound zones.

The GHCA also feels the DEIS ignores both city and county (Sacramento and Sutter) noise ordinances. As such, the GHCA seeks an explanation as how SAFCA plans to deal with its violations of local noise ordinances.

What is even more disconcerting is page 4.14-6 of the DEIS (page 335 in the .pdf) states:

Sacramento County, and Sutter County. Although construction activity is expected to take place during daytime hours in Sacramento County, Sutter County, and the city of Sacramento, because of the need to complete levee improvements outside of the flood season and because of other environmental and engineering constraints on project schedule, it is possible that construction may need to be conducted on a 24-hours-per-day and 7-days-per-week (24/7) work schedule basis. Therefore, noise may be generated by construction equipment operating near homes during the more noise-sensitive early morning and nighttime hours (i.e., during hours that are not exempted by the applicable local ordinances in the City of Sacramento and Sacramento County) and could result in sleep disturbance at nearby residences.

This is tantamount to SAFCA granting itself a “free pass” for 24/7 construction if it deems it necessary for any reason, without a supplemental EIR or public review. It does not appear Impact 14-4.a even contemplates 24/7 construction noise. In other words, SAFCA appears to be “reserving the right” to make up any construction schedule it deems fit, without regard to the environment impacts stemming from that decision. The GHCA was unable to locate this subject in any of the various “overviews” of the DEIS.

If SAFCA determines 24/7 construction is necessary, it will not only impact residents in the areas of construction, but also everyone who lives anywhere near the numerous “borrow areas” and haul routes involved. The GHCA does not believe the possibility of 24/7 construction at borrow sites, constructions sites and along haul routes, has been contemplated in this DEIS. This would be a very significant factor with no feasible mitigation.
8. **Bike Path:**

Even though SAFCA and other government agencies have advocated a proposed “bike path” along the new, adjacent levee, there is no mention of it in the DEIS. SAFCA still references a “gravel inspection road”. The GHCA continues to propose that SAFCA design a “new” paved road and grant an easement to the Parks and Recreation Department for future development as a bike/walkway to foster the greater good of the entire community. Members of the GHCA feel it would cost much less to build a bike path now, rather than later, and would provide a much safer area for recreational activities than the current Garden Hwy provides.

9. **CEQA - Insufficient Detail Regarding Foreseeable Activities:**

The DEIS fails to include the reasonably foreseeable consequences of the widening of the Levee - removal of heritage oaks in sensitive, forested habitat which fall within the footprint of the expanded levee. Because the DEIS fails to include the reasonably foreseeable consequences of the levee widening, it fails to examine the environmental affects of that widening.

10. **CEQA - Failure to Provide Information About Assumptions Used In DEIS:**

The DEIS bases many of its conclusions about the Project’s environmental impacts on the assumption that levee widening will have no impact on habitat that falls within the expanded footprint. The DEIS fails to provide any meaningful information substantiating that assumption. The EIS is the primary means of achieving the Legislature's considered declaration that it is the policy of this state to "take all action necessary to protect, rehabilitate, and enhance the environmental quality of the state"... The EIS is also intended "to demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its actions." Laurel Heights Improvement Ass'n v. Regents of the Univ. of California (1988) 47 Cal.3d 376, 392.

Since the public was not provided with the notice that they widening would encroach on additional habitat, the very interested public in this matter has been denied a meaningful opportunity to participate in CEQA's mandatory environmental review proceeding. (See, Mountain Lion Coalition v. CA Fish and Game Comm'n (1989) 214 Cal.App.3d 1043 1050-1051.

Inadequate information or explanation of the impact of the levee, widening on habitat precluded meaningful public review and an opportunity to comment on the environmental consequences of the proposed Project. California's high court has emphasized "public participation is an essential part of the CEQA process." Concerned Citizens of Costa Mesa v. 32nd District Agricultural Assoc. (1987) 42 Cal.3d 929, 935. "To facilitate CEQA's information role, the EIR must contain facts and analysis, not just the agency's bare conclusions or opinions. This requirement enables the decision-makers and the public to make an "independent, reasoned judgment" about a proposed project" ibid. The California Supreme Court has acknowledged that interested citizens hold a "privileged position" within the CEQA process "based on a belief that citizens can make important contributions to environmental protection and on notions of democratic decision making." Id. at p. 936.
11. **CEQA - Failure to Adequately Describe All Components of The Project:**

The DEIS fails to sufficiently describe all components of the Project. SAFCA has expanded the Project but failed to address or analyze the significant impacts of that expansion on sensitive habitats.

12. **CEQA - Inadequate Mitigation Due Lack Of Funding**

SAFCA has previously acknowledged it had inadequate State or Federal Funding to complete the Project, including completion of the mitigation measures. Because funding of the entire NLIP project is in question, SAFCA has no means of insuring that the mitigation measures will actually be implemented. Thus, the DEIS fails to comply with CEQA.

13. **General Construction and Mitigation**

The DEIS contains insufficient notice about construction schedule and plans, complaint procedures and logs, power pole plans, encroachment removal plans, mitigation locations, schedules and compliance. The DEIS fails to identify the “levee prism” as contemplated by the new, adjacent levee design proposed by SAFCA and fails to adequately address potential construction related damage to improvements and vegetation. The DEIS additionally fails to adequately address decreased highway safety stemming from the new design, increased rainwater and pollutant runoff, and well starvation issues.

14. **Alternative Designs**

SAFCA has failed to conduct a legitimate, unbiased study to determine the most economically and environmentally sound project design to bring the Natomas Basin up to the USACE 100 year flood protection standard. SAFCA has summarily dismissed feasible alternatives that would lead to region-wide solutions to the flooding potential in the Natomas Basin and surrounding communities. SAFCA has also failed to make a rationale, “good faith” effort at minimizing the height and footprint of the adjacent levee system, especially in light of the lower and inferior levee systems both upstream and adjacent to the NLIP.

15. **Property Values**

The DEIS, consistent with all prior SAFCA action related to the NLIP, wholly fails to address the impact of the Project on property values in the affected areas and has no funding mechanism in place to deal with the destruction of property values in and around the project that will ripen into eminent domain and inverse condemnation lawsuits. This exposure includes, but is not limited to, irreparable damage to property values which began when this project was first publically announced (at a time when real estate values were significantly higher than today), and will continue indefinitely into the future. The project has stalled and prevented sales, land improvements and retirement plans. This trend will increase exponentially when active construction begins.

Due to the lack of a funding mechanism, the taxpayers will be left to shoulder yet another wave of unanticipated and undisclosed cost overruns.
16. **Damage to Businesses**

The DEIS fails to address the impact of the project on the businesses that exist along and upon Garden Highway which thrive only because individuals seek the tranquility and peace of a rural, river atmosphere that is easily accessible, peaceful and enjoyable. Moreover, the DEIS has no funding mechanism for compensating these business owners for their losses, leaving the taxpayers exposed to significant costs.

17. **Hydrology**

The hydrology reports postulated by SAFCA and its engineers conclude the improved levee system contemplated by the NLIP will not increase the flood risk to the waterside property owners within the NLIP. These reports are explicitly based upon the assumption that other surrounding Reclamation Districts will NEVER improve their levees. This assumption is improper, flawed and not in concert with the current push by adjacent Districts to fortify their levees. The threat of increased flood risk cannot be summarily dismissed and a funding mechanism must be included to deal with the financial impact of this impact.

Thank you for your time. We appreciate your consideration in reviewing our comments and hope for the best possible outcome for all involved.

Sincerely,

GARDEN HIGHWAY COMMUNITY ASSOCIATION
O2-1 See Response to Comment L3-12.

O2-2 It is unclear to what “contradictions” the commenter refers. The No-Action Alternative (which corresponds to the CEQA No Project Alternative) involves not implementing the project, so the requirement for CEQA and NEPA mitigation would not be triggered. As stated in Section 4.0.1, “Approach to the Environmental Analysis,” in the Phase 3 DEIS/DEIR,

Mitigation measures are not required for impacts identified under the No-Action Alternative because the approving agency (in this case, SAFCA) would not be required to obtain permits or agreements if the agency chose not to approve the project. Additionally, USACE would not issue permission, permits, or authorizations for the No-Action Alternative. For these reasons, mitigation measures are not provided for the No-Action Alternative in Sections 4.1 through 4.21. (USACE and SAFCA 2009:4.0-2)

See also Section 4.0.1.2, “Terminology Used to Describe Impacts,” in the Phase 3 DEIS/DEIR, which details the various CEQA significance conclusions used throughout Chapter 4.0, “Environmental Consequences and Mitigation Measures,” in the Phase 3 DEIS/DEIR, including the following conclusion: too speculative for meaningful consideration.

USACE and SAFCA agree with the commenter that the No-Action Alternative would have significant and unavoidable effects on a number of environmental resources if flooding were to occur. This concern underlies the purpose and need for the Proposed Action (see Section 1.4, “Project Purpose/Project Objectives and Need for Action,” in the Phase 3 DEIS/DEIR).

O2-3 Potential disruption of utility service is described in Impact 4.17-b, “Potential Disruption of Utility Service,” in the Phase 3 DEIS/DEIR. Mitigation Measure 4.17-b, “Verify Utility Locations, Coordinate with Utility Providers, Prepare and Implement a Response Plan, and Conduct Worker Training with Respect to Accidental Utility Damage,” in the Phase 3 DEIS/DEIR requires that “utility relocations shall be staged to minimize interruptions in service,” and that “notification of any potential interruptions in service shall be provided to the appropriate agencies and affected landowners.”

In addition, this mitigation measure requires use of the Underground Services Alert to locate any underground utilities, and preparation of a response plan to address accidental damage to utilities. Specifically, the response plan would include:

- chain of command rules for notification of authorities,
- appropriate actions and responsibilities to ensure the safety of the public and workers,
- worker education training conducted by the contractor, and
- implementation of the response plan by SAFCA and its contractors.

As described in Appendix H of the Phase 3 DEIS/DEIR, “Notifications of work schedule would be made by SAFCA in accordance with the terms of their Settlement Agreement with the Garden Highway Homeowners Association.” The terms of SAFCA’s Settlement Agreement with the Garden Highway Homeowners Association (Appendix G of the Phase 3 DEIS/DEIR), paragraph
8 states that, “… SAFCA will post a ‘60-day notice’ of Planned Construction on the SAFCA website. A hard copy of the ‘60-day notice’ shall be mailed to the GHCA contact person.” In addition, during construction activities SAFCA would prepare a regularly updated summary of upcoming construction activities for posting on the SAFCA website. This would include the location and type of construction activities, anticipated road closures, and areas that would be on a 24/7 construction schedule.

O2-4
SAFCA and the other public agencies that hold these sites in trust for the public (such as TNBC) are responsible for ensuring the success of the creation and preservation of NLIP habitat conservation sites. This information will be the responsibility of the entity that takes ownership of the property and any request for this information will be at their discretion. The Phase 2 Project conservation components are expected to be constructed in winter 2009. The Phase 3 Project conservation components are still in the planning and design process and a date for construction has not yet been determined, but these components would likely be constructed in 2010.

O2-5
As described in Section 2.3.5, “Additional Actions to Meet FEMA, USACE, and State Design Requirements: Encroachment Management,” of the Phase 3 DEIS/DEIR, the adjacent setback levee proposed as part of the Phase 3 Project would be designed to significantly reduce conflicts between waterside encroachments and applicable USACE levee operation and maintenance requirements. However, the full extent of this reduction cannot be known until the proposed levee improvements are completed, and USACE, the State, SAFCA, and RD 1000 have inspected and evaluated whether there are any encroachments that affect the integrity of the levee. Section 1.4.2.1, “Encroachment,” in this FEIS has been revised to reflect the fact that removal of encroachments that could be identified as threatening levee integrity would be subject to future environmental review.

O2-6
See Response to Comment O2-5.

O2-7
See Response to Comment O2-5.

O2-8
Comment noted; as described in Section 1.7.2.2, “State Responsible and Trustee Agencies,” in the Phase 3 DEIS/DEIR, CVFPB is a state responsible agency under CEQA for the Phase 3 Project, and therefore is acknowledged by SAFCA to have discretionary approval over certification of the Phase 3 DEIS/DEIR (State CEQA Guidelines CCR Section 15381). See also Response to Comment O2-5.

O2-9
See Master Response: 24/7 Cutoff Wall Construction.

O2-10
See Master Response: 24/7 Cutoff Wall Construction.

O2-11
As stated under Mitigation Measure 4.14-a, “Implement Noise-Reducing Construction Practices, Prepare a Noise Control Plan, and Monitor and Record Construction Noise Near Sensitive Receptors,” the 500-foot relocation standard is based on the 60-dBA contour of the loudest anticipated construction activity other than pile driving. Noise resulting from 24/7 construction activities is described under Impact 4.14-a, “Generation of Temporary, Short-Term Construction Noise,” and is mitigated to the extent feasible under Mitigation Measure 4.14-a. Noise resulting from material hauling is discussed under Impact 4.14-c, “Temporary, Short-term Exposure of Residents to Increased Traffic Noise Levels from Hauling Activity,” and is mitigated to the extent feasible under Mitigation Measure 4.14-c, “Implement Noise-Reduction Measures to Reduce the Temporary, Short-term Impacts of Haul Truck Traffic Noise.” See also Master Response: 24/7 Cutoff Wall Construction.
In May 2009, the SAFCA Board certified the Phase 3 EIR; adopted findings, a statement of overriding considerations, mitigation measures, and an MMRP; and approved the Phase 3 Project. By adopting the findings and the statement of overriding considerations, the Board concluded that certain impacts will remain significant and unavoidable and found that the benefits of the project outweigh its unavoidable adverse environmental effects (as per State CEQA Guidelines CCR Sections 15092 and 15096[h]). The statement of overriding considerations includes specific social, economic, legal, technological or other benefits of the project that outweigh the significant effects on the environment, and is based on substantial evidence in the FEIR and the record.

The comment states that construction after 6:00 p.m. is highly disruptive. While this comment references a statement in the “Visual Resources” section of the Phase 3 DEIS/DEIR, it should be reiterated that construction noise in Sacramento County is exempt from all noise standards between 6:00 a.m. and 8:00 p.m. Monday through Friday, and between the hours of 7:00 a.m. and 8:00 p.m. on Saturday and Sunday (Chapter 6.68 Noise Control, County of Sacramento Code).

Both Sacramento and Sutter County noise ordinances are described in the Phase 3 DEIS/DEIR (USACE and SAFCA 2009:4.14-2 and 4.14-3). The conclusion of Impact 4.14-a, “Generation of Temporary, Short-Term Construction Noise,” states that the Phase 3 Project would violate noise standards in the project area including applicable noise ordinances. Mitigation Measure 4.14-a, “Implement Noise-Reducing Construction Practices, Prepare a Noise Control Plan, and Monitor and Record Construction Noise Near Sensitive Receptors,” includes all feasible noise reduction measures including barriers over stationary equipment, restriction of earth-moving construction activities to within exempted hours under applicable noise ordinances, and compensation to adjacent residences for off-site accommodations when noise standards cannot be met. See Mitigation Measure 4.14-a, “Implement Noise-Reducing Construction Practices, Prepare a Noise Control Plan, and Monitor and Record Construction Noise Near Sensitive Receptors,” for a complete list of noise control measures. SAFCA will comply with all mitigation measures identified in the Phase 3 DEIS/DEIR to ensure that noise resulting from construction activities would be reduced to the extent feasible or occur during exempted hours.

Material hauling and borrow site excavation is not expected to occur outside exempted hours and therefore would not expose sensitive receptors along haul routes and borrow sites to excess noise levels. See also Master Response: 24/7 Cutoff Wall Construction.

Construction of a bike path along the adjacent setback levee is not part of the Phase 3 Project as proposed by SAFCA; however, a bike path sponsored by Sacramento County, Sutter County, and the City of Sacramento is contemplated as part of the Phase 4b Project. See also Response to Comment L5-5.

Impact 4.8-a, “Loss of Woodland Habitats,” in the Phase 3 DEIS/DEIR assesses the potential impacts of all levee widening activities on all oak woodlands in the project area. In addition, it provides mitigation components that would result in a net gain of 34 acres of woodlands from the NLIP Phase 2 and 3 Projects. Section 2.3.3, “Habitat Conservation Components,” in the Phase 3 DEIS/DEIR provides additional details on the specifics of the woodland conservation components of the Phase 3 Project.
The woodlands that would be removed as part of the Phase 3 Project do not occur within the jurisdictional boundaries subject to the Sacramento County Tree Preservation Ordinance (Chapter 19.12, Sacramento County Code 408 Section 1, 1981); therefore, the removal of these trees, which includes native oak trees, would not require a permit from Sacramento County (Stackhouse, pers. comm., 2009). However, these woodlands are subject to Sacramento County General Plan policies for native and landmark tree protection (Sacramento County 1993). The project’s proposed conservation strategy for planting and preserving woodland groves and corridors would comply with the County General Plan policies regarding replacing woodlands, because the Phase 3 Project would include creating equivalent woodland habitat, monitoring of these areas to ensure success, and protecting the created and preserved woodlands in perpetuity, as under Impact 4.8-a, “Loss of Woodland Habitats,” in the Phase 3 DEIS/DEIR.

O2-19

The comment does not provide a specific instance in which the Phase 3 DEIS/DEIR based conclusions on the assumption that levee widening would not have an impact on habitat that falls within the expanded footprint. The following impacts to habitat within the footprint under the proposed action alternatives are evaluated in Sections 4.7 through 4.9 of the Phase 3 DEIS/DEIR, and mitigation measures have been proposed to reduce the impacts:

- Impact 4.7-a: Impacts on Jurisdictional Waters of the United States
- Impact 4.8-a: Loss of Woodland Habitats
- Impact 4.8-b: Impacts on Wildlife Corridors
- Impact 4.9-a: Impacts on Special-Status Plant Species
- Impact 4.9-b: Impacts on Valley Elderberry Longhorn Beetle
- Impact 4.9-c: Impacts on Giant Garter Snake Related to Construction Activities
- Impact 4.9-d: Impacts on Northwestern Pond Turtle
- Impact 4.9-e: Impacts on Swainson’s Hawk and Other Special-Status Birds
- Impact 4.9-f: Impacts on Burrowing Owl
- Impact 4.9-h: Impacts on Successful Implementation of the NBHCP

It should be noted that SAFCA anticipated the impacts to habitat that would occur as a result of the proposed levee and canal improvements and created a habitat development and management plan to compensate for effects on existing habitat that would result from these improvements. This plan was first introduced at a program level in the Phase 2 EIR (SAFCA 2007b). In the Phase 3 DEIS/DEIR, Tables 4.8-2, 4.9-1, 4.9-2, 4.9-3, and 4.9-4 quantify lost, created, and net temporary and permanent habitat effects for covered habitats and special-status species under the various alternatives analyzed.

O2-20

The comment is not specific about how the Phase 3 DEIS/DEIR has not sufficiently described all components of the project or analyzed the specific impacts of that expansion on sensitive habitats. See Response to Comment O2-19.

O2-21

SAFCA anticipates funding for project construction, implementation of mitigation measures, monitoring, and long-term management will be provided through SAFCA’s CCAD and existing Operations and Management District for SAFCA’s long-term obligations. If the Phase 3 Project is not funded and implemented, however, mitigation measures for the Phase 3 Project would not be required. See also Response to Comment L3-9.

O2-22

The Phase 3 DEIS/EIR contains the following three mitigation measures addressing construction plans and notification of residents.

- Mitigation Measure 4.2-c: Notify Residents and Businesses of Project Construction and Road Closure Schedule;
Mitigation Measure 4.12-a, “Prepare and Implement a Traffic Safety and Control Plan for Construction-Related Truck Trips,” and

Mitigation Measure 4.12-c, “Notify Emergency Service Providers about Project Construction and Maintain Emergency Access or Coordinate Detours with Providers.”

Mitigation Measure 4.2-c(a) states: “SAFCA shall provide residents and business owners located adjacent to the construction areas with a construction timeline and shall post its construction schedule on the SAFCA Web site. Information shall include road closures and detour information. The schedule shall be updated on a monthly basis.” Additionally, Mitigation Measure 4.2-c has been revised to ensure that construction notification will comply with the provisions of the Garden Highway Settlement Agreement dated April 18, 2008 (included as Appendix G of the Phase 3 DEIS/DEIR).

O2-23 See Master Response: Sacramento River East Levee Prism.

O2-24 The proposed adjacent setback levee is not a new highway, would not alter the current configuration of the existing Garden Highway, and would not introduce new uses of the highway that might be incompatible with current usage. Temporary impacts on traffic safety as a result of construction are addressed in Impact 4.12-b, “Temporary Increase in Traffic Hazards on Local Roadways,” in the Phase 3 DEIS/DEIR. Impact 4.5-b, “Impacts to Sacramento River Water Quality from Stormwater runoff from Garden Highway Drainage Outlets,” addresses impacts to water quality that would result from the new waterside drainage system that would be required with the proposed adjacent setback levee. Impact 4.4-c, “Effects on Groundwater,” addresses the potential effects of the project on groundwater wells.

O2-25 See Responses to Comments L3-8 and I10-3 regarding regional flood risk reduction solutions. See also SAFCA’s Plan Formulation Report (SAFCA 2009b), which was required to be prepared by SAFCA as part of its state grant application to obtain funding from the California Department of Water Resources (under Proposition 1E). The Plan Formulation Report contains a detailed alternatives analysis that describes the analytical approach that was used to identify measures to address the project purpose and need and to incorporate these measures into the project. The SAFCA Board of Directors approved the Plan Formulation Report in February 2009.

O2-26 Effects analyzed under CEQA must be related to a physical change in the environment (State CEQA Guidelines CCR Section 15358[b]). Economic and social effects are not considered environmental effects under CEQA. These effects need to be considered in an EIR only if they would lead to an environmental effect. Therefore, the project’s impact on property values is beyond the scope of the CEQA analysis.

NEPA does require consideration of economic effects (40 CFR 1508.8), however this requirement is limited to effects that are reasonably foreseeable rather than speculative (Mandelker 2007: 8-102, citing City of Riverview v. Surface Transp. Bd., 398 F 3d 434 [6th Cir. 2005]). Here the commenter states that the project would decrease property values, but does not offer specific facts linking the project to a demonstrable effect on property values that can be clearly attributed to the project. Absent specific facts showing a clear effect on property values, this comment contains speculation that is beyond the required and practicable scope of analysis under NEPA.

O2-27 Comment noted; Impact 4.2-c, “Potential to Physically Divide or Disrupt an Established Community” of this FEIS has been revised. See also Response to Comment O2-26.
The commenter has incorrectly stated that the Phase 3 Project hydraulic impact conclusions regarding water side property owners are based on the assumption that other reclamation districts would not improve their levees. This issue was previously addressed in the Phase 2 FEIR, “Master Response 1: Hydraulic Impacts of the NLIP.” In fact, the hydraulic impact analysis prepared by MBK Engineers (Appendix B1 of the Phase 3 DEIS/DEIR) assumes that levees in all segments of the SRFCP could be improved to the “USACE 1957 Design Profile,” which defines the minimum levee heights in each segment of the SRFCP. Currently, sections of some levees in the system are below this design profile. For example, in the Sacramento River reaches directly across from the Natomas Basin, the west levee is below the 1957 design profile in several locations. The modeling assumes these levee height deficiencies could be addressed. What the modeling does not assume is that non-urban reclamation districts, such as the district in the subbasin west of Natomas, would raise their levees to the more demanding urban flood protection standard that was adopted by the state legislature under the Central Valley Flood Protection Act. The Act recognized a dichotomy in the SRFCP. Therefore, it is reasonable for SAFCA’s hydraulic modeling evaluation to assume that the levees protecting these non-urban areas could be raised to meet the minimum standards of the SRFCP but not the more demanding “200-year” urban protection standard that the NLIP is designed to meet.
From: Walt Seifert [mailto:bikesaba@gmail.com]
Sent: Sunday, April 05, 2009 12:09 PM
To: John Bassett (bassett@sacounty.net)
Cc: ‘Ed Cox’; ‘Klinker. Dan (MSA)’; ‘elizabeth.g.holland@usace.army.mil’
Subject: Natomas Levee Improvement Program (NLIP) Phase 3 Project EIR/EIS

John Bassett, Director of Engineering
SAFCA
1007 7th Street, 7th Floor
Sacramento, CA 95814

RE: Natomas Levee Improvement Program (NLIP) Phase 3 Project EIR/EIS

Dear Mr. Bassett:

Thank you for the opportunity to comment on the Draft EIR/EIS on the NLIP Phase 3 Project. We are especially concerned with impacts of the project’s construction activities on bicycle transportation and recreation along Garden Highway (4.5 miles near the I-5 bridge) and along the Ueda Parkway (6.2 miles extending north from Garden Highway) and at the access points to these important bicycle routes. Therefore, we offer the following comments.

Section 3.3.12 Transportation and Circulation Affected Environment. This section should acknowledge that bicycle use for utilitarian transportation (e.g. commuting) occurs on both the Garden Highway in the Sacramento River project area and on the Ueda Parkway bike trail in the NEMDC project area.

Section 3.3.15 Recreation Affected Environment. This section should acknowledge that considerable recreational bicycle use occurs along the entire length of the Garden Highway. Also, recreational bicycle use of the Ueda Parkway bike trail is increasing as its recent improvements and expansions become more widely known.

Section 4.12 Transportation and Circulation Environmental Consequences and Mitigation Measures. This section should acknowledge the adverse impact of temporary closures of Garden Highway (8-12 weeks) and the Ueda Parkway bicycle trail (3 – 6 months) to bicycle use for transportation. A Bicycle Detour Plan for the Garden Highway, similar to the Bicycle Detour Plan called for as Mitigation Measure 4.15-a (regarding the recreation impacts of the Ueda Parkway trail closure), should be described. This plan should be developed in consultation with the Sacramento County and city of Sacramento bicycle coordinators and include adequate noticing to local bicycle interests, signage regarding detours and closure points, and warning signs to motorists to share roadways with bicyclists.
Section 4.15 Recreation Environmental Consequences and Mitigation Measures. We applaud Mitigation Measure 4.15.a which is intended to mitigate adverse impacts to bicycle use by the 3 - 6 month closure of the Ueda Parkway bicycle trail. This plan should include signage to warn potential users about the closure at major entrance points to the trail (e.g. at the Garden Highway entrance and at the junction with the American River Parkway bicycle trail). This mitigation measure should also include a Bicycle Detour Plan for the Garden Highway closures and single-lane control sections.

We believe additional bicycle-related mitigations for the air quality, traffic and circulation, recreation and aesthetic impacts are needed and appropriate. Bicycle mitigations include construction of bike paths on or alongside levees, alongside canals, more (or provisions for more) access points to bike paths, and improved directional signage.

Specific recommendations for mitigations for the NEMDC/Steelhead Creek levee are.

Use NEMDC levee work to make provisions for additional access points. Access points to north and south ends of Natoma Way (at south end from Natoma Way to Gardenland Park access trail)
Access from Rosin Court
Access from North Market Blvd.

Add undercrossing of West El Camino Avenue Bridge

Make trail access to south side of West El Camino Avenue meet Caltrans Highway Design Manual standards.

Any bike paths that are disturbed by the project should be restored to pre-project conditions or better as far as pavement quality and smoothness.

The project may present an opportunity to replace non-standard gates and bollards at bike path access points and to build additional bike facilities in bicycle master plans. These opportunities should be explored with the city of Sacramento and Sacramento County.

SABA is an award-winning nonprofit organization with more than 1400 members. We represent bicyclists. Our aim is more and safer trips by bike. We are working for a future in which bicycling for everyday transportation is common because it is safe, convenient, and desirable. Bicycling is the healthiest, cleanest, cheapest, quietest, most energy efficient, and least congesting form of transportation.

Yours truly,

Walt Seifert
Executive Director

Cc: Ed Cox, City of Sacramento Alternate-Modes Coordinator
    Dan Klinker, Sacramento County Bicycle Coordinator

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If you are not the intended recipient, please contact the sender immediately and permanently delete the original and any copies of this email and any attachments thereto.
O3-1 Comment noted; Table 3.12-1 of this FEIS has been revised to note that bicycle use for utilitarian transportation (e.g., commuting) occurs on both Garden Highway and Ueda Parkway.

O3-2 Comment noted; Section 3.3.15, “Recreation,” of this FEIS has been revised to acknowledge that recreational bicycle use occurs along the entire length of Garden Highway.

O3-3 Comment noted; Mitigation Measure 4.15-a, “Prepare and Implement a Bicycle Detour Plan for Ueda Trail, Provide Construction Period Information on Recreational Facility Closures and Detours, Provide Detours for Bicycle Facilities, and Coordinate with Recreation Agencies to Allow Them to Repair Damage to Recreational Facilities,” in the Phase 3 DEIS/DEIR has been modified in this FEIS to include all bike routes and trails that would be affected by project construction and hauling activities.

O3-4 Mitigation Measure 4.15-a, “Prepare and Implement a Bicycle Detour Plan for Ueda Trail, Provide Construction Period Information on Recreational Facility Closures and Detours, Provide Detours for Bicycle Facilities, and Coordinate with Recreation Agencies to Allow Them to Repair Damage to Recreational Facilities,” in the Phase 3 DEIS/DEIR has been revised in this FEIS to include a Bicycle Detour Plan for Garden Highway closures. Additional clarification regarding providing construction period information (signage) on recreational facility closures and detours has been added.

O3-5 The mitigation proposed for a project must relate to the impacts caused by the project. Feasible measures to avoid or substantially reduce the project’s significant environmental impacts have been provided in the Phase 3 DEIS/DEIR for air quality, traffic and circulation, recreation, and visual resources (among other issue areas). Additional enhancements to bicycle facilities are not measures that would avoid or substantially lessen significant environmental impacts of the project, but should be brought to the attention of the appropriate transportation agencies.

O3-6 Comment noted; see Response to Comment O3-5.
From: Nick Avdis [mailto:navdis@loducalaw.com]
Sent: Monday, April 06, 2009 10:42 AM
To: Buer. Stein (MSA); Bassett. John (MSA); Daniel Roth
Subject: RE: Valley View Acres Comments

Good morning, attached is the final comment letter that was faxed this morning. There are no changes from the draft you received last week, other that this draft is signed by the board members of VVACA. Thanks ~ Nick

From: Buer. Stein (MSA) [mailto:buers@SacCounty.NET]
Sent: Friday, April 03, 2009 11:15 PM
To: Nick Avdis
Cc: Gilchrist. Holly; Washburn. Timothy (MSA); Bassett. John (MSA); Barbara Gualco; Jay Davis
Subject: RE: Valley View Acres Comments

Nick,

We appreciated the opportunity to meet with you and get a better understanding of your interests and concerns. Thanks for the draft; we will begin reviewing and working to address your community’s concerns right away.

Stein M. Buer
Executive Director
Sacramento Area Flood Control Agency
1007 7th Street, 7th Floor
Sacramento, CA 95814
(916)874-7606
buers@saccounty.net

From: Nick Avdis [mailto:navdis@loducalaw.com]
Sent: Friday, April 03, 2009 3:26 PM
To: Buer. Stein (MSA)
Subject: Valley View Acres Comments

Stein, thanks again for taking the time to meet with me yesterday, I felt that the meeting was positive. In any event, I indicated that there was a forthcoming letter from the Valley View Acres Community Association, while a final draft has yet to be completed, as I am waiting for comments from a couple of my board members. I don't anticipate any major change, but I did want, in the spirit of cooperation, to provide you with a draft as soon as I could. Thank you ~ Nick

Nicholas S. Avdis
Lo Duca & Avdis, LLP
3721 Douglas Blvd. Suite 300
Roseville, CA 95661
Tele: 916-774-1636 Fax: 916-774-1646
VALLEY VIEW ACRES COMMUNITY ASSOCIATION

April 6, 2009

Mr. John Bassett
Director of Engineering
SAFCA
1007 7th Street, 7th Floor
Sacramento, CA 95814

Re: Draft Environmental Impact Statement/Draft Environmental Impact Report (DEIS/DEIR) for the Natomas Levee Improvement Program (NLIP), Phase 3 Landside Improvements Project (Phase 3 Project)

Dear Mr. Bassett:

The Valley View Acres Community Association appreciates the opportunity to comment on the DEIS/DEIR. Valley View Acres (hereinafter, “VVA”) is a long established, rural community in the City of Sacramento, located generally north of Del Paso Road, south and west of East Levee Road and east of Sorenco Road. VVA is comprised of approximately 300 acres and 150 residences, with many of the residents having resided in the community for many years. VVA residents have been long accustomed to living with the threat of flooding, and have therefore been long-time supporters of flood control efforts of SAFCA and the U.S. Army Corps of Engineers. While generally supportive of the Phase 3 Project, however, residents of VVA must express their deep concerns with the failure of the DEIS/DEIR to address the VVA community at all in critical areas of the DEIS/DEIR.

Aside from our general criticism that the DEIR/DEIR is poorly written from the perspective of a lay person attempting to understand the nature, scope and character of potential impacts to his or her property and community; the document was dense, difficult to follow and difficult to understand. Our specific comments concern the impacts to groundwater and domestic wells in our community, as well as traffic impacts, noise, soils, and land use resulting from the proposed levee improvements. The specific impacts to our community must be addressed.

The residents of VVA provide the following comments:

Valley View Acres Community Association
Executive Summary ES.5 Project Background and Phasing

Prior to addressing specific subject issues within the DEIS/DEIR, we are somewhat confused over the precise scope of the Phase 3 Project being analyzed in the DEIS/DEIR. On the one hand, the document states in the Executive Summary and onward (e.g., pages ES-1, 1-7, 1-11, 1-18, 1-19) that the DEIS/DEIR analyzes the Phase 3 Project, and that the Phase 4 Project, which appears to enable the Natomas Basin to achieve 200-year level flood protection, will be evaluated in a separate EIS/EIR this year. We recognize that a program-level EIR, SAFCA’s EIR on Local Funding Mechanisms for Comprehensive Flood Control Improvements for the Sacramento Area (Local Funding EIR), was prepared for Stages 1-4 of the Local Funding Project, and that this DEIS/DEIR is meant as a project-level EIR for the Phase 3 Project only. However, the DEIS/DEIR describes the proposed improvements in the Phase 3 Project as follows:

“(1) design criteria used to certify levees as providing 100-year flood protection under regulations adopted by the Federal Engineering Management Association (FEMA),

(2) design criteria used by USACE and the State for the levees comprising the American River Common Features Project, and

(3) design “200-year” water surface elevations developed by SAFCA in cooperation with the State using hydraulic modeling data developed by USACE and the State as part of the Sacramento-San Joaquin River Basins Comprehensive Study.” (DEIS/DEIR, pages ES-2,-3).

What is confusing is that the DEIS/DEIR then describes Phases 1-4 of the NLIP Landslide Improvements Project as constituting the “early implementation project,” meeting a 200-year design water surface elevation for levees, also described above as part of the Phase 3 Project, but yet the “early implementation project,” including the Phase 4 improvements needed to achieve 200-year flood protection, is the basis of the General Re-evaluation Report (GRR) that will require its own environmental document (DEIS/DEIR, page ES-3).

This confusion is enhanced further by SAFCA’s own stated CEQA Objectives for the NLIP, which are as follows:

“(1) provide at least a 100-year level of flood protection to the Natomas Basin as quickly as possible,

Valley View Acres Community Association
(2) provide "200-year" protection to the Basin over time, and
(3) avoid any substantial increase in expected annual damages as new

Our questions are: (1) whether the Phase 3 Project includes 200-year protection,
or whether that is part of the Phase 4 Project instead; and, (2) why, if the GRR includes
the Phase 3 Project and the Phase 4 Project, and Phase 4 is going to be analyzed later
this year, were not both Phase 3 and 4 studied in the same document at the same time?

Without any further explanation, it would appear that SAFCA and the USACE
have segmented the environmental review of the improvements needed to obtain 200-
year flood protection between two separate environmental documents, one for Phase 3
and another for Phase 4.

Executive Summary  ES.11 Areas of Controversy and Issues To Be Resolved

Page ES-13. While taking nothing away from the impacts on Garden Highway
residents (DEIS/DEIR, page ES-13), the document does not consider impacts to an even
longer established community, VVA. Construction related noise, traffic and emergency
service impacts will be every bit as great for VVA residents as for Garden Highway
residents.

Chapter 2.0 Alternatives

Page 2-23. While generally impacts to agricultural wells are described for area
along the NEMDC west levee, no mention is made of domestic wells for the VVA area
(all of the homes within VVA are served by domestic wells), as further evidenced by the
lack of such information in Figure 8-1 of the Luhdorf + Scalmanini groundwater impact
evaluation found in Appendix B2 of the DEIS/DEIR.

Page 2-26. In the section of the Traffic Control During and After Construction,
no mention whatsoever is made of any impacts to East Levee Road and Sorento Road,
upon which a number of VVA residents depend as their sole access point into and out
of their homes. The DEIS/DEIR does not describe any such impacts to East Levee Road
and Sorento Road.

Page 2-27. In the discussion of the Pleasant Grove Creek Canal West Levee, and
particularly Plate 17b, the DEIS/DEIR states that the waterside slope may need to be

Valley View Acres Community Association
trimmed back, requiring “relocation of Natomas Road or by placing additional fill material on the waterside of the levee slope.” If the document is a project-level document, why isn’t this issue resolved, and then analyzed on the DEIS/DEIR?

Page 2-28. We would note that our confusion stated above regarding the scope of the Phase 3 Project is compounded when the discussion of the RD 1000 Pumping Plan No. 2 describes raising pipes above the 200-year design water surface elevation. Again, we are unsure exactly which phase includes improvements to achieve that level of flood protection.

Page 2-31. In Section 2.3.8.4, it is not explained why the parcels in the Elkhorn Borrow Area are unknown, other than “the document performs project-level NEPA/CEQA analysis to “extent feasible…” Why is it not feasible to identify them now as has been done in all other areas in the Natomas Basin?

Chapter 3.0 Affected Environment

Pages 3-2 to 3-5. The VVA community is not identified as an established community.

Page 3-7. VVA should be separately identified.


Page 3-54. In describing the Project Area Roadway Network, two major roadways vital to the VVA Community, Sorento Road and East Levee Road, are omitted. Why? In addition, it should be noted that Sorento Road is currently a substandard road that has been severely degraded from construction activities from the Twin Rivers East Natomas Educational Complex site. Sorento Road has yet to be repaired or replaced to a satisfactory condition. If residents who use East Levee Road to

Valley View Acres Community Association
access their homes must now use Sorento Road, Sorento Road must be determined to be a suitable roadway for any such uses.

Chapter 4.1 – Agricultural Resources

Page 4.1-3. It does not appear evident from the DEIS/DEIR what are the impacts to agricultural resources in the VVA area from a wide NEMDC levee footprint, which footprint would permanently, not temporarily, reduce agricultural resources in this area of VVA and would have immediate impacts to current agricultural activities.

Chapter 4.2 Land Use, Socioeconomics, and Population and Housing

Page 4.2-4.5. Under both the Proposed Action and Levee Raise-in-Place Alternative, adverse impacts from disruption to an established community, VVA, are neither described nor analyzed. The impacts to VVA from noise, traffic, emergency services and groundwater must be addressed.

Chapter 4.3 Geology and Soils

Pages 4.3-2 – 3. In the discussion on borrow sites, the text here references Table 2-2 as listing the borrow sites that would potentially be used for the Phase 3 Project. However, as noted above, page 2.31 of the DEIS/DEIR states that not all borrow sites are currently known and require further analysis. Which explanation is correct? If all borrow sites have not been analyzed, how is the severity of the impact known, and how can the conclusion of less than significant after mitigation be reached?

Chapter 4.4 Hydrology and Hydraulics

Page 4.4-14. Under Impact 4.4-c, Effects on Groundwater, a review of Appendix B2, by Luhdorff + Scalmannini (LSCE), shows that impacts of cutoff walls on wells in VVA cannot be known or described, because the LSCE report, as shown in Figure 8-1 thereto, shows no wells serving the VVA community at all. As mentioned above, all the homes within our community are served by domestic wells.

Chapter 4.6 Fisheries

Page 4.6-3. There is no discussion in the DEIS/DEIR regarding removal of

Valley View Acres Community Association
lanside trees and vegetation in the VVA area due to the expanded levee footprint and what impact that may have on aquatic species.

Chapter 4.12 Transportation and Circulation

Page 4.12-3. In the third full paragraph on the page under the Proposed Action, construction on the NEMDC west levee discusses use of "off-road haul routes from the East Side and Twin Rivers borrow sources," but fails to disclose or analyze impacts to East Levee Road, used as a primary access route by a number of VVA residents.

Under the Levee Raised-in-Place Alternative, the discussion at the bottom of the page attempts to differentiate Garden Highway from other local roads in the Natomas Basin, presumably including East Levee Road and Sorento Road, since supposedly only "Garden Highway is a primary route for residents traveling to and from their homes on the west side of the basin." (DEIS/DEIR, page 4.12-3). Impacts to VVA residents from impacts to East Levee Road and Sorento Road must be addressed.

Page 4.12-4. Because of the failure, just noted above, to analyze the impacts to East Levee Road and Sorento Road and to the VVA community, Mitigation Measure 4.12-a fails to mitigate any such impacts to East Levee Road and Sorento Road.

Pages 4.12-5, -6. The DEIS/DEIR continues to compound this legal deficiency in its description of Impact 4.12-b, as again, East Levee Road and Sorento Road are not analyzed for impacts from temporary increases in traffic hazards to local roadways.

Page 4.12-7. The focus solely on Garden Highway as a Natomas Basin roadway providing ingress and egress to residents, discussed in Impact 4.12-a, is further compounded in the critical area of Impact 4.12-c, Temporary Disruption of Emergency Service Response Times and Access, both under the Proposed Action and Levee Raise-in-Place Alternative, for the failure to address whether there are any impact to East Levee Road and Sorento Road.

Chapter 4.14 Noise

Page 4.14-7. Under Mitigation Measure 4.14-a, the DEIS/DEIR places the onus on residents experiencing construction noise impacts to go to hotels for stays and seek reimbursement from SAFCA. Such a proposal is placing the financial burden of the upfront cost on the victim. The mitigation measure should provide for payment by
SAFCA directly to hotels, and reimbursement of meals, while residents have to be away from their impacted homes.

Page 4.14-1. Under Mitigation Measure 4.14-c, if haul truck noise levels exceed allowable nighttime levels, then residents should receive the same treatment for hotel stays and meals as under construction noise impacts. The effect of the impact is the same, nighttime disturbance from noise levels in excess of adopted standards. The mitigation should also be the same.

Chapter 4.17 Utilities and Service Systems

Page 4.17-3. Under Mitigation Measure 4.17-a, how does SAFCA propose to compensate residents "in kind" for impacts to their wells during construction?

Chapter 4.18 Hazards and Hazardous Materials

Page 4.18-7. How precisely are residents who live off of East Levee Road to be evacuated in the case of an emergency if East Levee Road or Sorento Road is blocked?

Chapter 5.0 Cumulative and Growth-Inducing Impacts, and Other Statutory Requirements

Pages 5-4, 5-8, 5-10, 5-12. Given the failure to address impacts to the VVA community, particularly in the areas of impacts to wells and traffic, the conclusion of less than cumulatively considerable for these areas cannot be maintained in the DEIS/DEIR, including on page 5-10, and must instead be treated as cumulatively considerable, and should be added to such impacts listed on pages 5-8 and 5-12.

Page 5-21. Again, the LSCE report failed to address impacts to the VVA community's domestic wells, as they are omitted in Figure 8-1 of the LSCE.

Conclusion

The Valley View Acres Community welcomes the opportunity to have enhanced flood protection in the Natomas Basin, and have, in fact, long supported such efforts, including the payment of assessments on their properties and the affirmative voting of additional assessments to fund the propose levee improvements. However, when an environmental document fails to examine serious and potentially significant impacts to

Valley View Acres Community Association
our long-established community and our rural way of life, we as residents must demand that the impacts to the residents of Valley View Acres be adequately addressed.

Respectfully Submitted on Behalf of the Residents of Valley View Acres

Nick Avdis, President
Angela Angel, Secretary
Diana Brace, Board Member
Richard Garrison, Board Member
Shannon Summers, Vice President
Joe Angel, Board Member
Libby Harmon, Board Member
Tony Trujillo, Board Member

Dolores Santos, Board Member

Valley View Acres Community Association
O4-1 See Responses to Comments O4-2 through O4-26.

O4-2 See Response to Comment F2-4 for clarification of 100-year compared to “200-year” improvements provided by which project phases and by whom (i.e., USACE or SAFCA). To move forward as quickly as possible to reduce the risk of flooding in the Natomas Basin, the NLIP is being carried out in phases (including detailed design, NEPA and CEQA environmental compliance, permitting, and construction). Each of the NLIP project phases has its own independent utility, can be accomplished with or without the other project phases, and provides additional flood risk reduction benefits to the Natomas Basin whether implemented individually or collectively. See also Section 1.3, “Project History and Planning Context,” in the Phase 3 DEIS/DEIR, which further explains the rationale for project phasing.

O4-3 See Response to Comment O4-13.

O4-4 See Master Response: Groundwater Hydrology in the Vicinity of the NEMDC.

O4-5 Sections of East Levee Road would require closure during project construction. Except for the intersection with East Levee Road, Sorento Road would remain open during construction. See Section 2.3.7.4, “Natomas East Main Drainage Canal West Levee,” of this FEIS for text revision.

O4-6 The potential impacts of water side work on the PGCC, should it be required, are addressed in several places in the Phase 3 DEIS/DEIR. Impact 4.5-a, “Temporary Impacts on Water Quality from Stormwater Runoff, Erosion, or Spills,” addresses degradation of water quality that could occur in the PGCC from any waterside work, including slope flattening. Impact 4.6-a, “Loss of Fish or Aquatic Habitat through Increased Sedimentation and Turbidity or Releases of Contaminants, or Other Construction-Related Disturbance,” addresses loss of fish habitat from degradation of water quality that could occur in the PGCC as a result of waterside construction. The water side slope flattening on the PGCC would occur above the waterline of the channel. Section 2.3.7.3, “Pleasant Grove Creek Canal,” in the Phase 3 DEIS/DEIR also notes that rock slope protection may be required on the water side slope to provide additional erosion control. Impact 4.7-a, “Impacts on Jurisdictional Waters of the United States,” concludes that construction of this rock slope protection would result in less than 1.0 acre of fill within the PGCC channel below the ordinary high-water mark.

CEQA does not require that project-level analysis be based on final engineering design of a project but rather that an EIR disclose the significant environmental impacts of a proposed project at a reasonable level of detail (State CEQA Guidelines CCR Section 15151). In a similar fashion, NEPA requires sufficient specificity to allow meaningful analysis (40 CFR 1502.9). This does not require final designs to be complete. To require final engineering design would be inconsistent with the mandate of NEPA. NEPA requires that an EIS be prepared when there is a proposal for a Federal action with the potential to affect the human environment (42 United States Code [USC] Section 4332[2][c]). If final design was complete, it could foreclose the latitude and possibility of mitigation required under NEPA (40 CFR 1502.16[h]) for the environmental consequences of the Federal action.
Plate 17c in the Phase 3 DEIS/DEIR provides a maximum footprint for levee construction on the NEMDC west levee. Table H-1 and Plate H-1d in the Phase 3 DEIS/DEIR identify the parcels that would be directly affected by the project footprint, and it is noted in Appendix H of the Phase 3 DEIS/DEIR that all or portions of these parcels may need to be acquired. As noted in Section 2.3.6, “Lands, Easements, Relocations, and Rights-of-Way,” in the Phase 3 DEIS/DEIR, privately owned lands would be acquired in fee. Real property acquisition and relocation services would be accomplished in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC 4601 et seq.) and implementing regulation, 49 CFR Part 24; and California Government Code Section 7267 et seq.

O4-7 See Responses to Comments F2-4 and O4-2.

O4-8 See Response to Comment O1-1.

O4-9 The intent of Chapter 3.0, “Affected Environment,” in the Phase 3 DEIS/DEIR is to identify the major features located within the project area. Table 3-1 in the Phase 3 DEIS/DEIR identifies the major features located adjacent to the Sacramento River. The Valley View Acres Community has been added to Section 3.3.2.1, “Land Uses in the Project Area,” of this FEIS as an established community.

O4-10 Under CEQA, the baseline for existing conditions is the date of issuance of the Notice of Preparation (State CEQA Guidelines CCR Section 15126.2). However, Section 3.3.2.2, “Relevant Land Use Plans and Polices,” of this FEIS has been revised to clarify that at the time of writing the Phase 3 DEIS/DEIR, the City of Sacramento General Plan 2030 Update was still in the review process.

O4-11 Table 3.12-1 of this FEIS has been revised to include East Levee Road and Sorrento Road. East Levee Road provides access to the Valley View Acres Community for only a few residences north of Barros Drive. Because Sorrento Road is currently used by numerous Valley View Acres Community residents, it would be considered adequate to provide access for these residents during the estimated three months that the East Levee Road would be closed for levee repairs and improvements. Mitigation Measure 4.12-a, “Prepare and Implement a Traffic Safety and Control Plan for Construction-Related Truck Trips,” in the Phase 3 DEIS/DEIR requires SAFCA to coordinate with Sacramento and Sutter Counties and the City of Sacramento to address maintenance and repair of affected roadways resulting from increased truck traffic. See also Response to Comment O4-17.

O4-12 The Phase 3 Project would result in the conversion of approximately 13 acres of Important Farmland (2 acres of Farmland of Local Importance and 11 acres of Grazing Land) along the NEMDC west levee toe, between Elkhorn Boulevard and the NEMDC Pumping Station, as a result of proposed widening of the NEMDC levee prism in this area. See Table 4.1-1 of this FEIS for the text revision.

The potential for conversions of Important Farmland resulting from the NLIP was previously analyzed in the Phase 2 EIR and Phase 2 EIS at a program level for the Phase 3 and 4 Projects. Based on preliminary project designs and estimates of land required for habitat creation and borrow needs, the Phase 2 EIR included an estimate of Important Farmland conversion resulting from the Phase 3 and 4 Projects: approximately 340 acres for flood risk reduction improvements and 125 acres for woodland plantings, for a total of 465 acres (SAFCA 2007b:3.2-13). In a similar fashion, the Phase 2 EIS concluded that approximately 255 acres would be converted by improvements to flood risk reduction infrastructure and woodland plantings and 125 additional acres from improvements to drainage infrastructure and canals, for a total of 380 acres (USACE...
These acreages are program-level estimates based on the scope, range, and potential variation of NLIP activities known at the time the above documents were prepared. Both the Phase 2 EIR and Phase 2 EIS identified significant and unavoidable impacts based upon the potential permanent conversion of Important Farmland.

Impact 4.1-a, “Conversion of Important Farmland to Nonagricultural Uses,” in the Phase 3 DEIS/DEIR concluded that permanent conversion of Important Farmland under the Proposed Action would amount to approximately 362 acres, which is similar to the program level estimate. Under the Levee Raise-in-Place Alternative, the conversion would be 453 acres, which is greater than the program-level estimate, primarily because of the increased area needed to compensate for waterside woodland impacts. With the additional 13 acres of impacts to Important Farmlands along the NEMDC west levee, the total permanent conversion of Important Farmland for the Phase 3 Project would be approximately 375 acres for the Proposed Action and 466 acres for the Levee Raise-in-Place Alternative. This additional conversion would not be substantially greater than the acreage identified in the Phase 3 DEIS/DEIR and, thus, would not alter the conclusions in the Phase 3 DEIS/DEIR. The impact would remain significant and unavoidable.

O4-13 See Responses to Comments O4-11, O4-17, and O4-18 regarding access, emergency services, and traffic issues. Also, see Master Response: Groundwater Hydrology in the Vicinity of the NEMDC. Impact 4.14-a, “Generation of Temporary, Short-Term Construction Noise,” in the Phase 3 DEIS/DEIR notes that noise-sensitive land uses are scattered throughout the areas in which construction would occur, but that the greatest concentration of noise-sensitive land uses along the NEMDC west levee are in the area south of the proposed Twin Rivers Unified School District borrow site. This is the area in which the Valley View Acres Community is located; therefore, noise impacts that would affect residents in this community were addressed in the Phase 3 DEIS/DEIR.

O4-14 See Response to Comment O1-1.

O4-15 See Master Response: Groundwater Hydrology in the Vicinity of the NEMDC.

O4-16 Removal of land side trees and vegetation would not be expected to affect the aquatic giant garter snake. Potential impacts to giant garter snake are fully addressed in the Phase 3 DEIS/DEIR in Section 4.9, “Special-Status Terrestrial Species,” under Impact 4.9-c, “Impacts on Giant Garter Snake Related to Project Construction Activities.”

O4-17 Impact 4.12-b, “Temporary Increase in Traffic Hazards on Local Roadways,” of this FEIS has been revised to reflect the potential for increased use of roads in the vicinity of NEMDC construction, including Sorento Road, as a result of the three-month closure of East Levee Road during construction.

Impact 4.12-c, “Temporary Disruption of Emergency Service Response Times and Access,” of this FEIS has been revised to note that the three-month closure of East Levee Road could interfere with emergency access to adjacent residences.

O4-18 See Response to Comment O4-17. As noted in Section 4.1 of Appendix H in the Phase 3 DEIS/DEIR, following completion of the cutoff wall in the NEMDC west levee, the levee crown would be reconstructed and East Levee Road would be restored to gravel roadway or asphalt pavement, depending upon the existing road surface. Mitigation Measure 4.12-a, “Prepare and Implement a Traffic Safety and Control Plan for Construction-Related Truck Trips,” in the Phase 3 DEIS/DEIR would apply to any roadway affected by project construction.

O4-19 See Response to Comment O4-17.
The conditions set forth in Mitigation Measure 4.14-a, “Implement Noise-Reducing Construction Practices, Prepare a Noise Control Plan, and Monitor and Record Construction Noise Near Sensitive Receptors,” in the Phase 3 DEIS/DEIR are intended to minimize nighttime noise effects on residents located within 500 feet of 24/7 construction activities. This mitigation measure is intended to decrease impacts to noise-sensitive receptors.

SAFCA is a public agency that would provide affected residents reimbursement of local hotels or short-term rental stays. SAFCA must ensure that public funds are used in accordance with their respective budgeted uses. To provide this assurance, proof of stay in the form of necessary paperwork and a request for reimbursement must be submitted to justify allocation of funds.

Further, this service is provided to residents who would maintain access to their homes 24 hours per day. Normal activities, such as preparation of food, would not be inhibited by this construction; thus, reimbursement for meals would not be necessary.

In Mitigation Measure 4.17-a, “Coordinate with Irrigation Water Supply Users Before and During All Irrigation Infrastructure Modifications and Minimize Interruptions of Supply,” in the Phase 3 DEIS/DEIR, SAFCA considers “in kind” to mean that an alternative source of irrigation water would be provided. Specifically, SAFCA would provide surface or groundwater supplies to replace any deficit to irrigation water occurring as a result of project implementation. This would reduce the potential for temporary disruptions of irrigation water supply. See also Master Response: Groundwater Hydrology in the Vicinity of the NEMDC.

To implement the Phase 3 Project, SAFCA would be required to implement traffic safety and control plans for local roadways (Mitigation Measure 4.12-a, “Prepare and Implement a Traffic Safety and Control Plan for Construction-Related Truck Trips”) and maintain emergency access (Mitigation Measure 4.12-c, “Notify Emergency Service Providers about Project Construction and Maintain Emergency Access or Coordinate Detours with Providers”). Traffic control plans will be prepared as part of the preconstruction planning.

As discussed in Section 5.1.7, “Cumulative Impact Analysis: Project Impacts that Would Not be Cumulatively Considerable,” in the Phase 3 DEIS/DEIR, impacts to traffic and hydrology would not be considered cumulatively considerable because related impacts would not be added to the impacts of other projects. See Response to Comment O4-11 and Master Response: Groundwater Hydrology in the Vicinity of the NEMDC.

See Responses to Comments O4-1 through O4-25.
ASSOCIATION FOR THE ENVIRONMENTAL PRESERVATION OF THE
GARDEN HIGHWAY, a community association
6301 Garden Highway
Sacramento, CA 95837

April 2, 2009

Elizabeth Holland, Planning Division
U.S. Army Corps of Engineers
1325 J Street Room 1480
Sacramento, CA 95814

John Bassett, Director of Engineering
SAFCA
1007 7th Street, 7th Floor
Sacramento, CA 95814

RE: Comments on:

DRAFT EIS/EIR FOR
NATOMAS LEVEE IMPROVEMENT PROGRAM
PHASE 3 LANDSIDE IMPROVEMENTS
REQUEST FOR 408 PERMISSION AND 404 PERMIT

Dear SAFCA and Corps of Engineers:

The Association for the Environmental Preservation of the Garden Highway (AEPGH) is
a community association whose membership includes all waterside and landside property
owners along the Garden Highway in the area addressed in SAFCA’s Natomas Levee
Improvement Program. (NLIP.) We list below our comments and concerns regarding
the Draft Environmental Impact Report (DEIR) issued by SAFCA and the associated
Draft Environmental Impact Statement (DEIS) issued by the Corps on February 13, 2009,
pertaining to SAFCA’s NLIP, Phase 3.

As a prelude to the comments below, AEPGH feels that it is necessary to express one
overriding concern about a SAFCA policy which appears to be the root of the many
important deficiencies present in the decisions and plans presented in the combined
DEIS/DEIR for Phase 3 (and in all of the NLIP phases). On numerous occasions,
SAFCA has stated that they will be able to complete the NLIP in some three or four years
— whereas typically a project of this size takes ten to fifteen years. This contention may
seem impressive until it is scrutinized. AEPGH suggests that SAFCA’s ability to do a
fifteen year project in three years is not based upon a fact that the SAFCA organization is
five times smarter and more efficient than any other agency in the United States. Instead,
AEPGH suggests that this incredible speed is based upon SAFCA’s decision to ignore
thoughtful, reasonable and proper design considerations and to ignore proper protection
of the environment in favor of rapid completion of the project. Unfortunately, “Haste
makes waste” is an appropriate axiom describing SAFCA’s plans.
I. ADOPTION OF EARLIER COMMENTS TO THE NLIP

AEPGH has reviewed and concurs with comments previously submitted to SAFCA and the Corps by the Garden Highway Community Association and others pertaining to Phase 2 of the NLIP. Since Phase 3 of the project presents, in most respects, many of the same plans, policies, and environmental analyses found in the Phase 2 DEIR, and since SAFCA and the Corps have not meaningfully addressed the comments found in the GHCA and other’s comments, AEPGH attaches these Phase 2 comments and fully incorporates them by reference as part of AEPGH’s comments to the Phase 3 DEIS/DEIR. This attached comments document refers to a letter document submitted to SAFCA by Kenyon/Yeates dated November 27, 2007, a letter document submitted to the State Reclamation Board by Kenyon/Yeates dated December 19, 2007, a letter document submitted to SAFCA by the U.S. Fish & Wildlife Service and the California Department of Fish and Game, and a letter document submitted by Kronick Moskovitz Tiedemann & Girard to SAFCA dated October 29, 2007. AEPGH incorporates by reference all of the contents of these letter documents as part of its comments to the Phase 3 DEIS/DEIR. Finally, the Kenyon/Yeates letters originally contained exhibits attached to the letters. SAFCA received these exhibits when the letters were originally submitted. Although these exhibits are not attached to this present comment letter, AEPGH fully adopts (incorporates by reference) all the exhibits originally submitted to SAFCA as part of the Kenyon/Yeates comments letters. Note that all of the documents listed above are public documents which are presently in your possession.

II. U.S. ARMY CORPS’ FAILURE TO EVALUATE THE EFFECTS OF SAFCA’S PLAN CHANGES FOUND IN SAFCA’S SEIR FOR PHASE 2

Subsequent to the Corps issuance of permits and permissions pertaining to NLIP Phase 2, the SAFCA Board on January 29, 2009, certified a Supplemental EIR (SEIR) to SAFCA’s plans for Phase 2 of the NLIP. This SEIR contained several changes to the plans for the Phase 2 of the NLIP – including:

a. Construction of cutoff walls in place of seepage berms for several areas between Reaches 1 through 4a along the Sacramento River east levee;

b. Cutoff wall construction on a 24-hours-per-day, 7-days-per-week basis;

c. A change in the baseline at the Sacramento International Airport north bufferlands from active rice cultivation to idle conditions;

d. Additional details regarding construction of new collection facilities for storm drainage to convey surface water beneath Garden Highway to the Sacramento River; and

e. The addition of 90 acres of foraging habitat that would be created or preserved by acquisition and reclamation of land used for borrow materials.
AEPGH has found no documentation showing that the Corps has addressed or even reviewed these changes to the Phase 2 plans — allowing a lapse in the review and consideration of a number of key considerations to the NLIP project. AEPGH contends that the Corps is required, pursuant to NEPA, to review all final plans of a project (or of any phase of a project) before permits and permissions can be issued by the Corps. Therefore, AEPGH requests the Corps to issue a stop work order to SAFCA for all work in the NLIP project until the Corps has completely reviewed and approved, via a SEIS, the final plans for the Phase 2 of the project.

III. CONFLICT OF INTEREST

SAFCA staff, via the SAFCA Board, hired an environmental consultant, EDAW, to prepare its DEIR and FEIR for its Phase 2 and Phase 3 of the NLIP. Once EDAW finished its work in preparing the DEIR and FEIR for Phase 2 of the project, SAFCA staff asked the SAFCA Board to certify the FEIR prepared by EDAW. AEPGH contends that SAFCA Board’s approval of EDAW’s work was a conflict of interest — in that the same body that hired the consultant was allowed to approve the consultant’s work. This is of especial concern since, to AEPGH’s knowledge, not a single member of SAFCA’s Board is a recognized expert in the fields of levee hydraulic design or environmental impact analysis. Indeed, to AEPGH’s knowledge, no member of SAFCA’s board even contends that they have special expertise in these areas. AEPGH contends that SAFCA Board’s certification of the FEIR for Phase 2 was an uninformed act and not in keeping with the California Environmental Quality Act’s intent.

As well, the DEIS for Phase 2 was prepared by EDAW, under the direction of SAFCA, for the Corps review. The intent pursuant to NEPA of the Corps preparation of an EIS for any project is, in part, to make certain that the significant negative environmental impacts of a project are properly avoided or mitigated — i.e., an independent review by the Corps. Using the same environmental consultant, directed by SAFCA, to prepare the document reviewed by the Corps is clearly not an independent review. It is highly unlikely that the EDAW staff preparing the Corps EIS would independently review (and reject, if necessary) the work done by EDAW staff. AEPGH therefore requests that the Corps DEIS for Phase 2 be prepared by an independent consultant so that the interests of the Federal Government in preserving the environment and in protecting its citizens, as displayed in the NEPA provisions, shall be effected.

AEPGH understands that a clearly better challenge of this sort to Phase 2 of the NLIP should be brought via a challenge to the Phase 2 FEIS which the Corps has recently approved. AEPGH, in fact, will be bringing that challenge soon. However, when dealing with a conflict of interest in approving any given Phase of a large project, AEPGH feels it is appropriate to bring the conflict to light in every document pertaining to the project — or part of the project.
AEPGH also specifically objects to this same conflict of interest as to the EIR and EIS work for Phase 3. The same contentions hold true for the Phase 3 work as for the Phase 2 work. Specifically, the environmental documents were prepared by EDAW – who was hired by the SAFCA Board. The EIR will be certified by the SAFCA Board. The EIS was also prepared by EDAW. No independent study or independent review of the Phase 3 environmental impacts has been made.

AEPGH requests that an independent panel with expertise in environmental impacts be given the opportunity to review the EIR/EIS for both Phase 2 and Phase 3 of the NLIP.

IV. FUNDING

With the advent of the recession of the United States economy and, especially, the California economy, SAFCA has no reasonable assurance that it will ever receive funding to build the NLIP project and to provide for the mitigation requirements specified in the EIR for Phase 2 and Phase 3 of the NLIP. SAFCA has charged into the project flying the “early implementation” banner. Thus, without funding assured, SAFCA nevertheless will borrow money from the taxpayers of California to pay for the project with the hopes that the Federal Government will one day reimburse them. This ploy is nothing new. (See, e.g., Wimpy’s “I’ll gladly pay you Tuesday for a hamburger today.”) The facts are that California does not have the money to fund the entire project and the Federal Government, via the Corps of Engineers, does not either. Recognizing this difficulty, SAFCA’s latest plan is to ask Rep. Matsui to ask Congress to directly fund the project – bypassing the usual Corps’ procedure. Unfortunately, the NLIP is not the only project in the United States needing money. There are a seemingly infinite number of other projects vying for the money – as well as a seemingly infinite number of national programs and national bailout plans that need federal money. SAFCA is very unlikely to receive funding via Rep. Matsui’s bill.

The Phase 3 DEIR/DEIS significance of SAFCA’s funding problems is quite clear. If SAFCA does not receive sufficient funding to complete the project, SAFCA will clearly not have sufficient funding to comply with the mitigation requirements detailed in the DEIR/DEIS. AEPGH sees the image of an abandoned, poorly constructed, partially finished, unmitigated eyesore in Sacramento/Sutter counties – with no significant flood protection to the Natomas Basin.

AEPGH requests that SAFCA reanalyze its funding mechanism via a new funding EIR which takes into consideration the economic crisis facing this country. The funding concept relied on by SAFCA at the beginning of the NLIP is no longer viable. AEPGH requests SAFCA to take a responsible approach to its push to build the levee by ceasing all levee construction in the NLIP until SAFCA has verified funding available to complete the NLIP project.

V. 24/7 CONSTRUCTION ACTIVITIES
In its Phase 2 EIR, SAFCA analyzed the Phase 2 work on a project level and analyzed the 
entire NLIP on a programmatic level. There was no mention of the need to conduct the 
construction on a 24 hours 7 day per week schedule. In a SEIR to Phase 2, SAFCA first 
revealed its plan to work 24/7. The SEIR report concluded that this 24/7 construction 
schedule was a substantial environmental impact without mitigation. SAFCA’s stated its 
reasons for the 24/7 plan were “to shorten the construction period and implement an 
improve construction technique.” In SAFCA’s Phase 3 DEIR/DEIS, the 24/7 plan is 
again presented. According to the DEIR/DEIS, the noise and light glare produced by the 
24/7 plan is SIGNIFICANT and UNAVOIDABLE. (See ES-11.) The reasons given for 
planning the 24/7 construction are 1.) “to manage the risk of delay” and 2) necessary 
“because of constraints on construction schedule”. In other words, SAFCA contends that 
the impact of the 24/7 work is UNAVOIDABLE because to work during normal 
construction hours (8:00 a.m. to 5:00 p.m.) could cause a delay to the project. This is a 
concrete example of SAFCA’s overall policy that speed shall take precedence over any 
other factor pertaining to the project. However, SAFCA’s infatuation with speed is NOT 
a valid basis for declaring the impact “unavoidable”. Most of the impact of the 24/7 
concept could be avoided by simply taking a little longer to build the project or by 
bringing more equipment and manpower to the job so that it could be accomplished 
during normal working hours. For example, the use of THREE slurry wall machines 
working simultaneously would accomplish the same task during normal working hours as 
would the use of ONE slurry wall machine for 24 hours. AEPGH objects to SAFCA’s 
claim that speed is an overriding consideration when doing a CEQA or NEPA analysis. 
Speed is an overriding concern of SAFCA, but it is not an overriding concern when 
considering environmental impact.

AEPGH objects to any 24/7 construction by SAFCA. (1) There are several ways to 
easily avoid this significant impact altogether, and (2) SAFCA’s reasons for wanting to 
implement the 24/7 construction schedule are not compelling reasons to allow a 
significant impact on the environment.

VI. FAILURE TO PROVIDE CEQA/NEPA ANALYSIS FOR PROPOSED 
WATERSIDE VEGETATION AND ENCROACHMENT TAKING

According to the Phase 3 DEIR/DEIS, the NLIP project proposes to “Remove [waterside] 
encroachments as required to meet USACE, CVFPB, and FEMA criteria.” Although 
SAFCA steadfastly refuses to reveal the number and type of the encroachments that they 
propose to remove on the waterside of the levee, it can be assumed that SAFCA intends 
to remove some of these trees, shrubs, etc. as part of the Phase 3 project. However, at no 
place in the DEIS/DEIR does SAFCA meaningfully address the environmental impact of 
the removal of these trees, etc. AEPGH requests that SAFCA immediately present final 
plans showing the specific vegetation and encroachments that SAFCA intends to remove 
and complete a thorough environmental analysis (EIR) showing the impact of this 
proposed removal.
Related to the above request, AEPGH points out the failure of the DEIS/DEIR to adequately describe the “PRISM” concept discussed in the document. The DEIS/DEIR claims that the proposed project plan, the adjacent levee design, protects some of the presently existing waterside vegetation and encroachments by removing these items from the new “levee prism” which will be established by the presence of the new adjacent levee. Although the DIES/DEIR refers to this “levee prism”, nowhere in the document is there a drawing or detail description which concretely describes the dimensions, location, etc. of this “prism”. In order for the new “levee prism” concept to be a mitigating factor to the proposed removal of waterside vegetation and encroachments, this levee prism concept must be fully described. AEPGH requires a detailed, dimensioned drawing and description that fully describes the new levee prism which will result from construction of the proposed adjacent levee project. These drawings and descriptions must be specific to each reach along the project – showing the existing levee cross section and the proposed project cross section with the resulting levee prism shown in detail.

 VII. OBJECTION TO OTHER SIGNIFICANT AND UNAVOIDABLE ENVIRONMENTAL IMPACTS

The subject DEIS/DEIR finds that there are 14 significant and unavoidable environmental impacts which would result from implementation of the proposed adjacent levee alternative of the NLIP Phase 3. Even assuming that the DEIS/DEIR is thorough and accurate in its environmental impact analysis (a questionable assumption), it is quite clear and AEPGH contends that the cumulative effect of 14 significant environmental impacts is an unacceptable assault on the environment surrounding the NLIP. Although the alternative designs discussed by SAFCA also involve many of the same significant impacts, AEPGH contends that other alternatives – including those rejected by SAFCA and including those not considered by SAFCA – would provide the necessary protection for the Natomas Basin without assaulting the environment. AEPGH requests that, prior to the SAFCA Board’s certification of the EIR and before the Corps issuance of the permits and permissions, an independent hydrological and environmental study of the entire NLIP be conducted by a recognized expert or panel of experts chosen by special appointment by the United States District Court. Jurisdiction for the Court to appoint such a special commission can be obtained in a number of ways and therefore is not a consideration of this request.

AEPGH refers to the DEIS/DEIR NLIP Phase 3 Landside Improvements Project, Section 5.4, page 5-34 for the list of the 14 Significant and Unavoidable Environmental Impacts – and incorporates this page into this Comment letter by reference.

 VIII. WATERSIDE WATER WELL DEGRADATION RESULTING FROM THE SLURRY CUTOFF WALLS

Although the DEIS/DEIR offers a brief discussion of the groundwater effects of the miles

FEIS
Responses to Comments on the DEIS/DEIR

NLIP Phase 3 Landside Improvements Project
USACE
of deep slurry walls in the project, there is not an adequate evaluation of the effects of these slurry walls on the existing (and future) water wells which service the residences on the waterside of the levee. The purpose of the slurry walls is to “cut off” water from running from the area of the Sacramento River to the area of the land side of the levee. Clearly, these walls will also prevent water from running the opposite way and will alter the flow of underground water streams located below the waterside areas on which the waterside residences are located. It is equally clear that because of these underground water changes, the existing water wells on the water side of the levee will be affected. If the quality and/or quantity of the water available to these waterside wells is negatively affected, this is clearly a significant impact on the environment – an impact which has not be analyzed in the present DEIS/DEIR. AEPGH suggests that the DEIS/DEIR is deficient in this regard and requires that the DEIS/DEIR be modified to include a detailed environmental impact evaluation of this significant situation.

Therefore, based upon all of the above, we do hereby object to the approval of the projects entitled Natoma Levee Improvement Program proposed by the Sacramento Area Flood Control Agency (SAFCA.) We specifically object to the SAFCA Board's certification of the EIR for Phase 3 and object to the Corps issuance of a 408 permission and a 404 permit to SAFCA for Phase 3 work.

Sincerely,

ASSOCIATION FOR THE ENVIRONMENTAL PRESERVATION OF THE GARDEN HIGHWAY, a community association

By: [Signature] Patrick Tully, Co-Chair

By: [Signature] Doug Cummings, Co-Chair
July 24, 2008

Kathleen A. Dadey, Project Manager
Elizabeth Holland, Planning Division
U.S. Army Corps of Engineers (Corps)
1325 J Street Room 1480
Sacramento, CA

RE: Comments on Environmental Impact Study
Natomas Levee Improvement Program – Landside Improvement Project
SAFCA’s Request for 408 Permission and 404 Permit

Dear Corps of Engineers:

Garden Highway Community Association is a community association whose membership includes all waterside and landside property owners along the Garden Highway in the area addressed in SAFCA’s Natomas Levee Improvement Program. We list below our comments and concerns regarding the Draft Environmental Impact Study (DEIS) issued by the Corps pertaining to SAFCA’s NLIP. Unless stated otherwise, these comments apply to all three alternative proposals discussed in the DEIS.

I. LETTER TO SAFCA DATED NOVEMBER 27, 2007 FROM KENYON/YEATES ATTORNEYS REPRESENTING GARDEN HIGHWAY COMMUNITY ASSOCIATION

Attached is a letter dated November 27, 2007, addressed to Heather Fargo, as Chair of the Board of Directors of the Sacramento Area Flood Control Agency (SAFCA). We adopt the comments in this letter in full as comments to the Corps DEIS. The exhibits to this letter are not included since this letter with exhibits was submitted to the Corps during the initial scoping phase of this process. We have reviewed the Draft EIS prepared by the Corps and have found that the Corps has not adequately addressed the issues (comments) contained in this letter. Accordingly, we renew our comments contained in this letter as to the Draft EIS.

II. LETTER TO THE STATE RECLAMATION BOARD DATED DECEMBER 19, 2007 FROM KENYON/YEATES ATTORNEYS REPRESENTING GARDEN HIGHWAY COMMUNITY ASSOCIATION

Attached is a letter dated December 19, 2007, addressed to Benjamin Carter, as President of the
Page 2  Garden Highway Community Association

Reclamation Board. We adopt the comments in this letter in full as comments to the Corps DEIS. The exhibits to this letter are not included since this letter with exhibits was submitted to the Corps during the initial scoping phase of this process. We have reviewed the Draft EIS prepared by the Corps and have found that the Corps has not adequately addressed the issues (comments) contained in this letter. Accordingly, we renew our comments contained in this letter as to the Draft EIS.

III. LETTER FROM THE U.S. FISH & WILDLIFE SERVICE AND THE CALIFORNIA DEPARTMENT OF FISH AND GAME TO JOHN BASSETT OF SAFCA REGARDING COMMENTS ON SAFCA'S DEIR ON THE NLIP- LIP

Attached is a letter from the U.S. Fish & Wildlife Service and the California Department of Fish and Game to SAFCA containing comments on SAFCA's DEIR. We have read this letter and fully adopt the comments in this letter as our comments to the Corps Draft EIS. We have read the Corps Draft EIS and maintain that the Draft EIS does not adequately address the concerns stated in this letter.

IV. LETTER FROM KRONICK MOSKOVITZ TIEDEMANN & GIRARD (KRONICK) REPRESENTING RECLAMATION DISTRICT 2035 ADDRESSED TO JOHN BASSETT OF SAFCA DATED OCTOBER 29, 2007.

Attached is a letter from the Kronick law firm representing Reclamation District 2035. We have read this letter and fully adopt the comments in this letter as our comments to the Corps Draft EIS. We have read the Corps Draft EIS and maintain that the Draft EIS does not adequately address the concerns stated in this letter.

V. ALTERNATIVE TO SAFCA’S PROPOSED PLAN – A REGIONAL SOLUTION RATHER THAN A PIECEMEAL SOLUTION

Although presented through thousands of pages of justification, SAFCA's plan for NLIP condenses down to the placement of additional dirt on a very small section (26 miles out of 1200 miles of levees) of the Sacramento River levee. SAFCA's plan does not genuinely consider the effects of this piecemeal design on the other 1175 miles of Sacramento levees, does not consider the future effects of global warming, and does not address a catastrophic flood scenario. Simply put, more dirt added randomly to a levee system has never stopped a raging river from escaping its channel. Moreover, there is no assurance that the present NLIP plan will fit into the American River Common Features Project – once that project, hopefully a true regional proposal, becomes reality.

Instead of SAFCA's proposed plan, a regional plan must be implemented that allows a catastrophic water volume to dissipate over a wide area. The better thinking as to the regional plan for the Sacramento River focuses on the use of bypass areas to dissipate a "Katrina" type "avalanche" of water. Specifically, the intelligent solution for the Natomas Basin and greater...
Sacramento flooding problem is the reworking and implementation of the Fremont Weir and the Sacramento Weir and their corresponding bypass areas. This solution has been studied by SAFCA in a 2003 study but was dismissed as being too time consuming to implement. This solution has been briefly mentioned and also dismissed in the Draft EIS as being too expensive. We challenge those conclusions. We think it unreasonable to approve an inadequate solution to the potential flooding – just because it is attainable more quickly than a viable solution. The Draft EIS is woefully inadequate in that it did not take a serious look at the Fremont and Sacramento Weir solutions to Natomas Basin flooding concerns.

The DEIS is also woefully inadequate because it did not adequately address a regional solution to the Sacramento flooding concerns. Specifically, the Draft EIS did not adequately address the impacts of SAFCA’s proposed project on the peoples, properties, wildlife, etc. protected by the remaining approximately 1175 miles of Sacramento levees that will not be dealt with by SAFCA’s approximately 26 mile project.

VI. NEGATIVE EFFECTS ON FISH, WILDLIFE, AND VEGETATION

The attached letter from the U.S. Fish & Wildlife/California Department of Fish & Game addressed some of the animals and vegetation that will be negatively affected by the project. We are concerned about the effects on all fish, wildlife, and vegetation found in the areas of the project. Accordingly, we list these fish, wildlife, and vegetation species that need to be considered in a thorough EIS.

1. Valley Elderberry Longhorn Beetle
2. Giant Garter Snake
3. Northwestern Pond Turtle
4. Swainsons’ Hawk
5. Burrowing Owl
6. Cooper’s Hawk
7. White-tailed Kite
8. Northern Harriers
9. Loggerhead Shrikes
10. White-faced Ibis
11. Blue Heron
12. Great Egret
13. California Linderiella
14. Vernal Pool Tadpole Shrimp
15. Midvalley Fairy Shrimp
16. Vernal Pool Fair Shrimp
17. Great Horned Owl
18. Barn Owl
19. Wood Duck
20. California Tiger Salamander
21. Western Spadefoot  
22. Oak Trees (all species found in area); special note Heritage Oak Protection Ordinances  
23. Rose Mallow  
24. Delta Tule Pea  
25. Sanford’s Arrowhead  
26. Central Valley Chinook Salmon  
27. Central Valley Steelhead  
28. Green Sturgeon  
29. Sacramento Splittail  
30. Hardhead

For all of the above species we object to the relatively minimal analysis as to the presence of the species in the proposed project area – as well as the lack of information as to the locations of these species within the project areas. We object to the failure to properly analyze the direct effect on these species resulting from the construction of the project. We also object to the failure to properly analyze the effect of the finished project on these species. This latter effect includes destruction of nesting sites (birds), destruction of foraging sites (all animals), destruction of food supplies (all animals) and destruction of protective habitat (plants and animals). We object to the relocation proposals (e.g., Northwestern Pond Turtles) and to the creation of artificial corridors for certain species (e.g., giant garter snake.) These practices, while appearing satisfactory on paper, have been shown to be ineffective at best.

The Draft EIR concludes that the project’s proposed destruction of a great number of large/old oak trees (Heritage Oaks, in many cases) along the land side of the existing levee is a significant impact without any meaningful mitigation measure. We ask that the Corps require that these trees be saved – as a condition to any permit or permission given to SAFCA. As well, the proposed mitigation measures for the loss of shaded riverine aquatic (SRA) habitat are inadequate. The lost SRA habitat cannot be instantly created as implied in the Draft EIR. Restoration, if it ever occurs, will take decades – causing decades of SRA habitat loss.

VII. EFFECTS OF PROJECT ON GARDEN HIGHWAY RESIDENTS AND LANDOWNERS

The Draft EIS provides minimal analysis of the effects of the proposed projects on the homeowners and landowners on each side of the Garden Highway. The EIS does recognize that certain impacts to Garden Highway residents are significant, but labels them unavoidable – to “be minimized to the extent feasible.” (ES-11.) These impacts include significant increases in traffic on local roadways in Sutter County, significant air quality impacts, significant noise impacts – resulting from the construction.

The Draft EIS also concludes that “the expansive footprint of the project would result in the conversion of a significant amount of important farmland to non-agricultural use.” (ES-11.)

The Draft EIS concludes that the “removal of a large number of mature trees (many are protected
oak trees) from the land side of the Sacramento River east levee would result in an unavoidable significant impact on visual resources.” (ES-11.)

Rather than concluding that these impacts are unavoidable, the correct conclusion — for these reasons and for many other reasons — is that permission and permits should be denied in favor of a different alternative that avoids these significant impacts. The Fremont Weir and Sacramento Weir modifications and bypass modifications alternative would avoid these impacts altogether.

The Draft EIS concludes that the hydraulic effects and exposure to flood risk to peoples and properties for the three alternatives is minimal. This conclusion was made without considering the effects of global warming and without considering the effects of inevitable additional construction and changes along the Sacramento River (including other levee modifications).

The Draft EIS lists a number of areas of comment/concern received during the scoping phase which were not discussed in the Draft EIS. These include the effects of the cutoff wall construction on Garden Highway groundwater supplies, relocation of Garden Highway power poles, and adequate compensation for landowners. (ES-12.) We object to the failure of the Draft EIS to consider these concerns. The proposed cutoff wall is designed to prevent underseepage of water from the waterside of the levee to the landside. Obviously, this wall will stop ground water movement as well. In many cases, the depth of domestic water wells serving the Garden Highway residents is less than the depth of the proposed cutoff wall. Water quantity as well as water quality will be affected. The relocation of the power poles can create a negative visual effect. This, along with the removal of the mature oak trees on the landside, will have a cumulative negative impact on the Garden Highway. This negative impact will not only affect the residents along the Garden Highway, it will also impact the thousands of visitors that travel along the Sacramento River, i.e., the Garden Highway — a natural scenic asset of Sacramento. (The Garden Highway has been declared a “Designated Scenic Route”.)

The subjection of landowners in the project area to the negative impacts associated with the proposed project is an inverse condemnation of the properties. This taking of landowner assets by SAFCA for the benefit of the residents of the Natomas Basin requires appropriate compensation for the landowners.

Therefore, based upon all of the above, we do hereby object to the approval of the projects entitled Natomas Levee Improvement Program as sponsored by the Sacramento Area Flood Control Association (SAFCA). We specifically object to the issuance of 408 permission and 404 permit issuance to SAFCA for Phase I work.

Sincerely

GARDEN HIGHWAY COMMUNITY ASSOCIATION

By: Doug Cummings, President
November 27, 2007

Heather Fargo, Chair  
Members of the Board of Directors  
Sacramento Area Flood Control Agency  
1007 7th Street, 7th Floor  
Sacramento, CA 95814-3407

ATTN: John A. Bassett (HAND DELIVERED (11-27-07))

Re: Natomas Levee Improvement Program – Landside Improvements Project

Dear Chair Fargo and Members of the Board of Directors of SAFCA:

I am writing on behalf of our client the Garden Highway Community Association, which is made up of landowners who reside or own property on either side of the proposed east side levee improvements along the Sacramento River. The environmental consequences of the proposed east side levee improvements were the subject of an environmental impact report ("EIR") prepared for the Natomas Levee Improvement Program – Landside Improvements Project (SCH #2007062016). On behalf of our client Association and its members, we have the following comments on SAFCA’s environmental review of the Landside Improvements Project ("NLIP").

**Determining the Significance of Hydraulic Impacts**

The residents who live on the riverside of the east side levee uniformly are concerned about the effect the levee raising will have on their residences. As pointed out by SAFCA in the certified EIR entitled Local Funding Mechanisms for Comprehensive Flood Control Improvements for the Sacramento Area, "These improvements would reduce the risk of overtopping and failure of these levees, thereby causing more water to be retained in the channels under extreme flood conditions."¹ Therefore, these residents ask if the increased height of and improvements to the levees will retain more floodwaters within the flooded river channel defined by the levees to the east and west, how can increasing the height of and improvements to the east levee not increase the opportunity for their homes to be flooded during a major flood event?

Not surprisingly these residents have pointed out in their comments on SAFCA’s project, based on their personal experience living along the Sacramento River, that more flow coming down the

¹ Local Funding Mechanisms Program EIR Vol. 1, SAFCA (EDAW, Nov. 2006), § 4.4, p. 4.4-8. (Attached as Exhibit A)
Sacramento River and contained within the higher levees will expose their residences to a substantial risk of being flooded, increase the height of the water when their residences are flooded, and increase the time their residences are flooded. This substantial risk or change in the existing situation is a significant adverse change in the existing environment that should have been addressed in SAFCA’s EIR.

UNET Hydraulic Computer Model Simulation

In order to determine whether the proposed project would expose people or structures to a significant risk of loss, injury, or death caused by flooding, SAFCA’s engineering consultant, MBK Engineers, used a UNET hydraulic computer model to compare the existing conditions in the waterways surrounding the Natomas Basin and in the larger Sacramento River Flood Control Project (“SRFCP”).

Based on this computer simulation, despite the fact that the stated purpose for the raising the levee is to cause more water to be retained on the riverside of the levee system, SAFCA’s consultant’s computer model has determined that “the risk of damage is the same under the ‘with’ and ‘without’ project conditions.” Based on this conclusion, at least one local Garden Highway resident questioned the need for the increased height in the levee if there was absolutely no change in the river “with” or “without” the project. This commenter also questioned the variables that were put into SAFCA’s computer model.

Understandably, longtime residents along the Garden Highway are a bit skeptical of this computer simulation. One resident pointed out to me that when the gate blew out at Folsom Dam in July 1995, releasing a substantial amount of American River water into the lower American River channel, this increased flow from the American River backed up the Sacramento River. During this brief period, there was a recognizable 3.5 feet of rise—Sacramento River level went from 16.3 ft to 19.8 ft at Verona in a matter of hours with the 40,000 cfs flow increase on the American River resulting from the failed gate.

Lack of Information in the EIR about the Assumptions Used in the Computer Simulation

The hydraulic analysis in SAFCA’s computer simulation is a bit of a black box. Based on the terse description of the model in the EIR, the public has very little information about the assumptions or variables that went into the computer model. The explanations provided at page 3.4-6 and Appendix B of the DEIR provide very limited information about the scope of the hydraulic simulation program and the assumptions that were built into the program. In order to understand the Sacramento UNET hydraulic simulation model, it appears the lay reader would have to review the U.S. Army Corps of Engineers (Corps) Sacramento-San Joaquin River Basins Comprehensive Study referenced in the EIR. In a recent decision, the California Supreme Court

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3 NLIP Landside Improvements Project FEIR, p. 3-135.
4 id at pp. 134-135.
5 NLIP Landside Improvements DEIR, § 3.4.1.3, p. 3.4-2.
Heather Fargo, Chair  
and Directors of SAFCA  
November 27, 2007  
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was very critical of a lead agency that simply referenced prior studies but failed to provide the information in the EIR:

The data in an EIR must not only be sufficient in quantity, it must be presented in a manner calculated to adequately inform the public and decision makers, who may not be previously familiar with the details of the project. Information scattered here and there in an EIR appendices’ or a report buried in an appendix is not a substitute for a good faith reasoned analysis.\(^6\)

SAFCA’s EIR fails to adequately inform the public about the assumptions that went into the hydraulic simulation. The interested and affected public has no option but to accept SAFCA’s conclusion.

**Certain Assumptions Used In The UNET Modeling Differ Between Two Analyses**

The DEIR points out that 90% of the flood flows approaching Sacramento from the north and the east come from the Feather and American Rivers.\(^7\) The brief summary of the Hydraulic Impacts Analysis at Appendix B of the DEIR does describe the peak flows in the Sacramento River downstream of the Natomas Cross Canal in the 100-year and 200-year simulations, but that is all.\(^8\) There is no discussion about what flows are coming out of the American River in the 100-year and 200-year simulations. As pointed out above, these residents know that the American River can influence the height of the Sacramento River above the confluence of these two great rivers.

The Draft Floodway Management Plan, which can be found on SAFCA’s website at the following link (http://www.safca.org/collaboration/DraftFMP.htm), does a slightly better job of explaining Sacramento UNET hydraulic simulation model:

The base computer model used for the urban design standard analysis is a UNET model, initially developed by the Corps for the Sacramento and San Joaquin Rivers Comprehensive Study and subsequently updated and recalibrated by MBK Engineers using information from the January 1997 flood event (MBK Engineers 2003). The model includes the Sacramento River from Collinsville (River Mile [RM] 0) to Woodson Bridge (RM 218), the lower reaches of major tributaries, and the Sutter and Yolo Bypasses. The water surface elevations produced by the model are the basis for determining appropriate levee heights capable of meeting the urban design standard.

The urban standard flood elevations for the Sacramento region were produced based on the following key assumptions:

\(^6\) Vineyard Area Citizen, etc. v. City of Rancho Cordova (2007) 40 Cal.4th 412, 442. 
\(^7\) NLIP Landslide Improvements DEIR, SAFCA (EDAW Sept. 2007), § 3.4.2, p. 3.4-4. 
\(^8\) NLIP Landslide Improvements DEIR, Appendix B, p. 2
• 200-year flood event with Folsom Dam Modifications in place, and limiting reservoir releases to the lower American River to 160,000 cfs flow (the 1986 flood peaked at approximately 138,000 cfs);
• Upstream levees that do not meet the 1957 design profile are assumed to be improved to meet that standard, thereby containing and passing peak flows downstream; and
• Upstream levees that may overtop during future high flows predicted by the model do not breach (overtopped levees often cause levee breaches which quickly erode and widen the opening by several hundred feet. Compared to overtopping flow, a levee breach greatly increases the amount of river flow leaving the channel and entering the adjacent floodplain. Therefore, breached levees inadvertently lessen flood risk downstream of the breach.).

These conservative modeling assumptions have been agreed to in principle by the staff of SAFCA, the City of Sacramento, and the City of West Sacramento. While the same base model is also used to analyze cumulative effects of floodway encroachments, described below under “Guidelines for Hydraulic Analysis and Monitoring,” certain assumptions used in the modeling differ between the two analyses. In particular, the modeling for the urban design standard assumes that modifications to Folsom Dam that are currently underway or planned are in place. The modeling for the cumulative encroachments in the Forum’s river corridor and SRMP reach conservatively assumes that the modifications to Folsom Dam are not in place. The reason for this difference is that the urban design standard requires a reasonable numeric result that will guide the design of future, long-term levee improvement projects, while the cumulative encroachments analysis was intended to conservatively estimate the sensitivity of flow in the floodway to hypothetical future encroachments (e.g., more marinas, bridges, private docks, shoreline vegetation, and river access structures, etc.).

Since a system wide standard for a higher level of flood protection (e.g., urban design standard) does not yet exist, an analysis of system wide impacts is necessary for local projects. Ultimately, the FMP’s urban design standard should be based on a peer-reviewed, 200-year flood surface profile as determined by the Corps, and subsequently used as a system wide regulatory standard for levees and floodways. The Corps has not completed a new, updated system-wide model, and there is currently no schedule for model completion and release for use by the Reclamation Board. In the interim and short term, riverside urban projects will use the SAFCA/MBK model results as a basis for design of projects underway in the FMP planning area.\(^9\)

In other words, the UNET computer model uses different assumptions depending upon whether SAFCA wants a “reasonable numeric result that will guide the design of future, long-term levee

\(^9\) Sacramento River Corridor Floodway Management Plan, Sacramento River Corridor Planning Forum (Jones & Stikes May 2006) p. 2.25 – 2.27 (Exhibit attached as Exhibit R)
improvement projects” or to “estimate the sensitivity of flow in the floodway to hypothetical future encroachments.”

Evaluating the Consequences of Encroachments Within the Flooded Channel

The Draft Floodway Management Plan simulated high river flows in the Sacramento and American Rivers to determine the consequences of future encroachments:

The potential future hydraulic effects of floating docks, in-channel marinas, bank protection projects, and changes in vegetation were estimated using a hypothetical set of changes in the floodway and conservative assumptions regarding their hydraulic effects.

The results of the hydraulic analysis estimate a maximum impact on stage downstream of the American River of 0.07 foot in the 1997 Flood event and 0.05 foot in the Maximum Flow event. Upstream of the American River, the maximum impact on stage occurs near I-5 and is estimated at 0.2 foot for the 1997 Flood event and 0.15 foot for the Maximum Flow event. The effects on river stage are minimized by slight increases in diversions to the Yolo Bypass at the Sacramento and Fremont Weirs. For example, in the 1997 Flood simulation, approximately 1,400 cubic feet per second (cfs) less flows downstream in the Sacramento River at the latitude of Sacramento, and approximately 1,400 more flows in the Yolo Bypass. Because the increase in flow in the Yolo Bypass is small compared to the total flow (0.3%), the computed increase in water surface in the Yolo Bypass is very small (0.03 foot). Similar effects occur in the Maximum Flow scenario.\(^\text{10}\)

The 0.2 foot increase in elevation near the I-80 bridge, which corresponds with the sharp bend in the Sacramento River at Reaches 18B and 19A,\(^\text{11}\) exceeds SAFCA’s 0.1 threshold of significance in the Landslide Improvements Project EIR.

NLIP EIR Fails to Inform Reader About Assumptions Used in UNET Model

We do not know what assumptions SAFCA’s consultant used in running the UNET simulation for the Landslide Improvement Project EIR. Therefore, we do not know whether the simulation considered the consequences of existing or future encroachments into the river channel.

For example, as the river flows past the improved eastside of the levee system, increased flood waters encounter lots of vegetation, houses, accessory buildings, and private boat docks.\(^\text{12}\) When river flows reach the sharp bend at Reach 18B, the river encounters the I-80 bridge supports, the West Sacramento Water Plant intake towers, more vegetation, substantial marina docks, the flood flow from Main Drainage Canal being pumped into the river by the RD 1000 and City of

\(^{10}\) *id.* at p. 3-28 - 3-29 (Exhibit B.).
\(^{11}\) See NLIP Landslide Improvements DEIR, Exhibit 2-10c.
\(^{12}\) See NLIP Landslide Improvements DEIR Exhibit 2-10b - 2-10c, pp. 2-77 - 2-81
Sacramento Pumping Plants, vegetation on both sides of the river, another substantial marina, and then the American River at flood stage. Did SAFCA’s simulation consider all of these matters? We cannot tell from reading the DEIR, Appendix B to the DEIR, or the seven-page explanation provided in the FEIR.

Lack of Information Fuels Skepticism About the Conclusion Reached

Is it not surprising that residents who have lived along the river side of Garden Highway for decades, who witness first hand the vagaries of the impinged but powerful Sacramento River, and who have lived through the 1986 and 1997 floods are skeptical of a “black box” computer-based determination that tells them their homes are not in jeopardy. This skepticism increases when one sees that the model appears to be tweaked to obtain different results for different needs.

In addition to Garden Highway residents’ skepticism, landowners on the north side of the Natomas Cross Canal levee improvements, Reclamation District (RD) 1001, and RD 2035 are equally skeptical that one-sided levee improvements will not have significant adverse effects upstream and downstream of these improvements. In a Friday November 23, 2007 article in the Sacramento Bee about the Sacramento Riverfront shared by Cities of West Sacramento and Sacramento, the State Reclamation Board’s chief engineer, Steve Bradley, acknowledged a problem if West Sacramento unilaterally raises its levees to provide for its River Walk project. Mr. Bradley was quoted in the Sacramento Bee article pointing out that West Sacramento’s action would create a “levee parity” problem, “If levees are higher in one area than another, it means other spots might be more vulnerable to flooding.”13 West Sacramento is proposing to raise a one mile stretch of its levee a couple of feet.14 SAFCA is proposing the raise the levees on the south side of the 5.3 mile long Natomas Cross Canal and on the east side of the 18-mile long Sacramento River levee.15 Has SAFCA anticipated a similar “levee parity” concern from the Chief Engineer when it submits this project to the Reclamation Board for approval?

Failure to Provide Information in EIR Frustrates CEQA’s Purpose

The EIR fails to provide any meaningful information about the assumptions that went into the hydraulic modeling that led the lead agency to determine that its proposed levee improvement project will not have a significant adverse impact (i.e., flooding) on the riverside residents along the Garden Highway, the landowners along the north side of the Natomas Cross Canal, and the landowners on the west side within RD 2035 in Yolo County.

Repeatedly the California courts have acknowledged “the ‘foremost principle’ in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible

13 “Riverfront: Plans to extend walkways face large hurdles,” Sacramento Bee, November 23, 2007. (Attached as Exhibit C.)
14 Exhibit C.
15 NLIP Landside Improvements DEIR, p. 2-6.
protection to the environment within the reasonable scope of the statutory language.\textsuperscript{16} As the California Supreme Court has stated,

\begin{quote}
The EIR is the primary means of achieving the Legislature’s considered declaration that it is the policy of this state to “take all action necessary to protect, rehabilitate, and enhance the environmental quality of the state... The EIR is also intended “to demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its actions.”\textsuperscript{17}
\end{quote}

Since the public was not provided with the assumptions that were used to run the hydraulic computer model, the very interested public in this matter have been denied a meaningful opportunity to participate in CEQA’s mandatory environmental review proceeding.\textsuperscript{18} California’s high court has emphasized “public participation is an essential part of the CEQA process.”\textsuperscript{19}

\begin{quote}
To facilitate CEQA’s information role, the EIR must contain facts and analysis, not just the agency’s bare conclusions or opinions. This requirement enables the decision-makers and the public to make an “independent, reasoned judgment” about a proposed project.\textsuperscript{20}
\end{quote}

The California Supreme Court has acknowledged that interested citizens hold a “privileged position” within the CEQA process “based on a belief that citizens can make important contributions to environmental protection and on notions of democratic decision-making.”\textsuperscript{21} SAFCA’s evaluation of the proposed project’s effects on river hydraulics and hydrology fails to satisfy CEQA’s informational requirements.

The Approach Used in NLIP Has Been adopted by the State Legislature

In Master Response 1 SAFCA claims the Legislature has “approved the project features necessary to provide a 200-year level of flood protection along the American and Sacramento Rivers and within the Natomas Basin as described in the final engineer’s report dated April 19, 2007.”\textsuperscript{22}

Based upon the certified EIR for the Local Funding Mechanisms for Comprehensive Flood Control Improvements for the Sacramento Area, the California Legislature passed and Governor Schwarzenegger signed into law Senator Steinberg’s Senate Bill 276 (Stats. 2007, ch. 641), which amends section 12670.14 of the Water Code authorizing the appropriation of “an

\textsuperscript{17} Laurel Heights Improvement Ass’n v. Regents of the Univ. of California (1988) 47 Cal.3d 376, 392 (“Laurel Heights”).
\textsuperscript{18} See Mountain Lion Coalition v. CA Fish and Game Comm’n (1989) 214 Cal.App.3d 1043, 1050-1051.
\textsuperscript{19} Concerned Citizens of Centro Mesa v. 32nd District Agricultural Assoc. (1987) 42 Cal.3d 929, 935.
\textsuperscript{20} ibid.
\textsuperscript{21} id. at p. 936.
\textsuperscript{22} NLIP Landside Improvements Project EIR, p. 2–6; see also, e.g., Response to Comments 21-3 & 55-1 at p. 3-279.
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estimated cost to the state of the sum that may be appropriated by the Legislature for state participation upon the recommendation and advice of the [Department of Water Resources] or the Reclamation Board” for “the project features necessary to provide a 200-year level of flood protection along the American and Sacramento Rivers and within the Natomas Basin as described in the final engineer’s report dated April 19, 2007, adopted by the Sacramento Area Flood Control Agency.”

Despite SAFCA’s broad claim in Master Response 1, the California Legislature did not approve the Natomas Levee Improvement Program – Landside Improvement Projects. The specific activities described in the Natomas Levee Improvement Program – Landside Improvements Project EIR has not been previously adopted by SAFCA. Furthermore, as the certified Local Funding Mechanisms EIR acknowledged, “The NLIP activities have not been analyzed previously under CEQA.” If the state legislature had, in fact, approved the project features described in the final engineer’s report, then the Board of Directors of SAFCA and the State Reclamation Board (soon to be the Central Valley Flood Protection Board) would not need to approve the Natomas Levee Improvement Program – Landside Improvements Project. Further, the project would not be subject to CEQA, since actions by the state legislature are not subject to CEQA.

For the State of California, the final paragraph of the SB 276 is probably the most important part of the bill:

Prior to any reimbursement pursuant to subdivision (a), the agency shall execute an agreement with the department under which it agrees to indemnify and hold the state harmless from damages due to the construction, operation, or maintenance of those projects and agrees to operate, maintain, repair, replace, and rehabilitate those projects, or provide the agreement of its appropriate member agency to do so.

SAFCA’s levee improvements are not exempt from CEQA. Therefore, SAFCA’s environmental review of the NLIP, including the legal adequacy of SAFCA’s determination of the proposed project’s significant effect on the existing environment, is governed by CEQA’s environmental review requirements.

The NLIP EIR Determination of Significant Effect of the Project on Adjacent Properties Fails to Provide a Baseline Comparison

The determination that SAFCA’s project will not have a significant effect on the Garden Highway residents, Yolo County landowners on the west side of Sacramento River, and Sutter County landowners on the north side of the Natomas Cross Canal has played a critical role in truncating the lead agency’s environmental review of the proposed project. Throughout the EIR

24 Local Funding Mechanisms Program EIR Vol. 1, § 3.4.4, p. 3-35.  
25 CEQA Guidelines, § 15378, subd. (b)(1); see also CEQA Guidelines, § 15379.  
26 Stats 2007, ch. 641, §3. (A copy of the chaptered version of SB 276 is attached as Exhibit D.)
and especially in the responses to public comments, SAFCA merely relies on the conclusions derived from the hydraulic model simulation. Yet, this computer simulation does not satisfy CEQA’s requirements in evaluating the project’s significant effect on the existing environment.

In determining whether a project’s impacts may significantly affect the existing environment, there must be a “baseline” set of environmental conditions to use as a comparison to the anticipated project impacts. As the Court of Appeal has explained, “it is only against this baseline than any significant environmental effects can be determined.”

The NLIP DEIR fails to evaluate the environmental consequences of its east side levee improvements against the existing environmental conditions. Instead, “[f]or purposes of evaluating the hydraulic effects of the NLIP, SAFCA employed levee failure scenario (a), because it is reasonable, practical, is easily understood, and because a sensitivity analysis indicated that the estimated hydraulic characteristics would be the same for each of the level (sic) failure scenarios analyzed.” Scenario (a) assumes a levee fails when water level exceeds the top of the levee by 0.5 feet. This is not the baseline environmental conditions, this is a hypothetical scenario for purposes of running the UNET computer model. The existing levee along the Garden Highway has never been topped by six inches of floodwaters.

The NLIP EIR and SAFCA’s hydraulic impact analysis assumes that portions of the west side of the Sacramento River opposite the Natomas Basin will be raised. There is no evidence to support this assumption.

Based on the information in the NLIP EIR, we do not know what the actual physical baseline environmental conditions are within the project area. For example, what was the elevation of the river in 1997 (or 1986)? What was the maximum water level below the top of the existing levee? On the east side of the Sacramento River? On the west side of the Sacramento River? On the south side of the Natomas Cross Canal? On the north side of the Natomas Cross Canal?

What CEQA requires is the establishment of the existing physical environmental conditions. Several court decisions have determined that the impacts of a proposed project must be measured against the “real conditions on the ground.” “An EIR must focus on impacts to the existing environment, not hypothetical situations.” The proposed project’s impacts must be compared against real, physical, environmental conditions. This would include the existing condition of the west side levees along the Sacramento River and the north side levee along the Natomas Cross Canal. This comparison would answer the question of “levee parity” and whether any spots along the river side of the east levee improvements or west side of the Sacramento River in Yolo County, or north side of the Natomas Cross Canal in Sutter County would be more vulnerable to flooding. In other words, if the east side has sufficient freeboard to ensure safe containment of the “200-year” design, how does this effect the existing lower levees along the west side of the river and the existing elevation of the homes along Garden Highway on the river.

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26 NLIP Landside Improvements Project FEIR, p. 2-5.
side of the improved levees. This analysis would also apply to the north side of the Natomas Cross Canal.

The NLIP DEIR failed to compare the effects of the proposed levee improvements against the existing physical environmental conditions. The failure to provide this analysis frustrates "the central function of the EIR, to inform decisionmakers about the impacts of the proposed project on the existing environment."31

NLIP EIR Illegally Segments the Whole of the Action

The NLIP EIR separates the levee improvements for the south levee of the Natomas Cross Canal and the east levee of the Sacramento River into two separate projects. The project description must include all parts of a proposed project, including all reasonably foreseeable future expansion,32 to ensure that all of the potentially significant effects of the proposed project are evaluated in the DEIR.33

The NLIP EIR separates the landside levee improvements into two separate projects based on the lead agency’s anticipated construction periods. The south levee work along the Natomas Cross Canal and the east levee work along the Sacramento River to Reach 4B is evaluated at a project level in the EIR. The remaining east levee work to Reach 20 along the Sacramento River is evaluated at a program level. The distinction between the two alleged projects is depicted on Table 2-1 of the DEIR entitled “Summary of the Major Elements of the Proposed Project.”

Several residents along the Garden Highway commented about the environmental consequences of the proposed levee improvement project. This led to differing responses depending upon the comments made by the local residents. For example, SAFCA made the following response to one resident who was concerned about the “unmitigated impacts of the proposed levee improvements on the residents along the Garden Highway [including] the proposed relocation of the telephone lines, traffic and impacts of the levee raising.”34

The environmental impacts of the proposed project have been thoroughly analyzed in Chapter 3, “Environmental Setting, Impacts, and Mitigation,” of the DEIR. In addition to adopting the mitigation measures identified in the DEIR and FEIR, SAFCA is interested in working with the affected property owners to determine the best options for minimizing these impacts.35

With regard to a comment about proposed project plans to drain roadway wastewater to the “waterside” of the slope along Garden Highway,36 the response states,

31 id. at p. 127.
32 Laurel Heights I, supra, 47 Cal.3d at p. 396;
34 NLIP Landside Improvements Project FEIR, p. 243.
35 id. at p. 246.
36 id. at n. 3-248.
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As the DEIR noted in Section 2.3.2.3, “Installation of Surface Drainage Outlets Across Garden Highway,”... would be constructed between the adjacent setback levee and the Garden Highway pavement.... These discharge pipes would require minor landscape improvements to prevent erosion and ensure applicable water quality standards are met.\textsuperscript{37}

With regard to the project’s impacts and components, the responses to these comments do not attempt to differentiate between the whole of the action regarding the levee improvement work along the Garden Highway.

In contrast to the responses above, the following response was made to Garden Highway residents who commented about the lack of available information in the DEIR “to even understand where their property is in relation to proposed work.”\textsuperscript{38}

Potential impacts on specific properties located within the 2009-2010 project footprint will be analyzed at a project-specific level in a subsequent environmental document, and mitigation for significant effects on the environment will be identified. SAFCA anticipates that this subsequent environmental document will be issued in 2008.\textsuperscript{39}

At the October 18, 2007 public hearing a Garden Highway resident commented about “whether the slurry walls were actually looked into as opposed to widening the levees.”\textsuperscript{40} SAFCA’s response states,

Cutoff walls are being considered for inclusion in the overall program as a potential seepage remediation measure and would be implemented in 2009 or 2010 if SAFCA determines that they would not significantly affect groundwater recharge. ... Project-level analysis of the effects of the cutoff walls will be disclosed as more technical details of 2009-2010 construction become available.\textsuperscript{41}

This remarkable chopping up of the whole of the project into separate projects and activities based upon SAFCA’s construction timeline is not allowed under CEQA. Based on the confusing responses to Garden Highway residents’ comments, it is not particularly clear that the lead agency understands what piece of the whole project is the “project” and what piece is the “program.” This parsing of the whole NLIP has been consistently rejected by the California courts.

State CEQA Guidelines section 15378, subdivision (a) defines the term “Project” as “the whole of an action, which has a potential for resulting in a physical change in the environment, directly or ultimately,” and which is undertaken, supported or

\textsuperscript{37} id. at p. 3-250.  
\textsuperscript{38} id. at p. 3-231.  
\textsuperscript{39} id. at p. 3-234.  
\textsuperscript{40} id. at p. 287.  
\textsuperscript{41} id. at \textsuperscript{73}RR
approved by a public agency. Subdivision (c) of this section states, “[t]he term ‘project’ refers to the activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. The term ‘project’ does not mean each separate governmental approval.” “‘Project’ is given a broad interpretation in order to maximize protection of the environment.” (citation omitted) This ensures “that environmental considerations do not become submerged by chopping a large project into many little ones, each with a potential impact on the environment, which cumulatively may have disastrous consequences.”42

It is relatively apparent from reading the NLIP EIR that future development and the general types of future activities involving the levee improvements along the Garden Highway from Reach 1 to Reach 19B are reasonably foreseeable, and, therefore, must be evaluated in one NLIP EIR for the whole of the action.43 As stated by one of the Garden Highway residents, “As we all know, once a precedent is set upstream, it will be very difficult for us to depart from that established precedent when the plans for our own respective areas come up for consideration.”44

Effect of Climate Change on the Proposed Project

The NLIP EIR barely acknowledges the impact climate change may have on the operation and maintenance of the Central Valley’s levee system. In a response to a public comment about whether the DEIR took into account the effect of climate change on river flows,45 SAFCA states, “this potential climate change effect is too speculative to reasonably draw a conclusion on regarding the significance of foreseeable direct effects on physical conditions at the project site.”

We disagree that the potential climate change effect is too speculative. Climate change is real. The California Department of Water Resources (“DWR”) recently published a technical memorandum report entitled “Progress on Incorporating Climate Change into Management of California’s Water Resources.” This document is readily available on the web at http://baydeltaoffice.water.ca.gov/climate_change/DWRClimatetChangeJuly06.pdf. Chapter 6 of DWR’s technical report in entitled “Climate Change Impacts on Flood Management” offers some helpful information about the effect of climate change on flood management.46 While acknowledging the uncertainty associated with evaluating changes in weather events due to climate change, DWR’s technical report provides a description of climate change scenario data that would be suitable for analyzing climate change impacts on flood frequency.47

Considering what is at stake and the long-term nature of the levee improvements that SAFCA is undertaking, it does not seem at all unreasonable or too speculative to evaluate how changing climate conditions may affect the project area and the proposed levee improvements. An EIR’s

43 Laurel Heights I, supra, 47 Cal.3d at pp. 397-398.
44 NLIP Landslide Improvements Project FEIR, p. 3-197.
45 id. at p. 3-219.
46 A copy of Chapter 6 is attached as Exhibit F to the letter that has been hand-delivered to SAFCA’s office.
47 Exhibit F: p. 6-1.
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“purpose is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.”

**NLIP Landside Improvement EIR Fails to Consider a Reasonable Range of Alternatives**

The project’s objectives are so narrowly defined that SAFCA lists the NLIP project as the first alternative. Then it goes on to select this alternative (the project) as the environmentally superior alternative. The CEQA Guidelines require the selection of the environmentally superior alternative to be made among the various alternatives to the project. If it is determined that the “no project” alternative is the environmentally superior alternative, the EIR must also identify an environmentally superior alternative from among the other alternatives. Here, because SAFCA has listed the project as an alternative to the project, the project is selected as the environmentally superior alternative to the project. Clearly, SAFCA has failed to follow the procedure described in the CEQA Guidelines.

It is also interesting that in describing the “no project” alternative, SAFCA claims that this would prevent the Natoma Basin from absorbing “up to 60,000 dwelling units and associated commercial and industrial developments.” Therefore, it appears SAFCA’s NLIP is the catalyst for future growth in the Natoma Basin. However, in the Growth Inducing Effects section of the DEIR, SAFCA claims growth in the Natoma Basin will proceed with or without implementation of the proposed project, claiming the private development would build ring levees around the private development. Yet, when rejecting Alternative 5 – Private Levees in Natoma, the NLIP EIR points out that these levees would need to be 25 feet high with 3:1 side slopes and would significantly adversely affect wildlife connectivity. Therefore, it would appear that a private ring of levees around development within the Natoma Basin would not be consistent with the Natoma Basin Habitat Conservation Plan. We wonder what comfort future and present homeowners in the Natoma Basin would have living within a 25-foot high ringed berm.

It would appear that the anticipated growth in the Natoma Basin drives SAFCA’s objective to move as quickly as possible. Therefore, it makes the consideration of a regional approach that may involve coordination with other public agencies less practical from SAFCA’s perspective. This makes the alternatives analysis in the NLIP a bit of a paper exercise, as it appears, based on SAFCA’s comments about the purpose of SB 276 and the Final Engineer’s report dated April 19, 2007, that the agency has pre-determined the project leaving the public and its decisionmakers without a reasonable range of alternatives to consider and compare to the proposed project.

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48 *Laurel Heights I*, supra, 47 Cal.3d at p. 392. 
49 CEQA Guidelines, § 15126.6. subd. (e)(2). 
50 *ibid.* 
51 NLIP Landside Improvements DEIR, p. 6-14. 
52 *id.* at p. 5-2. 
53 *id.* at p. 6-15. 
54 See *Laurel Heights I*, supra, 47 Cal.3d at p. 425, (“We will not accept _post hoc_ rationalizations for actions already taken.”)
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NLIP EIR Fails to Adequately Mitigate for the Loss of Habitat and Take of Endangered Species

We concur with the comments of the United States Fish and Wildlife Service and the California Department of Fish and Game on the inadequacies of the NLIP EIR.

Urge SAFCA Board to Direct Staff to Revise and Recirculate the EIR

On behalf of the Garden Highway Community Association, we urge the Directors of SAFCA not to certify the NLIP EIR. Instead, the staff and its consultants should be directed to prepare a legally adequate environmental review of the proposed Natomas Levee Improvement Program that begins with a meaningful analysis of the real conditions along the Natomas Cross Canal and Sacramento River focusing on the proposed project's impacts to the existing environment, not a hypothetical situation based upon a computer simulation. We also encourage SAFCA to work with the new Central Valley Flood Control Board and other public agencies on a regional approach that would look to set back the levees and improve the existing weirs and bypasses in order to provide long-term protection to the region in anticipation of changing climatic conditions. Unless, or until, SAFCA complies with CEQA's informational requirements and revises and recirculates the NLIP EIR, the Garden Highway Community Association opposes the NLIP project. Attached as Exhibit E to this letter is a list of Association members who reside along the Garden Highway, and who oppose the NLIP Landside Improvements Project.

Sincerely,

//s//

Bill Yeates

Attachments: Exhibits A through F

cc: Client
December 19, 2007

Benjamin Carter, President, and Members
The Reclamation Board
3310 El Camino Avenue, Room LL40
Sacramento, CA  95821

ATTN: Jay Punia, General Manager

Re: Application No. 18159-2, Sacramento Area Flood Control Agency, Natomas Levee
Improvement Program, Natomas Cross Canal, Sutter County – December 21, 2007
Agenda Item 5.D.

Dear President Carter and Members of The Reclamation Board:

I am writing on behalf of our client the Garden Highway Community Association, which is made up of landowners who own property and residences immediately adjacent to the proposed landside levee improvements described as the Natomas Levee Improvement Program by the Sacramento Area Flood Control Agency (“SAFCA”). The environmental consequences of the proposed landside levee improvements were the subject of an environmental impact report (“EIR”) entitled, Natomas Levee Improvement Program – Landside Improvements Project (SCH #2007062016), which was certified by SAFCA on November 29, 2007. In addition to certifying the EIR for the Natomas Levee Improvement Program, the SAFCA Board approved the “2008 construction projects, consisting of the ‘Natomas Cross Canal South Levee Phase 2 Improvement Project’ and the ‘Sacramento River East Levee Phase 1 Improvement Project (Reaches 1 through 4B).’”

Incorporating Garden Highway Community Association’s Letter to SAFCA

Attached as Exhibit 1 to this letter, is a letter I submitted to SAFCA on behalf of our client on November 27, 2007, which highlights where we believe SAFCA has prejudicially abused its discretion by failing to follow the California Environmental Quality Act’s (“CEQA”) mandatory environmental review procedures, resulting in their CEQA document being inadequate. Although Application No. 18159-2 only brings to The Reclamation Board the south side levee improvements along the Natomas Cross Canal, our clients’ comments on the legal inadequacy of the EIR’s evaluation of the Natomas Levee Improvement Program apply to this portion of the
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project, and I am, therefore, incorporating the comments in this letter and its exhibits for purposes of The Reclamation Board’s proceeding.\(^1\)

Garden Highway Community Association Has Challenged SAFCA’s Approval

On December 19, 2007, the Garden Highway Community Association filed a petition for writ of mandate in the Sacramento County Superior Court challenging SAFCA’s certification of the Natomas Levee Improvement Program–Landside Improvements Project EIR (SCH #2007062016) and approval of the Natomas Levee Improvement Program and landside levee improvement projects, characterized by SAFCA in Resolution 07-105 as the “2008 construction projects, consisting of the ‘Natomas Cross Canal South Levee Phase 2 Improvement Project’ and the ‘Sacramento River East Levee Phase 1 Improvement Project (Reaches 1 through 4B),’” for failing to comply with CEQA.

The Reclamation Board Acts As A Responsible Agency Under CEQA

For CEQA’s purposes SAFCA is the lead agency for the proposed Natomas Levee Improvement Program and, therefore, was required to prepare and certify the above-referenced EIR. The Reclamation Board is identified in SAFCA’s certified EIR as a responsible agency by virtue of its regulatory authority in granting levee and roadway encroachment permits.\(^2\)

Section 8710 of the California Water Code provides:

> Every plan of reclamation, flood control, drainage, improvement, dredging or work, that includes or contemplates the construction, enlargement, revetment or alteration of any levee, embankment, canal or other excavation in the bed of or along or near the banks of the Sacramento or San Joaquin Rivers or any of their tributaries or connected therewith, or upon any land adjacent thereto, or within any of the overflow basins thereof, or upon any land susceptible to overflow therefrom, shall be approved by the board before construction is commenced.\(^3\)

In response to a comment from Reclamation District 2035 regarding The State Reclamation Board’s jurisdiction,\(^4\) SAFCA responded,

> The Reclamation Board has approval authority over portions of the NLIP Landside Improvements Project. The NLIP Landside Improvements Project would not alter water surface elevations and therefore would not increase flooding potential in the SRFCP.\(^5\)

\(^1\) It is not clear why SAFCA is not seeking a permit from The Reclamation Board for the Sacramento River East Levee Phase 1 Improvement Project (Reaches 1 through 4B).


\(^3\) California Water Code, Section 8710

\(^4\) NLIP Landside Improvements Project FEIR, SAFCA (EDAW, Nov. 2007), p. 3-68

\(^5\) NLIP Landside Improvements Project FEIR, SAFCA (EDAW, Nov. 2007), p. 3-68

FFEIS

Responses to Comments on the DEIS/DEIR 05-28

NLIP Phase 3 Landside Improvements Project

USACE
Benjamin Carter, President, and Members  
The State Reclamation Board  
December 19, 2007  
Page 3 of 5

We criticized SAFCA for segmenting the environmental review of its landside levee improvements. It appears SAFCA is continuing to segment the review of its landside levee improvements by forwarding only a portion of the 2008 construction project that it approved on November 29, 2007, for review by The Reclamation Board. It would appear Section 8710 of the Water Code gives The State Reclamation Board complete jurisdiction over SAFCA’s Natomas Levee Improvement Program.

As a responsible agency The Reclamation Board must comply with CEQA; specifically, the duties of a responsible agency described in section 15096 of the CEQA Guidelines. Additionally, as a responsible agency, an inadequate CEQA document is a legal basis for the Board of Reclamation to deny this application.7

SAFCA’s EIR Failed to Compare Project Impacts Against Baseline Conditions

SAFCA’s EIR has failed to evaluate the environmental consequences of its proposed levee improvement program against the existing baseline environmental conditions.8 During the staff presentation of the proposed levee improvement project at the November 29, 2007 SAFCA hearing, Joseph D. Countryman, President of MBK Engineers explained the hydraulic modeling that was used in determining that SAFCA’s project would not change the river’s elevation. The attached diagram at Exhibit 2 entitled “Cross-section: Sacramento River at USGS River Mile 76.1 (looking downstream),” was used by Mr. Countryman to show graphically the assumptions that went into MBK’s computer model. This Cross-section of the Sacramento River demonstrates that the East side levee is higher than the west (Yolo) side levee.9 SAFCA’s project increases the height of the east side levee to provide the necessary freeboard to meet the new FEMA standards. MBK’s computer model assumes that the west side levee will be raised to the 40 foot elevation line (see the red cap on the west side levee). In other words, MBK’s computer model is based on a hypothetical situation – that the levees on the Yolo County side of the River have already been raised beyond their actual height. However, CEQA requires the lead agency to compare the impacts of its proposed project against the existing environmental conditions, not a hypothetical situation.10 The real, existing, on-the-ground condition is the actual height of the west side levee without the non-existent additional height as indicated on the diagram by the red cap. Furthermore, Mr. Countryman also testified that he had to input additional fictitious data into the model in order to get the results desired by SAFCA, specifically that the levees upstream of the Natomas levees are currently stronger than they actually are and that these levees would not fail prior to the existing Natomas levees, which he stated was not the actual case.

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6 Exhibit 1, pp. 10-12.
7 California Code of Regulations, Tit. 23, Div. 1, Ch. 1, Art. 3, §15, subd. (c).
8 See Exhibit 1, pp. 8-10.
9 At an October 19, 2007 Reclamation Board Hearing Mr. Countryman provided an overview of the Natomas Levee Project in which he stated: “The existing levee in Natomas is over 2 feet higher than the levee across the river on the west side of the Sacramento River.” An excerpt from the transcript of the meeting is attached as Exhibit 3 to this letter. Mr. Countryman’s quote is in p. 247, lines 5 through 7.
If you use baseline conditions and the design 200-year water surface for the Natomas Levee Improvement Program, you can see that the designed water surface elevation (the blue line labeled “200-yr NLIP Design WS (no failures)” is three to four feet higher than the west side levee. This means that the lands on the west side of the river are going to be flooded when the Sacramento River reaches the new 200-year designed elevation for the east side levee improvements. This would “expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee.”

SAFCA’s Levee Improvement Project Jeopardizes Adjacent Jurisdictions and Properties

Reclamation District 1001 commented on SAFCA’s DEIR pointing out that by raising the south levee along the Natomas Cross Canal SAFCA could be jeopardizing RD 1001’s lower north levee and lands on the north side of the canal. Several property owners also raised concerns about the impact raising the south levee would have on properties to the north protected by the lower south levee.

Reclamation District 2035 submitted a comment letter on SAFCA’s DEIR criticizing SAFCA’s flood modeling and for protecting the Natomas Basin at the risk of flooding other areas.

The Reclamation Board may deny a permit if the proposed work could jeopardize directly or indirectly the physical integrity of levees or other works, or increase the damaging effects of flood flows. Comments by landowners and the two reclamation districts directly affected by SAFCA’s proposed action raise serious concerns about the risk of flooding in other areas. It would appear that SAFCA is creating a “levee parity” problem for neighboring jurisdictions by raising its levees three feet higher than the levees on the opposite sides of the Cross Canal and the Sacramento River, thus making these areas more vulnerable to flooding. When discussing another proposed project with a levee raise of only one foot on the Sacramento River, your Chief Engineer recently stated publicly that the Board of Reclamation staff “...can’t endorse such an improvement because it would create a “levee parity” problem.” The proposed SAFCA project would raise levees three feet on one side of the river, creating an even larger levee parity problem than the one cited by your Chief Engineer.

The members of our client organization who live on the riverside of the east side levee improvements are concerned that Yolo County will respond to SAFCA’s project and will raise the west side levee. Then the blue line that represents the “200-yr NLIP Design [Water Surface]” will flood those homes on the riverside of the new improved levees. SAFCA’s flood

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11 CEQA Guidelines, Appendix G, Environmental Checklist, Sample Question, VII. Hydrology and Water Quality, Item (i).
12 NLIP Landside Improvements Project FEIR, SAFCA, (EDAW, Nov. 2007), p. 3-56.
13 NLIP FEIR, pp. 3-291, -293, & -311.
14 id. at p. 3-60 through 3-62.
15 California Code of Regulations, Tit. 23, Div. 1, Ch. 1, Art. 3, §15, subd. (a)(1) & (7).
16 See Exhibit C (Sacramento Bee article entitled “Riverfront: Plans to extend walkways face large hurdles”) attached to Exhibit 1 the November 27, 2007 letter from Bill Yeates to SAFCA Chair Heather Faren.
modeling never addressed this situation, because it never evaluated the height of the residences on the west side of the levee.

**SAFCA Failed to Evaluate An Alternative That Lowers The River’s Elevation**

Because SAFCA failed to evaluate the environmental effects of its project against existing baseline environmental conditions, SAFCA’s environmental document has been severely skewed to favor its proposed project, at the expense of a comprehensive review of alternatives to the proposed project. Despite many comments by adjacent landowners and RD 2035, SAFCA never considered a feasible alternative to its project that would lower the elevation of the river at flood stage, rather than raise the height of the levees.\(^{17}\) Comments suggested lowering the existing weirs or providing set back levees. Despite acknowledging that the existing levee system constrains the river causing “chronic erosion and seepage,”\(^{18}\) SAFCA simply dismissed evaluating any alternative that would lower the elevation of the river by improving or expanding the use of the existing bypass system. Neither the public nor public decision-makers were given the opportunity to compare the effects of an alternative that lowered the height of the river to the proposed program SAFCA is promoting.

The Reclamation Board may also deny SAFCA’s project based on the fact that SAFCA’s EIR is inadequate.\(^{19}\)

On behalf of the Garden Highway Community Association, we urge The Reclamation Board to deny SAFCA’s application because the lead agency’s EIR does not comply with CEQA and its levee improvement project will jeopardize other area levees, adjacent properties, structures, residents, and will, therefore, increase flood damage in these areas.

Sincerely,

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Bill Yen

cc: Client

Steve Buer, Executive Director, SAFCA

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\(^{17}\) See, e.g., NLIP FEIR, pp. 3-64, 3-134, 3-179, 3-208, 3-212, 3-218, 3-232, 3-257.

\(^{18}\) NLIP FEIR, p. 3-4-4.

\(^{19}\) California Code of Regulations, Tit. 23, Div. 1, Ch. 1, Art. 3, §15, subd. (c).
John Bassett
Sacramento Area Flood Control Agency
1607 Seventh Street, 7th Floor
Sacramento, California 95814

Subject: Comments on the Sacramento Area Flood Control Agency’s September 2007, Draft Environmental Impact Report on the Natomas Levee Improvement Program Landslide Improvements Project

Dear Mr. Bassett:

The U.S. Fish and Wildlife Service (Service) and California Department of Fish and Game (DFG) (collectively referred to as the Wildlife Agencies) have reviewed the Sacramento Area Flood Control Agency’s (SAFCA) September 2007, Draft Environmental Impact Report on the Natomas Levee Improvement Program Landslide Improvements Project (DEIR). As described in the DEIR, the project objectives include: 1) complete the projects necessary to provide 100-year flood protection for developed areas in the major floodplains of the Sacramento metropolitan area (Sacramento) as quickly as possible, 2) provide urban-standard (“200-year”) flood protection for developed areas in Sacramento’s major floodplains over time, and 3) ensure that new development in the undeveloped areas of Sacramento’s major floodplains does not substantially increase the expected damage of an uncontrolled flood.

As trustees for the State’s fish and wildlife resources, the DFG has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of such species. In that capacity, the DFG administers the California Endangered Species Act (CESA), the Native Plant Protection Act (NPPA), and other provisions of the California Fish and Game Code that afford protection to the State’s fish and wildlife trust resources. The DFG also considers issues as related to the Migratory Bird Treaty Act of 1918, as amended, (16 U.S.C. 703-712) (MBTA). The Service is providing comments in accordance with the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), (ESA), and the MBTA.

As our discussion below further explains, the DEIR does not adequately address the impacts of the proposed project on fisheries and aquatic and terrestrial biological resources, or the Natomas Basin Habitat Conservation Plan’s (NBHCP) Operating Conservation Program. In particular, the...
DEIR In some instances does not include mitigation measures that are enforceable, in some cases does not provide details and minimums for achieving successful mitigation, and define mitigation details to some future time.

The studies analysis and proposed conservation strategy in the DEIR have not been evaluated by the Service to determine their consistency with Federal Endangered Species Act requirements. Such evaluation would occur during informal and formal consultation pursuant to section 7 of the ESA. At that time, the Service would use information provided by SAFCA and information otherwise available to the Service to determine the extent of effects to federally-listed species.

Background Information
The Wildlife Agencies met with representatives of SAFCA and its project consultant, EDAW, on September 25, 2006, May 10, 2007, and May 17, 2007, to discuss proposed levee improvement projects in the Natomas Basin and to discuss our concerns. In these meetings, the Wildlife Agencies emphasized the importance of minimizing the effects of SAFCA’s proposed projects on federally and State listed species, as well as on existing and pending habitat conservation plans. The Wildlife Agencies also wrote a letter expressing the above concerns for the November 2006, Local Funding Mechanism for Comprehensive Flood Control Improvements in the Sacramento Area Draft Environmental Impact Report. The DFG wrote a letter for the Notice of Preparation for the draft Environmental Impact Report for the Natomas Area Improvement Program Landslide Improvements Project expressing various concerns regarding potential impacts to biological resources. The Wildlife Agencies reiterated and expand upon their comments and concerns below.

Enforceable Mitigation Measures
CEQA Guidelines §§15126.4 (a)(1)(A) states that formulation of mitigation measures should not be deferred until some future time. Table ES-1 lists a number of mitigation measures for fisheries and aquatic resources (i.e., mitigation measures 3.6a and 3.6b), and terrestrial biological resources (i.e., mitigation measures 3.7a, 3.7b, 3.7c, 3.7d, 3.7f, 3.7h, and 3.7i). Most rely on future approvals or agreements with the Wildlife Agencies, entities entrusted with carrying out the NBRCP’s permit conditions (Natomas Basin Conservancy (NBBC)), and agencies entrusted with providing public safety (Federal Aviation Administration (FAA) approval over mitigation on proposed borrow site / Sacramento Airport buffer lands), as a means to bring identified significant environmental effects to below a level that is significant. In some cases (i.e., impact 3.7a on page 3-114), the DEIR states “specific requirements have not been established to ensure that appropriate habitat conditions have been provided to adequately replace the values that would be lost.” Because there is no guarantee that these approvals or cooperation with all of the above entities will ultimately occur, the Wildlife Agencies believe that the above mitigation measures are enforceable and do not bring the impacts to fisheries and aquatic resources to below a level that is significant.

Mitigation measures should establish performance standards to evaluate the success of the proposed mitigation, provide a range of options to achieve the performance standards, and must be committed to a lead agency to successful completion of the mitigation. Mitigation measures should
also describe when the mitigation measures will be implemented, and explain why the measure is feasible. Therefore, the Wildlife Agencies recommend that the mitigation measures described in sections 3.6 and 3.7, and summarized in Table ES-1, include measures that are enforceable and do not defer mitigation details to some future time. The DEIR should identify the following items: how each measure will be carried out, who will perform the measures; when the measures will be performed, and the performance standards and mechanisms for achieving success, and an assured source of funding to acquire and manage identified mitigation lands. The DEIR could describe a range of enforceable mitigation measures that will be implemented in instances where approval and cooperation with the entities identified above does or does not occur.

Potential Impacts on Federally- and State-Listed Species
The proposed activities described in the DEIR may result in adverse affects to several federally- and State-listed species, including the giant garter snake (Thamnophis gigas; GGS), and the Swainson’s hawk (Buteo swainsoni; SWH).

GGS
The proposed activities described in the DEIR would result in impacts to upland and aquatic habitats for the GGS. Direct and indirect impacts could include the loss and displacement of individuals, the temporary disturbance of habitat, and road mortality. SAFCA states in the DEIR that “measures shall be implemented to minimize the potential for direct injury or mortality of individual giant garter snakes during project construction. Such measures shall be finalized in consultation with DFG and USFWS, and are likely to include worker awareness training, timing of initial ground disturbance to correspond with the snake’s active season, de-watering aquatic habitat before fill, conducting preconstruction surveys, and conducting biological monitoring during construction.” The effects analysis and proposed conservation strategy in the DEIR have not been evaluated by the Service to determine their consistency with Federal Endangered Species Act requirements. Such evaluation would occur during section 7 consultation.

According the Service’s conservation measures for GGS, construction activities occurring within GGS habitat should be completed between May 1 and October 1. This is the active period for GGS, and the potential for direct mortality is lessened during this time because it is expected that the snake will actively move and avoid danger. Construction activities that extend beyond October 1 may adversely affect the GGS by limiting its ability to find and utilize suitable upland habitat for winter hibernation, by hindering its dispersal behavior, and by exposing it to increased risks of injury and mortality from predation, exposure, entanglement, vehicular traffic, and construction equipment as the snake may be forced to disperse through and/or around the construction site in response to habitat changes and seasonal indicators. If it appears that construction may not be completed by October 1, additional conservation measures, including compensation, may be necessary to minimize these effects. The project proponent should contact the Service through a lead Federal agency no later than July 15 of the year in question to allow for adequate time to consider and process a request to extend the GGS work period construction window. The Service may consider this request, particularly if construction is at least 80 percent complete by October 1.
The DEIR also states “although the [GGS] habitat loss would be compensated for by habitat creation and preservation, a plan has not yet been prepared specifying how canals and marshes that are designed to provide giant garter snake habitat would be managed to ensure that the appropriate habitat conditions are provided” and “SAPCA shall develop and implement a plan to address management of aquatic (i.e., GSS/Drainage Canal and marsh/seasonal wetland habitat) and adjacent upland habitats that are created and rice fields that are preserved as part of the project in order to ensure that the performance standard of no net loss in function and value of giant garter snake habitat is met...the management plan for the giant garter snake habitat creation and preservation components of the project shall be reviewed and approved by USFWS and DFG before project implementation. Authorization for take of giant garter snakes under ESA and CESA shall be obtained. All measures subsequently adopted through the permitting process shall be implemented.” These commitments require more specificity and explanation in the DEIR in order to evaluate their adequacy and feasibility to protect the GSS and its habitat in the long run.

SWH

The proposed activities described in the DEIR would result in impacts to nesting and foraging habitats for the SWH. Direct and indirect impacts could include the loss and displacement of individuals, the disturbance of habitat and mortality. SAPCA states in the DEIR that “the primary engineering and construction contractors shall ensure, through coordination with a qualified biologist retained by SAPCA, that staging areas and access routes are designed to minimize disturbance of known Swainson’s hawk nesting territories. The biologist shall conduct pre-construction surveys to identify active nests within 0.25 mile of construction areas, in accordance with DFG guidelines. Surveys shall be conducted in accordance with NIBHCP requirements and Recommended Timing and Methodology for Swainson’s Hawk Nesting Surveys in California’s Central Valley (Swainson’s Hawk Technical Advisory Committee 2000). If an active nest is found, an appropriate buffer that minimizes the potential for disturbance of the nest shall be determined by the biologist. In coordination with DFG. No project activities shall commence within the buffer area until a qualified biologist confirms that the nest is no longer active or the birds are not dependent on it. Monitoring shall be conducted by a qualified biologist to determine whether project activity results in detectable adverse effects on the nesting pair or their young. The size of the buffer may vary, depending on the nest location, nest stage, construction activity, and monitoring results. If implementation of the buffer becomes infeasible or construction activities result in an unanticipated nest disturbance, DFG shall be consulted to determine the appropriate course of action.”

The DFG believes that impacts to and take of SWH could occur by project related activities within 0.5 mile of an occupied SWH nest. In order to reduce impacts to a level below significance for nesting SWH, the DFG recommends that the DEIR commit SAPCA to undertake the minimization measures described in the DEIR and quoted in the preceding paragraph, and if construction activities are expected to occur within 0.5 miles of an occupied nest, SAPCA will consult with DFG and, if necessary, obtain an incidental take permit issued pursuant to Fish and Game Code section 2081.

For the SWH, SAPCA states in the DEIR that “SAPCA shall develop and implement a plan to
address management of grassland habitats that are created as part of the proposed project in order to ensure that the performance standard of no net loss of sensitive habitat is met. The management plan shall, at a minimum, establish specific success criteria for habitat creation, specify remedial measures to be undertaken if success criteria are not met (e.g., supplementary plantings and additional monitoring), and describe short- and long-term maintenance and management of the features. Long-term projection of the created features and funding for their management shall be provided through appropriate mechanisms to be determined by SNEA, DFG, and other entities cooperating in implementation of the proposed project. These commitments require more specificity and explanation in the DEIR in order to evaluate their adequacy and feasibility to protect the SWH and its habitat in the basin.

As described in “Enforceable Mitigation Measures” above, because there is no guarantee that approvals or agreements with THBC, FAA, USFWS, and DFG (which are necessary to carrying out the mitigation measures described in the DEIR) will ultimately occur, the Wildlife Agencies believe that the above mitigation measures are unenforceable and do not bring the impacts to the GGS and SWH to below a level that is significant. Therefore, the Wildlife Agencies recommend that the mitigation measures described in sections 3.7d and 3.7f, and summarized in Table E3-1, include measures that are enforceable and do not defer mitigation details to some future time. The DEIR should identify how the mitigation measures will be carried out, who will perform the measures, and when the measures will be performed. The DEIR should also identify measurable performance standards and mechanisms for achieving success, and describe an assured source of funding to establish and manage identified mitigation lands. The DEIR could describe a range of enforceable mitigation measures that will be implemented in instances where approval and cooperation with the above agencies and entities either does or does not occur. A mitigation plan for establishing habitat lands to offset the significant impacts to SWH foraging and nesting habitats and GGS aquatic and upland habitats should be developed in coordination with and subject to approval by the Wildlife Agencies. The plan should include a plan for establishing habitat and vegetation components, a monitoring plan (a minimum of 5 years), appropriate success criteria, and a remediation plan in the event that success criteria are not met. The mitigation plan should identify who will hold ownership of the parcel(s), who will manage the parcel(s), and what funding will be used to manage or replace lands in perpetuity.

CESA

A California Endangered Species Act (CESA) Permit must be obtained if the project has the potential to result in take of species of plants or animals listed under CESA, either during construction, or over the life of the project. The proposed project may result in take of GGS and SWH. Issuance of a CESA permit is subject to CEQA documentation, therefore the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the project will impact CESA listed species, early consultation is encouraged, as significant modification to the project and mitigation measures may be required in order to obtain a CESA permit. A CESA permit may only be obtained if the impacts of the authorized take of the species is minimized and fully mitigated and adequate funding has been assured to implement the mitigation measures. The DFG may only issue a CESA permit if DFG determines that issuance of the permit does not jeopardize the continued existence of the species. The DFG

1 Landside Improvements Project (Cont.)
Potential Impacts on Burrowing Owl and other Special-Status Birds

According to the California Natural Diversity Database (CNDDB) and as described in the DEIR, burrowing owls (Athene cunicularia; BUOW) are known to occur within the project vicinity. Fish and Game Code section 5085.5 protects raptors, and their nests and eggs. The DEIR states that “the biologist shall conduct preconstruction surveys to identify active special-status bird nests and occupied BUOW burrows within 300 feet of construction areas. Surveys for nesting birds shall be conducted before project activities are initiated during the nesting season (March 1–July 31), and surveys for BUOW shall be conducted before project activities are initiated at any time of year. Surveys shall be conducted in accordance with NBHCP requirements. If an active nest or occupied nest burrow is found, an appropriate buffer that minimizes potential for disturbance of the nest shall be determined by the biologist, in coordination with DFG. No project activities shall commence within the buffer area until a qualified biologist confirms that the nest is no longer active or the birds are not dependent on it. Monitoring shall be conducted by a qualified biologist to ensure that project activity does not result in detectable adverse effects on the nesting pair or their young. The size of the buffer may vary, depending on the nest location, nest stage, construction activity, and monitoring results. If an occupied BUOW burrow that does not support an active nest is found, SAPCA shall develop and implement a relocation plan, in coordination with and subject to approval of DFG and USFWS and consistent with requirements of the NBHCP. Because the project would generally result in temporary disturbance of BUOW habitat or conversion from one suitable habitat type to another, relocation is likely to include passive vacating (via one-way doors at the burrow entrance) of owls from the project site. The owls would then be able to successfully move to the area after construction is complete. Implementation of the above measures would ensure that destruction of occupied BUOW burrows and loss of active nests of this and additional special-status bird species are avoided.”

The mitigation measures described in the DEIR for the BUOW are not adequate to minimize impacts to a level below significance, because no permanently protected available suitable nesting habitat, no foraging habitat, and no a long-term management and monitoring of the mitigation measures are provided. We recommend that the following mitigation measures should also be included in the DEIR (which are described in the Department of Fish and Game’s (DFG) 1994 “Staff Report on Burrowing Owl Mitigation,”):

1. Occupied burrows should not be disturbed during the nesting season (February 1 through August 31) unless a qualified biologist approved by the Department verifies through non
Invasive methods that either: (1) the birds have not begun egg-laying and incubation; or (2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.

2. To offset the loss of foraging and burrow habitat on the project site, a minimum of 6.5 acres of foraging habitat (calculated on a 100 m (approx. 300 ft.) foraging radius around the burrow) per pair or unpaired resident bird, should be acquired and permanently protected. The protected lands should be adjacent to occupied BUOW habitat and at a location acceptable to the Department. Protection of additional habitat acreage per pair or unpaired resident bird may be applicable in some instances.

3. When destruction of occupied burrows is unavoidable, existing unsuitable burrows should be enhanced (enlarged or cleared of debris) or new burrows created (by installing artificial burrows) at a ratio of 2:1 on the protected lands site.

4. If owls must be moved away from the disturbance area, passive relocation techniques (as described below) should be used rather than trapping. At least one or more weeks will be necessary to accomplish this and allow the owls to acclimate to alternate burrows.

5. The project sponsor should provide funding for long-term management and monitoring of the protected lands. The monitoring plan should include success criteria, remedial measures, and an annual report to the Department.

Passive Relocation - With One-Way Doors: Owls should be excluded from burrows in the immediate impact zone and within a 50 meter (approx. 160 ft.) buffer zone by installing one-way doors in burrow entrances. One-way doors (e.g., modified dryer vents) should be left in place 48 hours to ensure owls have left the burrow before excavation. Two natural or artificial burrows should be provided for each burrow in the project area that will be rendered biologically unsuitable. The project area should be monitored daily for one week to confirm owls use of burrows before excavating burrows in the immediate impact zone. Whenever possible, burrows should be excavated using hand tools and refilled to prevent recolonization. Sections of flexible plastic pipe should be inserted into the tunnels during excavation to maintain an escape route for any animals inside the burrow.

Passive Relocation - Without One-Way Doors: Two natural or artificial burrows should be provided for each burrow in the project area that will be rendered biologically unsuitable. The project area should be monitored daily until the owls have relocated to the new burrows. The formerly occupied burrows may then be excavated. Whenever possible, burrows should be excavated using hand tools and refilled to prevent recolonization. Sections of flexible plastic pipe should be inserted into burrows during excavation to maintain an escape route for any animals inside the burrow.

Potential Impacts on Sensitive Plants
The DEIR describes that three special status plants species have potential to occur in aquatic
habitat within the project area, including rose mallow (Hibiscus lasiocarpus), Delta salt pea (Lathyrus japonicus var. japonicus), and Sanford’s arrowhead (Sagittaria sanfordii). The DEIR states that "the proposed project would result in permanent and temporary direct effects on irrigation/drainage ditches, canals, and reservoirs that provide potentially suitable habitat for these species," and "the disturbance of these habitats could result in adverse effects on special-status plants, if present." As mitigation for these potential impacts, the DEIR states that "before any ground-disturbing project activities begin, a qualified biologist retained by SAFCA shall conduct surveys for special-status plants in appropriate habitat within the project footprint. In accordance with USFWS and/or DFG guidelines and at the appropriate time of year when the target species would be clearly identifiable. If special-status plants are found during surveys, no further action shall be required," and "if special-status plants are found, areas of occupied habitat shall be identified and the primary engineering and construction contractors shall ensure, through coordination with the biologist, that staging areas and access routes are designed to minimize disturbance of these areas. All occupied habitat that is located adjacent to construction areas, but can be avoided, shall be protected by temporary fencing during construction. If special-status plants are present in areas that cannot be avoided, plants that would be affected shall be transplanted to the GOS/Drainage Canal, if feasible. If this is infeasible (i.e., because the occupied habitat is not suitable at the time transplantation is required), an alternative transplantation location (e.g., TNBC preserve) approved by USFWS and DFG, shall be utilized. A plan to address management of the transplanted populations and their habitat shall be developed."
Species Act and/or the Federal Endangered Species Act.

The effectiveness of the NBHCPC’s Operating Conservation Program is explicitly premised upon the City of Sacramento’s commitment to limit total development to 8,650 acres within the City’s Permit Area, Sutter County’s commitment to limit total development to 7,467 acres within Sutter County’s Permit Area, and the expectation that total development within the basin would not exceed 17,500 acres. The proposed levee improvement project would result in disturbance or degradation of GGS and SWH habitat in the Natomas Basin above the level analyzed under the NBHCPC and in particular, sensitive habitat areas for the species. That is, the proposed action has the potential to impact the effectiveness of the NBHCPC’s conservation strategy designed to protect the GGS and SWH. On September 7, 2001, Judge Levi issued a decision in the Federal NBHCPC litigation, which cautioned in footnote 13 of that decision that “the Service and those seeking an ITP in the future will face an uphill battle if they attempt to argue that additional development in the Basin beyond the 17,500 acres will not result in ‘jeopardy’ to GGS and SWH. The ITPs issued to the Conservancy unauthorized the take of several species associated with the restoration, enhancement, operation, and management of 7,738.5 acres of upland, managed marsh, and wetland preserves set aside as mitigation for the City’s and Sutter County’s development activities under the NBHCPC. Approval of additional development in the Natomas Basin would likely make it more difficult for the Conservancy to fulfill its obligations under the NBHCPC. Such development could result in isolation of the Conservancy’s preserve lands, thus threatening the Conservancy’s ability to implement the NBHCPC’s operating conservation program.

SACEF notes in the DEIR that “SACEF shall coordinate with TNBC to determine the most effective means of ensuring that the small encroachment rate reserves that would result from project implementation does not adversely affect the ability to meet the minimum-size and mitigation-rate requirements of the NBHCPC, require revision of existing management plans, and/or affect revenue-generation requirements. SACEF shall, in coordination with TNBC, identify and implement necessary actions to ensure that encroachment does not jeopardize successful implementation of the NBHCPC. Such actions may include direct supplementation of TNBC funding to offset losses in revenue generation, management of portions of the reserve area that are affected by project facilities in a manner that is consistent with current management requirements, and/or acquisition of additional land to replace portions of reserves that are encroached upon. Actions shall be approved by TNBC, USFWS, and DFG and shall be implemented by SACEF before encroachment occurs.” As described in the “Enforceable Mitigation Measures” section of this letter above, because there is no guarantee that approvals or agreements with TNBC, USFWS, and DFG will ultimately occur or even whether the proposed measures to minimize impacts to TNBC reserve lands are feasible, the Wildlife Agencies believe that the above mitigation measures are unenforceable and do not bring the impacts to the NBHCPC’s Operating Conservation Program to below a level that is significant. Therefore, the Wildlife Agencies recommend that the mitigation measures described in sections 3.7a-g and 3.7i, and summarized in Table ES-1, include measures that are enforceable and do not defer mitigation details to some future time. The DEIR could describe a range of enforceable, feasible mitigation measures that will be implemented in instances where approved and cooperation with
these other entities either does or does not occur.

Conclusion
Thank you for the opportunity to review this project. As the Wildlife Agencies have previously stated in person, we are concerned about the effects of the proposed project on federally- and state-listed species, and on the efficacy of the NRHCP and the existing ITPs. The DEIR does not adequately address the effects of the proposed project on the GSG, SWH, BRUW, and various sensitive plants in particular, and more generally, on the NRHCP's operating conservation programs. We remain committed to working with SAPCA to ensure that the implementation of the proposed project avoids and minimizes effects on listed species and remains consistent with the conservation strategies and operating conservation programs of pending and existing habitat conservation plans.

Pursuant to Public Resources Code Sections 21092 and 21092.2, the DFG requests written notification of proposed actions and pending decisions regarding this project. Written notification should be directed to the DFG Sacramento Valley/Central Delta Region, 1701 Nimbus Road, Suite A, Rancho Cordova, California 95670. The Service also requests notification of any actions on the proposed project. Written notification can be submitted to the Service at the referenced address.

Please contact Jane Milliken, the Acting Sacramento Valley Branch Chief, or Jennifer Holts, Staff Biologist, of the Service at (916) 414-6645, and Todd Gardner, Staff Environmental Scientist, at (916) 743-1968, or Jeff Drange, Senior Environmental Scientist, at (916) 358-2919, of the DFG if you have any questions or concerns regarding this letter.

Sincerely,

Susan K. Moore
Field Supervisor
U.S. Fish and Wildlife Service

Kent Smith
Acting Regional Manager
California Department of Fish and Game

cc:
Larry Combs, Administrator, County of Sutter, Yuba City, CA
Roger Dickinson, Sacramento County Board of Supervisors, Sacramento, CA
Tom Buford, City of Sacramento, Sacramento, CA
John Roberts, The National Basin Conservancy, Sacramento, CA
Jeff Drange, California Department of Fish and Game, Rancho Cordova, CA
Todd Gardner, California Department of Fish and Game, Rancho Cordova, CA
October 29, 2007

VIA E-MAIL (Email: Bassett@sacCounty.net) and U.S. MAIL

Mr. John Bassett
Sacramento Area Flood Control Agency
1007 7th Street, 7th Floor
Sacramento, CA 95814

Re: Comments on SAFCA’s Landside Improvements Project and Bank Protection Project Draft Environmental Impact Reports

Dear Mr. Bassett:

A. Introduction

This letter provides Reclamation District 2035’s (“RD 2035”) joint comments on both Draft Environmental Impact Reports for the Natomas Levee Improvement Program Bank Protection Project, SCH# 2007062017, (“Bank Project”) and the related Natomas Levee Improvement Program Landside Improvements Project, SCH# 2007062016, (“Landside Project”). RD 2035 is providing a single response letter in light of the Sacramento Area Flood Control Agency’s (“SAFCA’s”) decision to simultaneously release both DEIRs (i.e., the “Landside DEIR” and the “Bank DEIR”) for public review. Both DEIRs involve different parts of the same project, which is part of one overarching program that was evaluated in SAFCA’s Local Funding Mechanisms Program DEIR (“Programmatic DEIR”). RD 2035 intends that all the comments in this joint comment letter be submitted separately to each DEIR and responded to separately by SAFCA in both the Landside and Bank DEIRs.

B. Reclamation District 2035

Reclamation District 2035 (“RD 2035”) was formed in 1919 to provide levee maintenance and drainage services to approximately 20,500 acres of land in Yolo County near the City of Woodland. RD 2035 is a local public entity that has legal authority and jurisdiction under Water Code Section 50000 et. seq. to implement flood control programs and projects that reconstruct, replace, improve, or add to facilities as defined in Public Resources Code Section 5096.310(j). RD 2035’s service
area includes the Conway Ranch property. The Conway Ranch property covers over 17,000 acres on the west side of the Sacramento River between the cities of Davis and Woodland. Approximately 40 percent of the Ranch is located within the Yolo Bypass and the remainder lies west of the bypass. Both RD 2035 and the Conway Preservation Group, LLC, which manages the Conway Ranch, are actively involved in encouraging and seeking solutions to the region’s flood problems while conserving open space, agriculture, and rural and environmental values.

C. SAFCA is Protecting Natoma at the Risk of Flooding Other Areas

SAFCA is attempting to proceed with levee improvements to only one side of the Sacramento River. While this approach may be more convenient for SAFCA, it represents a myopic focus on local benefits that is contrary to sound public policy and flood project planning for the entire region. SAFCA should acknowledge this short-sighted policy and admit that it creates an increased risk of flooding to lands on the opposite side of the Sacramento River and Natoma Cross Canal. Is it SAFCA’s policy to increase flood risks to less urbanized or extra-jurisdictional areas in order to protect lands within its jurisdiction, like Natoma? What is SAFCA’s view of its responsibility for the effects of its flood control activities on flood risk in other areas?

D. SAFCA is Using Improper Significance Thresholds to Analyze the Flood Threat to the Opposite Side of the River

The DEIR’s significance criteria and conclusions based on them are improper. Given that the west side Sacramento River levees are already under great stress in flood events, any change to the hydraulic or river elevation should be considered significant. The catastrophic consequences of a levee failure on any stretch of the Sacramento River leave no room for further increases in river elevation. Thus, any increase in river elevation during floods is significant and should be the proper threshold used in the analysis, not 0.1 foot. What is the basis supporting the 0.1 foot threshold?

Regarding impacts to water surface elevations and freeboard, SAFCA’s approach to using a different threshold of significance for levees within the SRFCP and those outside the SRFCP’s protection is irrational. The threshold for impacts to flood risk should be the same for all levees. The choice of the “1957” design profile as the threshold for significant encroachment is not justifiable. The known flood threats using information after the 1986 and 1997 storm events, render the 1957 design profile outdated for use as a significance threshold.

If the 1957 design standard is an accurate threshold for significance, then SAFCA should be trying to achieve that standard along the Natoma levees — instead, SAFCA is pursuing a higher, more realistic standard for itself and judging its impacts on others using the outmoded standard. As SAFCA has stated,7 the levees on the west side are already apparently below the freeboard

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7 At the public hearing before the SAFCA Board, Executive Director Stehn Burr repeatedly maintained that the status quo (i.e., baseline) was that levees on the opposite side were already significantly shorter and weaker.
standards that SAFCA is seeking for the east side levees. Thus, the west side levees already have a significant problem with freeboard encroachment using modern standards, not the outdated 1957 design standard. Any further rise in water elevation makes this existing problem that much harder to solve and is a de facto significant impact, which SAFCA must recognize and mitigate. As SAFCA itself stated:

These improvements could reduce the risk of overtopping and failure of these levees, thereby causing more water to be retained in the channels under rare flood conditions. This, in turn, could increase the potential for overtopping and failure elsewhere in the SRFCP system, either within the Sacramento metropolitan area or upstream or downstream of this area. (Landside DEIR at 3.4-6).

Regarding project impacts to river velocity and flow, the Bank DEIR states that “[a] slight increase in scour would result from the increased velocities that could result in surface erosion of exposed soils on the berm areas where vegetation was removed.” (Bank DEIR pg. 3-7). But the Bank DEIR does not discuss the increase in elevation or water velocity caused by adding fill to the waterside banks of the levees as depicted in its Figures 5-1 and 5-2. Table 4-1 indicates that proposed bank protections from only next year’s construction will involve almost 9,000 linear feet with an average width of 65 feet. (Bank DEIR pg. 4-3). What is the total cubic volume of fill that SAFCA intends to add to the Sacramento River next year and for all the remaining Natomas levee improvements? How did SAFCA quantitatively calculate the effects of all this additional fill within the levees?

Without quantitative analyses of the effects on the river (e.g., velocity, height, etc. ...) of the fill, there is no justification for concluding the effects are less than significant. In light of the previously discussed stress that west side levees are already under during flood events, and the deficiencies of those levees assumed under SAFCA’s baseline, any increase in scouring, erosion, or water elevation to the west side levees must be considered significant and must be mitigated.

E. SAFCA’s Flood Modeling Should Include More Details

Several issues with regard to modeling require comment. First, it appears the baseline model run indicated that the Natomas levees would not overtop or fail at their current heights. In fact, this result is what SAFCA uses to justify its conclusion that there will be no impacts to the opposite side of the river, namely that the Natomas levees are stronger and higher already. But, as explained above, this baseline result weakens any need to implement the projects quickly. The model indicates that current infrastructure in Natomas is safe from the 100-year flood. Therefore, there is
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no reason to rush to invest hundreds of millions of dollars in the current flood control system when
it is admittedly outdated and designed to solve problems that no longer occur (i.e., situation).²

SAFCA should clarify that the main impetus for quick implementation of these projects is to avoid
the FEMA remapping process that would occur. If alternatively, there is a real, physical 100-year
flood threat to Natomas that must be repaired, then SAFCA’s chosen modeling assumptions or
methods are improper and inaccurate because the model does not accurately reflect that situation.

Please provide more specific information regarding the modeling methods. Please provide specific
evidence of the exact location of Sacramento River levees failures (both west and east side) and/or
overtopping for all model runs or scenarios for all three DEIRs. Please also explain the reason why
the model indicates these levees failed. Please explain if the model indicates any east side
Sacramento River levees would fail under any modeled scenarios and why they failed. If none
failed, why not?

In regards to Section D’s discussion of significance criteria, please explain how accurate and precise
the UNET model used in this analysis is in detecting slight river elevation changes, or other metrics
like river velocity and erosion or scouring potential. What is the confidence interval surrounding
the model’s results? What statistical methods were employed to assess the model’s results? Were
multiple model runs performed and the average taken? If so, what are the standard deviations
around the averages? If no such information is available, then how can SAFCA rely on an abstract
model to claim that the flood risk on the other side of the river will not be increased?

F. SAFCA Must Evaluate the Threat of Underseepage and Overall Levee Stability

The modeling in the DEIRs does not appear to analyze the threat of underseepage or levee
instability. Did SAFCA analyze these threats in the UNET modeling or through other quantitative
analyses of the flood risk its improvements would have to levees on the opposite side? If not, then
SAFCA cannot assert that its projects will not affect the flood risk to the opposite levees.

The current modeling appears to indicate that the Natomas levees are already high enough to
withstand the 100-year and 200-year flood threat because there is no overtopping. The urgency
with which SAFCA is proceeding, however, suggests that the true concern may be levee
underseepage and stability. If the UNET model did not model these factors, then it cannot be used
to conclude that the baseline conditions of the Natomas levees are superior to the levees on the
opposite side. What other information do the DEIRs contain to inform the public and decision
makers of the superiority of the Natomas levees with regards to underseepage and stability.
Without such information, SAFCA cannot support its baseline premise that the Natomas levees are

² At the public hearing on these DEIRs, Executive Director Stein Buer explained that erosion of the Sacramento River
bed, and not situation, is the current condition.
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already stronger than the opposite side’s and that the opposite side levees will fail first with or without the proposed project(s).

The Natomas Levee Evaluation Report (prepared in 2006 for SAFCA by MBK Engineers and others) contains information about the composition and stability of the east side levees based on borings, but no comparable west-side levee data is provided. Please provide details of the stability and underseepage risk of the Natomas levees versus those across the Sacramento River to support the baseline premise that the current state of the Natomas levees has already shifted all of the flood risk to the other side. Were any borings or modelling of the sort done for the east side levees performed for the west-side levees? If so, please provide the information to prove that the stability and underseepage risk on the west-side levees is already materially greater than the east-side levees. We believe that this data is available from the Reclamation Board or the Army Corps of Engineers.

This issue is critically needed to assess the true increased flood risk that SAFCA’s project creates for the opposite side. For instance, assume that levees on both sides of the river have an equal chance of failure and that one levee break must occur somewhere in that stretch of river during a 100-year flood to release pressure. Under this baseline each side effectively has a 50% chance of being flooded. If, however, one side then removes the chance of levee failure on its side, the other side is guaranteed to flood. The 50% risk of flooding on that side has been increased to 100% by the other side’s actions. This oversimplified example shows the effects on flood risk that SAFCA’s projects may have. SAFCA has presented no substantial evidence to support its premise that the east-side levees will not fail before the west-side levees as a result of underseepage and levee instability. Please provide such information or discuss the added flood risk to the opposite side of the river.

In sum, RD 2035 believes that SAFCA’s baseline premise that Natomas area levees are already stronger than levees on the opposite side is unsupported in the DEIRs. Therefore, SAFCA’s improvements may demonstrably increase the potential for a catastrophic levee break on the opposite side of the river, which may affect RD 2035 lands. This would be a significant impact under CEQA, for which SAFCA must provide mitigation.

G. SAFCA’s Objective to Provide 100-year Flood Protection “As Quickly As Possible” Unnecessarily Forecloses the Development of Better Alternatives

The insertion of a time factor into the program and project objectives is not needed because SAFCA’s own modeling in all three DEIRs did not indicate that the Natomas Basin levees would be overtopped or fail – even at the 200-year flood level. If this is true, the area already has 100-year flood protection by SAFCA’s estimation and there should be no rush to spend large sums of money on a physical solution without an apparent physical problem. What does SAFCA mean by the 100-year flood protection it seeks to achieve as soon as possible?
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If SAFCA’s real objectives is to achieve FEMA 100-year certification as quickly as possible, then
SAFCA must explain why FEMA 100-year certification is so critical given that its own modeling shows
that the levees are currently strong enough to physically protect the Natomas Basin from a 100-year
flood. Furthermore, the objective should be changed to more accurately state this. In this context
FEMA 100-year protection appears to be merely an administrative determination that is separate from
the physical threat evaluated and discussed by the modeling. Which is the proper standard? Is it the
FEMA determination or SAFCA’s modeling?

The above issues present a logical disconnect in the DEIR’s explanation of why the project(s) is/are
needed and what hydraulic effects they will have. As discussed in Section F, it appears SAFCA
misstates that under baseline conditions its levees are already stronger than levees across the
Sacramento River so that these levees would fail before the Natomas levees, thus reducing pressure on
the Natomas levees even without the projects. But if this is the case, then the urgent need for these
projects is obviated. SAFCA’s own modeling, therefore, fails to disclose the urgent need for increased
flood protection. Without this urgent need, SAFCA has more time to develop and discuss alternatives
that will provide a comprehensive solution, as discussed in Section H. If this is not so, then SAFCA
must explain the disconnect. RD 2035 suspects this is because, as discussed in Section F, levee stability
and underseepage were not included in the modeling or any other quantitative analyses—a true failure
of the DEIRs.

H. SAFCA Should Pursue A More Integrated and Comprehensive Flood Solution

Even with the proposed levee improvements, the threat of flooding in the Natomas Basin will
remain, and the residents of the Sacramento region and the State of California will have to continue
to periodically invest huge sums of money to support the levees and maintain SAFCA’s project.
The Programmatic DEIR explained that the current flood control system “although well suited to
address the technical and financial challenges of a previous era, has left a succeeding generation of
flood managers with two systemic problems and levee risk factors: chronic erosion and seepage.”
(Programmatic DEIR at 4:4-5). It also indicates that because “many segments of the mainstream
levee system were constructed using relatively porous hydraulic mining sediments borrowed from
the river channel, the levees have a propensity to seep when subjected to prolonged high water
surface elevations.” (id.). The Bank DEIR concludes that:

Over the long term, it is likely that additional bank protection will be
needed in the region because the design of the SFCP is expected to
continue to induce erosion of unprotected banks and result in the loss
of riparian vegetation. (Bank DEIR at 2-7).

The fact is that the Sacramento River levees are too narrow in many places. As explained in the
quote above, the current configuration creates excessive erosion that requires constant monitoring
and maintenance. Over time, this constant activity will further degrade the environmental,
aesthetic, and recreational values of the Sacramento River. The DEIRs do not adequately discuss,
analyze, or seek to avoid this problem. Quite the opposite, the Programmatic DEIR simply states that "by the mid-1950's it was agreed that bank protection would be a permanent capital cost of operating the SRFCP." (Id). However, in the 1950's agencies did not have to comply with CEQA or consider alternatives. In 2007, CEQA requires that SAFCA consider longer lasting solutions to the flood situation and long-term impacts of its actions. The scanty selection of alternatives provided are not sufficiently innovative and are discounted too quickly without a real analysis of their comparative merits when compared to the long term environmental effects the chosen course of action commits to.

Instead of rushing to grab the low hanging fruit of continued fortification of the existing levee system to avoid being mapped a floodplain by FEMA for a few years, SAFCA should foster discussions and consideration of more comprehensive, overarching solutions to regional flood problems. RD 2035 stands ready to assist in this effort. While a comprehensive solution might take a few more years to develop, it would provide permanent and more effective flood control for the Natomas Basin and the region that would not need continued input of expensive construction and maintenance, which would also continually cause environmental impacts that CEQA requires a discussion of. Such a solution would provide a more dynamic, living river system that would provide habitat and greater environmental, recreational, and aesthetic benefits. CEQA requires that the public and decision-makers be presented with sufficient information about long-term environmental effects and potential alternatives before committing themselves to a long-term path that may foreclose other more viable paths.

Whether a comprehensive solution would include setting back existing levees, redesigning the Yolo Bypass, purchasing or creating additional flood storage in reservoirs, developing additional designated flood plains or temporary flood storage locations, or other solutions is up to SAFCA. Citing institutional hurdles is not a sufficient excuse to justify avoiding these issues because there is currently a great deal of political momentum behind a comprehensive solution to flood issues. The recent passage, among other things, of SB 5, SB 17, AB 70, AB 162, and AB 156 are new events substantially changing the circumstances under which SAFCA is proposing its projects. These changed circumstances provide added incentive to pursue a broader solution and render any reliance on the Programmatic DEIR's alternatives discussion obsolete and inadequate under CEQA Guidelines section 15162. For instance, the Legislature has directed the Department of Water Resources to provide system-wide evaluations and recommended flood control measures in a few years. SAFCA should cooperate with DWR in this effort instead of going forward with its project. The DEIRs should be revised to discuss these issues and the potential for the current approach to foreclose better, long-term solutions that would allow the Sacramento River to remain a valuable environmental, aesthetic, and recreational resource and will require less frequent infusions of costly construction activities.
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I. SAPCA's Piecemeal Approach to the DEIRs Is Improper, Inconsistent, and Confusing

The division of the environmental review process into numerous DEIRs, both now and apparently in the future, is confusing and fails to disclose the true environmental effects of the overall program. The Landside and Bank projects, and all future SAFCA actions on the Natoma levees, are all parts of the same project because they are all collectively required to satisfy the project objectives and prevent FEMA from mapping the Natoma basin as a major flood zone. Improving only half the length of the east Sacramento River levees will not achieve the project objectives and would not be an action with independent utility unrelated to the other contemplated actions. CEQA requires an impact analysis of the "whole of the project," not chopping the project into smaller segments, each with a minor effect on the environment, but this is what SAFCA is doing.

By separating the Landside and Bank projects from one another and preparing two separate DEIRs, SAFCA has created a confusing jumble of documentation that is hard to follow and sometimes inconsistent. More importantly, by dividing the program into so many parts, each DEIR is able to address a smaller impact than the true impacts of the project. For instance, the impact to biological resources of the Landside project is distinct from that in the Bank project, but they should be considered together. The same is true of impacts to agricultural land that will be used to obtain the fill and raw materials for the levee fixes. Similarly, the impacts of future phases of both projects are not adequately discussed here. Why were the Bank DEIR and Landside DEIR not part of the same DEIR? 3

SAFCA should develop a detailed description of all the levee improvements it intends to make, and which are required to achieve the project objectives of attaining (or maintaining) 100-year FEMA certification. Then, one EIR should evaluate the specific impacts to various resources that will occur as a result of the whole of these actions, which represents the single project's true environmental impact. Responding to this comment by pointing to the cumulative effects analysis in both DEIRs is not adequate because that analysis is intended to more generally analyze the effects of other reasonably foreseeable projects, not other parts of the same project. Citing the Programmatic DEIR is also inadequate because it did not provide sufficient detail of the various project components to adequately assess project-level impacts. That modeling also included revised Folsom Dam operations that are not yet possible because, to our knowledge, the revised spillway has not been completed.

While evaluations in the Programmatic DEIR may be appropriate for analyzing various parts of a program, there is a limit to how finely a lead agency may segment a program. Here, SAFCA has gone too far because it is not separately analyzing two different projects under the same program,

3 The simultaneous release and circulation of both DEIRs indicates that both could have been combined into a single document, which would be easier for the public and the decision makers to review and would provide a better picture of the true impacts of the levee improvements SAFCA proposes.
but rather two parts of the same project, and SAFCA has plans to do more of the same. As stated, this shrouds the true impacts of the project, presents a confusing assembly of CEQA documents, and prevents a real evaluation of the merits of the proposed project versus alternatives.

J. SAFCA’s No-Project Alternatives are Inconsistent

Both the Landside and Bank DEIR correctly state that an EIR “must evaluate a ‘no-project’ alternative, which represents what would be reasonably expected to occur in the foreseeable future, if the project were not approved, based on current plans and consistent with available infrastructure and community services.” (Landside DEIR at 11-1, Bank DEIR 6-1). Oddly, however, the EIRs present different pictures of what would reasonably occur in the no-project alternative. Because both projects are related parts of the overall program, and SAFCA maintains each is required to provide adequate flood protection to Natomas, the no-project alternative in each should be the same. In contrast, the current no-project alternatives appear to present artificial assumptions instead of explaining the reasonably foreseeable actions that would occur in the absence of the contemplated projects.

Alternative 1 of the Bank DEIR indicates that “[w]hile future federal/state action is the most likely scenario if SAFCA did not implement bank protection, the No-Project Alternative is defined as no bank protection being implemented at the nine sites.” (Bank DEIR at 11-5). Thus, it appears that instead of presenting the reasonably foreseeable consequences of not implementing the project (i.e., Federal/State action) SAFCA created an improper and artificial no-project alternative precluding these likely actions and mimicking the project baseline.

Confusingly, in Alternative 4 of the Landside DEIR, SAFCA presents a different no-project alternative than it presented in the Bank DEIR. The Landside DEIR no-project alternative does not even mention the possibility of other Federal/State actions. The Landside DEIR also presents different future actions and consequences than the Bank DEIR’s no-project alternative. The Landside DEIR states:

Federal Floodplain regulations would prevent the Natomas Basin from absorbing new development as currently anticipated in the regional blueprint for future. (2030) growth adopted by the Sacramento Area Council of Governments [cite]. As a result, up to 40,000 dwelling units and associated commercial and industrial developments may be redirected to other areas in the region over the next 2 decades. (Landside DEIR at 6-14).

*At the October 19, 2007 public hearing on this issue, SAFCA’s general counsel indicated that supplemental or subsequent EIRs would be prepared for levee improvements for the next 6 miles of levee improvements slated for 2009, and that a similar process would again be followed for improvements intended in 2010. Such year-to-year CEQA review of the same project is improper.
The Programmatic DEIR presented a similar no-project discussion. The three no-project alternatives should all be the same. They should provide the public and decision-makers with SAFCA's best analyses of what will occur in the absence of the projects and the overall program because they are all one inter-related part of the whole.

K. SAFCA Requires Reclamation Board Approval

Lastly, SAFCA's projects will require approval by the Reclamation Board. It appears that under Water Code section 8710, SAFCA will require approval from the Reclamation Board before construction is commenced. Furthermore, under Water Code section 8722, the Reclamation Board may change the plans or specifications for work undertaken at any time upon its own initiative. How will this process fit with SAFCA's intended schedule of rapid implementation?

Conclusion

In sum, RD 2035 remains interested in working with SAFCA to resolve regional flood control issues and to develop comprehensive flood protection for the region. RD 2035 also supports flood protection for urbanized areas such as Natomas, but not without assurances that such actions will not affect the current and future flood risks to RD 2035, or some other measures or mitigation to offset this increased risk. The DEIRs do not presently provide sufficient information for RD 2035 to determine the effects of SAFCA's proposed project(s) on the flood risks to the opposite side of the Sacramento River or Natomas Cross Canal. SAFCA's analyses and approach in the DEIRs also create other inconsistencies that make the analyses incomplete or difficult to understand.

RD 2035 appreciates the opportunity to comment on the DEIRs, and will gladly work with SAFCA to resolve the issues raised in these comments. If more clarification or other information is needed regarding these comments, please contact me at (916) 321-4500.

As a public agency, RD 2035 looks forward to receiving your official responses at least 10 days prior to certification of the EIRs.

Very truly yours,

KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD

SCOTT A. MORRIS
Counsel for Reclamation District 2035
O5-1 Comment noted; see Responses to Comments O5-2 through O5-11.

O5-2 Chapter 4.0, “Environmental Consequences and Mitigation Measures,” in the Phase 3 DEIS/DEIR provides a description of the approach to the environmental analysis, followed by an analysis of the significant environmental impacts of the alternatives under consideration, including the Proposed Action. The comment provides no specific page citations or examples upon which to respond. Absent specific facts it is impossible to respond to this comment meaningfully. See also Response to Comment O4-2 regarding the urgency of reducing the flood risk in the Natomas Basin.

O5-3 USACE and SAFCA acknowledge that the commenter has attached five previous comment letters to this comment letter (O5). These documents are in the record and have been considered by USACE and SAFCA in their decision-making. Responses to the comments in these attached letters have been provided previously, as described below; therefore, new responses are not provided to these attached comments letters in this FEIS.

- Garden Highway Community Association letter to USACE dated July 24, 2008: USACE provided responses to this comment letter (I11) in the Phase 2 FEIS (USACE 2008).

- Garden Highway Community Association letter to SAFCA dated November 27, 2007: SAFCA received this letter after the close of the public and agency review period for the Phase 2 EIR; however, its contents were considered during SAFCA’s decision-making on the Phase 2 Project. USACE and SAFCA provided responses to this comment letter in the Phase 2 FEIS (USACE 2008) because it was attached to the Garden Highway Community Association’s July 24, 2008 letter to USACE and because written responses had not been previously provided.

- Garden Highway Community Association letter to the State Reclamation Board dated December 19, 2007: USACE received this comment letter during project scoping for the Phase 2 Project and considered its contents during preparation of the Phase 2 EIS. USACE and SAFCA provided responses to this comment letter in the Phase 2 FEIS (USACE 2008) because it was attached to the Garden Highway Community Association’s July 24, 2008 letter to USACE and because written responses had not been previously provided.

- USFWS and DFG letter to SAFCA dated October 26, 2007: SAFCA provided responses to this comment letter (1) in the Phase 2 FEIR (SAFCA 2007b).

- RD 2035 letter to SAFCA dated October 29, 2007: SAFCA provided responses to this comment letter (13) in the Phase 2 FEIR (SAFCA 2007b).

O5-4 USACE has reviewed these project modifications and evaluated whether or not they warrant the preparation and circulation of a supplemental EIS, which is required if any of the following conditions occur: (i) the agency makes substantial changes in the proposed action that are relevant to environmental concerns; or (ii) there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts (40 CFR Section 1502.9[c][1]). Based on USACE’s independent evaluation, the Phase 2 Project modifications
were not considered to be substantial changes under 40 CFR 1502.9(c)(1)(i) or significant new circumstances or information under 40 CFR 1502.9(c)(1)(ii) as compared to the Phase 2 Project analyzed in the Phase 2 EIS and USACE therefore determined that recirculation of the EIS is not required.

While the CEQA lead agency is ultimately responsible for the adequacy and objectivity of the Draft and Final EIR under CEQA, including the scope, content, and impact conclusions, a Draft and Final EIR may be prepared by the CEQA lead agency’s staff, another public or private entity, the project applicant or project applicant’s consultant, or a combination of these parties (see California PRC 21165(a)). NEPA also specifically authorizes the use of contractors or consultants to prepare environmental impact statements (40 CFR Section 1506.5), and strongly encourages the preparation of joint documents when a project is subject to review under both state and Federal law (40 CFR Section 1506.2). Additionally, the CEQA lead agency may rely on another CEQA lead agency’s EIR and use the previously prepared EIR as its own (State CEQA Guidelines CCR Section 15084[d]). The preparation of an EIR is a difficult task that is sometimes beyond the expertise or time constraints of an agency’s own staff. Consequently, many CEQA lead agencies rely on private consultants to prepare EIRs.

When a project that is subject to CEQA requires a Federal discretionary permit, entitlement, authorization, or Federal funding; or occurs on Federal land, NEPA also applies. CEQA and NEPA establish similar processes. When a project is subject to both CEQA and NEPA, state and local agencies are encouraged to cooperate with Federal agencies to the fullest extent possible, through such measures as joint planning, research, hearings and joint preparation of environmental documents (State CEQA Guidelines CCR Sections 15222 and 15226, and 40 CFR Section 1506.2).

See also Response to Comment O5-10 regarding independent review of the Phase 3 DEIS/DEIR.

The Natomas Levee Improvement Program Update, November 17, 2008 (SAFCA 2008) refers to changes in the estimated total cost to achieve 100-year and “200-year” levels of flood risk reduction. Funds for the implementation of the Phase 3 Project, which is one of several phases of the Landside Improvements Project under the NLIP, are available from Proposition 1E funding that has already been designated for SAFCA’s flood risk reduction projects, as well as assessments from SAFCA’s Consolidated Capital Assessment District and potential funds from SAFCA’s Development Impact Fee Program.

The cost of implementing the mitigation measures is included in the total cost of the Phase 3 Project. If there was insufficient funding to award contracts for construction of the Phase 3 Project, it would not be built and the impacts that have been identified as requiring mitigation would not occur.

See Master Response: 24/7 Cutoff Wall Construction.

See Response to Comment O2-5.

See Master Response: Sacramento River East Levee Prism.

See Table ES-2, in the Phase 3 DEIS/DEIR for a summary comparison of the effects of the alternatives considered. USACE and SAFCA will weigh the significant and unavoidable impacts of the Proposed Action with the project’s benefits when determining whether to approve or deny the project. See also Response to Comment O2-12 regarding findings.
As suggested by the commenter, expert peer reviews are being completed for the NLIP. There is an independent Board of Senior Consultants that reviews the engineering and design aspects of the project. This Board ensures that any identified levee deficiencies are handled appropriately and that remedial measures selected to address deficiencies are appropriately designed. In addition, MWH, an engineering firm, is under contract to the City of Sacramento to review the NLIP. Furthermore, the NEPA and CEQA environmental review processes for the project involve technical experts reviewing and analyzing the potential environmental effects of the project (see Chapter 9.0, “List of Preparers,” in the Phase 3 DEIS/DEIR for a list of the individuals who prepared sections of the DEIS/DEIR, provided significant background materials, or participated in preparing the DEIS/DEIR). See State CEQA Guidelines CCR Section 15084(d) regarding preparation of an EIR. As stated in Response to Comment O5-5, NEPA also specifically authorizes the use of contractors or consultants to prepare environmental impact statements (40 CFR Section 1506.5), and strongly encourages the preparation of joint documents when a project is subject to review under both state and Federal law (40 CFR Section 1506.2). Because the lead agencies under NEPA and CEQA have independently reviewed the contents and findings of the Phase 3 DEIS/DEIR, there is no conflict of interest. The lead agency is ultimately responsible for the adequacy of the environmental documents, including the scope, content, and impact conclusions. Therefore, all Phase 3 DEIS/DEIR documentation for the project was reviewed and approved by USACE and SAFCA, respectively.

O5-11

The potential effects of the construction of cutoff walls on domestic wells on both sides of the existing Sacramento River east levee are addressed in Impact 4.4-c, “Effects on Groundwater,” in the Phase 3 DEIS/DEIR. The analysis by LSCE (see Appendix B2 of the Phase 3 DEIS/DEIR) found that the predicted effect of cutoff walls on the water side of the existing levee would be negligible (less than 1 inch) at low stage, and there would be a slight increase in groundwater levels (less than 1 foot) at high stage. This analysis is based on modeling by Kleinfelder (see Appendix B3 of the Phase 3 DEIS/DEIR) that assumed that cutoff walls would be installed along approximately 42,000 feet of the 96,000 feet of levee in Reaches 1–20B of the Sacramento River east levee. These slight groundwater changes would have no effect on the ability of waterside wells to pump water, nor would they affect the quality of groundwater at the depths from which these wells are pumped. It should be noted that water side wells along the Sacramento River east levee are located directly adjacent to the main source of recharge on the west side of the Natomas Basin, the Sacramento River. The proposed cutoff walls would be located landward of these wells, not between these wells and their primary source of recharge.
Since the neighbors in Reach 7 have a unique interest in the proposed Reach 7 borrow pit, I think it is best to have a separate briefing where those specific issues can be addressed on-site and in detail. Prior to the briefing, a copy of any and all materials that SAFCA has that describes the NLIP's use and mitigation plans for the Reach 7 borrow pit would be useful, including any contracts with the land owner(s) and any studies, materials and communications used to characterize the site and prepare its Surface Mining and Reclamation Act permit (CA PRC 2710). This request for public records is being submitted in accordance with CA GC 6250 et al.

Thank you for your help.

Dan Pellissier
7021 Garden Highway
Sacramento, CA  95837

-----Original Message-----
From: Jay Davis &lt;jdavis@gualco.com&gt;
To: capitolhack@netscape.net
Cc: mgt@timmermanco.com
Sent: Thu, 26 Feb 2009 1:35 pm
Subject: FW: From Dan Pellissier

Hi Dan:

I do not have a SAFCA engineer available this Saturday. I have asked appropriate staff to forward me dates for the next two weeks of when they anticipate being in the field early in the morning or late afternoon so that we can find a mutually acceptable date/time. I should have those soon to forward to you. Alternatively, we can explore looking at scheduling a meeting at SAFCA (downtown) during the lunch hour or a telephone call as well. Also, SAFCA representatives will be presenting at a Natomas Town Hall on March 11, which starts at 5:30pm at the South Natomas Community Center, where they will be available.

Regards,

Jay Davis
Gualco Consulting
11230 Gold Express Dr. #310
Gold River, CA 95670
(916) 351-0600 tele
(916) 351-9392 fax
jdavis@gualco.com
Begin forwarded message:
From: capitolhack@netscape.net
Date: February 24, 2009 12:45:38 PM PST
To: JayDavis@aim.com, "[jdavis@gualco.com][jdavis@gualco.com]
Cc: mgt@timmermanco.com
Subject: From Dan Pellissier

Please use this, my private email account, for future communications.

I spoke with my next door neighbor (7011) Mark Timmerman about the draft EIR and he would like to attend the on-site briefing. We are both available this Saturday, February 28 from 9:am to 4:pm. Please let me know if you can schedule the SAFCA representatives at this time.

Thank you for your help.

Dan Pellissier
I1-1 This is not a comment on the Phase 3 DEIS/DEIR. USACE and SAFCA are committed to maintaining good communications with potentially affected residents and business owners throughout project planning and construction. See also Chapter 2.0, “Alternatives,” of this FEIS for identification of borrow sites within the Elkhorn Borrow Area.
This page intentionally left blank.
Hi Jay,

We received the notice on the DEIS/DEIR. We would like to reiterate our comments from our last exchange, to make sure that they are included, and I would appreciate some additional information from you.

1) I looked at the diagrams in the DEIS/DEIR. When you visited, you indicated that no land-side slope changes would be required south of the pumping station on the NEMDC levee. I did not see any diagrams or information indicating that. As you know, this would impact our property directly. Can you point me to where this is documented, or let me know how to make sure that it gets done?

2) We did not ever get a clear indication that removal of the trees was important to the integrity of the levee. In fact, we found documentation on the SAFCA web site to the contrary. I have again included that reference, and also a letter from Elizabeth Holland, which indicates that the Corps is doing studies, but no results are in. I would suggest that the trees remain until those studies are complete, and would like your advice as to how to best prevent them from being removed before it is proven that it is required for stability.

It is my understanding that more recent studies have shown that the removal of mature trees increases seepage risk, because the dead roots eventually decay. I would like to make sure that everyone has all the facts.

3) As far as right of way, I would like to request another visit, so we can look at the trees behind our property, to see if we can find some way to preserve these heritage oaks and still provide sufficient access. I would also be interested to look at the fence line at that time, to see if any of my facility will be taken.

These are protected heritage oak trees, and we would like to make sure that they are given the special attention they deserve, and not just clear cut along with everything else along he levee.

Thanks

David Lichman
5000 Tunis Rd.
Sacramento, CA 95835
Effects of vegetation on slope stability of sandy levees were investigated. Six sites on the river side of the Sacramento River levee supporting various types of vegetation were intensively studied during the summer of 1987. Information on levee geometry, soils, vegetative cover, and root sizes and distributions was collected. These data were then used in seepage and slope stability analyses. Roots reinforced the levee soil and increased factors of safety for infinite slope and circular arc-type analyses of slope stability. Seepage analyses indicated no problems related to vegetation except under the most extreme (and unlikely conditions). These findings were confirmed using a recently developed numerical bank stability model, which predicted failure of the riverside levee slope without vegetation during extreme hydrologic conditions but stability with either bunch grass or large tree cover. Effects of woody vegetation on the ability of Sacramento River revetments to withstand forces created by high flows were examined by documenting vegetative cover on revetments before and after the 1986 flood using inspection records and aerial photographs. Revetment damage rates were significantly higher for older revetments, but differences based on vegetation cover were not significant.
vegetation on sedimentation and erosion. During the late 1980s he conducted studies of the effects of woody vegetation on Sacramento River revetments and levees. Doug is a member of the American Society of Civil Engineers and co-edited the book River Channel Restoration (John Wiley and Sons, 1996). He also was a contributor to the document, "Stream Corridor Restoration: Principles, Processes, and Practices", jointly published by 14 federal agencies. He is a registered as a professional engineer in Mississippi.

On Nov 24, 2008, at 9:11 AM, Holland, Elizabeth G SPK wrote:

David,

I have been out of the office due to a family emergency - the FEIS is now posted on the Corps web site. Tree removal will have to be addressed on a case-by-case basis. The Corps will require SAFCA to remove trees to comply with Corps Policy. I am not sure about the trees you are referring to but the project will only remove trees required to meet levee stability criteria and nothing more than that. The tree removal will be compensated for based on requirements under CEQA and county policy.

If you would like a hard copy of the FEIS please let me know and I will send one to you. We only sent actual documents to those who had commented - you stated that you commented on the document - we did not receive any comments from you on the Draft EIS - where and what did you sent? We work very hard to make commenting and public input as simple as possible, if you have any suggestions on making this process better please let me know. Letters were sent to over 700 people in the project area - and yes only 16 comments were made. While this seems like very little we can only provide the opportunity to comment but not make people actually send in comments. We did hold multiple public meetings and few people (no more than 20) showed up at those meeting so the 16 comment letters was not surprising to us.

We do not have an agronomist on staff at the Corps - decisions with regards to tree removal are made at our Headquarters level based on best available science and our geotechnical engineers expertise. I would again emphasize that the Corps will only require tree removal of those trees required for levee stability and Corps policy. Trees in levees and their risk factor is being studied extensively at the Corps but to date no new results have been verified to change our current policy.

Please let me know if you would like any additional information.

Thank you

Liz Holland
U.S. Army Corps of Engineers
Environmental Resources Branch
(916) 557-6763
elizabeth.g.holland@usace.army.mil
As described in Section 2.3, “Proposed Action,” in the Phase 3 DEIS/DEIR slopes of the existing levee north of the NEMDC Stormwater Pumping Station to Elkhorn Boulevard would be widened and flattened. However, only seepage and slope stability remediation would occur on the NEMDC west levee south of the NEMDC Stormwater Pumping Station to Northgate Boulevard; no landside slope changes are anticipated (see Plate 17c in the Phase 3 DEIS/DEIR). This remediation includes construction of a cutoff wall in the existing levee and/or reconstruction of portions of the levee from the NEMDC Stormwater Pumping Station to Northgate Boulevard where required to reduce and slope instability.

Tree removal would be addressed on a case-by-case basis; however, it is anticipated that USACE will require removal of those trees required for levee integrity and to conform with USACE guidance regarding levee encroachments. An important purpose of landside vegetation removal is to provide a reliable corridor of access to and along the levee. The corridor must be free of obstructions to assure adequate access by personnel and equipment for surveillance, inspection, maintenance, monitoring, and flood-fighting. Accessibility is essential to the reliability of flood damage reduction facilities. USACE guidelines for vegetation removal address removal of “non-compliant” vegetation by requiring removal of all organic debris and filling and compacting voids according to original soil and compaction specifications (USACE 2009). See also Response to Comment I2-4.

Land parcels included in the Phase 3 Project footprint are listed in Table H-1 in Appendix H of the Phase 3 DEIS/DEIR. USACE and SAFCA will arrange meetings to discuss individual concerns as appropriate. See also Responses to Comments I2-2 and I2-4.

As noted in Impact 4.8-a of the Phase 3 DEIS/DEIR, page 4.8-3, no woodlands are expected to be removed along the PGCC and NEMDC levees as part of Phase 3 Project construction. Removal of levee encroachments is not a part of the Phase 3 Project. Section 1.4.2.1, “Encroachment”, in the Phase 3 DEIS/DEIR has been revised to clarify the fact that removal of any encroachments, including trees, that could be identified as threatening levee integrity would be subject to future separate, environmental review and compliance with CEQA and NEPA.

The proposed woodland mitigation plan includes transplanting suitable trees from the Phase 3 Project footprint, where feasible, as well as planting a variety of native tree species that could become woodland habitat (see Mitigation Measure 4.8-a, “Minimize Effects on Woodland Habitat, Complete Detailed Design of Woodland Creation and Management Agreements to Ensure Compensation for Loss of Habitat, Implement all Management Agreements, and Comply with the DFG Section 1602 Permit Process,” in the Phase 3 DEIS/DEIR). A detailed design of the woodland habitats to be created is being developed and provided for USFWS and DFG review and approval; protective mechanisms and specific management protocols for the woodlands are currently being prepared by SAFCA in coordination with these agencies.
Hi Jay,

Could you please make sure that our comments include reference to this attached agreement, as well as Dr. Gray's statements here?

Thank you

dml

Begin forwarded message:

----- Forwarded Message
From: David Lichman <David@DavidLichman.com>
Date: Mon, 2 Mar 2009 15:51:39 -0800
To: Jay Davis <jdavis@gualco.com>
Cc: John Bassett <bassettj@SacCounty.NET>, Barbara Gualco <bqualco@gualco.com>, "Nagy, Meegan G SPK" <Meegan.G.Nagy@usace.army.mil>, "Turner, Claire Marie SPK" <Claire.Marie.Turner@usace.army.mil>, "Holland, Elizabeth G SPK" <Elizabeth.G.Holland@usace.army.mil>
Subject: Fwd: Tree Removal

Hi Jay,

Could you please make sure that our comments include reference to this attached agreement, as well as Dr. Gray's statements here?

Thank you

dml

Begin forwarded message:

----- Forwarded Message
From: David Lichman <David@DavidLichman.com>
Date: Mon, 2 Mar 2009 09:25:11 -0800
To: Jay Davis <jdavis@gualco.com>
Cc: John Bassett <bassettj@SacCounty.NET>, Barbara Gualco <bqualco@gualco.com>, "Nagy, Meegan G SPK" <Meegan.G.Nagy@usace.army.mil>, "Turner, Claire Marie SPK" <Claire.Marie.Turner@usace.army.mil>, "Holland, Elizabeth G SPK" <Elizabeth.G.Holland@usace.army.mil>
Subject: Fwd: Sacramento NLIP tree removal

Hi Jay,

Could you please include this email in the comments for the EIR document under review?

Thanks

dml

From: harfgray@aol.com
Date: March 2, 2009 12:21:58 PM PST
To: David@DavidLichman.com
Subject: Tree Removal

Hello Mr. Lichman,
Doug Shields included me in copies of e-mail correspondence between you and him. He and I have collaborated and published papers on the effects of vegetation on levee stability and integrity. I too am working as a technical consultant to SAFCA.

I am surprised to hear about the imminent removal of the trees from the levee. My understanding is that an agreement was reached between the US Army Corps of Engineers and various California resource agencies (including SAFCA) to hold such removal in abeyance until a levee vegetation policy was developed.

A copy of this agreement or communique is attached as a PDF file. The relevant paragraph on page 2 reads as follows:

The agencies agreed to work together to draft a phased system-wide plan, with short-term and long-term elements, that will include vegetation management requirements for Central Valley levees and adjoining channels. Participants also agreed that levee-maintaining districts should defer any substantial vegetation removal along levees while this plan is being developed.

My understanding is that this agreement is still in force! In fact both SAFCA and the Corps are presently working along parallel tracts to develop a management / removal plan.

I’m not sure what parties you have spoken with, but in view of the above your principal recourse seems to be administrative and/or legal. I’ve assisted home owners and home owners associations in similar situations (in Portland, OR and New Orleans, LA). Both ultimately entailed legal actions (incl. injunctions) which can be very expensive, arduous, and uncertain!

Sincerely,

Donald H. Gray
Professor (Emeritus) of Civil and Environmental Engineering

From: David Lichman <David@DavidLichman.com>
Date: March 2, 2009 9:22:49 AM PST
To: "Shields, Doug" <Doug.Shields@ARS.USDA.GOV>
Cc: Nancy Lichman <nlichman@aol.com>, Zarah Wyly <zarah@sactree.com>
Subject: Re: Sacramento NLIP tree removal

Hi Doug,

Thank you for your help. According to the engineers that I spoke with... the tree removal is imminent.
If you are consulting to SAFCA, is it not possible that you could, without conflict of interest, at least direct them to look at the most current scientific and engineering data before moving ahead? I just hate to see these trees removed for expediency alone.

If you could direct me to a resource to consult in the private sector, I would certainly appreciate it. I don't really know where to begin looking.

Thanks
dml

On Mar 2, 2009, at 8:58 AM, Shields, Doug wrote:

Dear Mr. Lichman,

I cannot provide any direct assistance to you as I am a federal employee. Representing you in a conflict with the federal government violates professional ethics due to conflict of interest.

However, I am currently acting as a technical consultant to the Sacramento Area Flood Control Agency (SAFCA) regarding levee vegetation. I read the text of Ms. Holland's message to you (below) with some interest. I was under the impression that tree removal from Sacramento Area levees was currently delayed pending research and investigations that are ongoing. The research is largely funded and conducted by the Corps, but with technical input from SAFCA.

Furthermore, SAFCA is proposing a plan to the Corps that would lead to gradual (long term) removal of trees, with those that pose real hazards removed first.

Ms. Holland's message seems to indicate that tree removal is imminent. Am I mistaken?

In the meantime, I suggest you contact SAFCA to get more information. http://www.safca.org/contact/contact.asp

sincerely,

d

F. Douglas Shields, Jr. Ph.D., P.E., D. WRE
Research Hydraulic Engineer
USDA-ARS National Sedimentation Laboratory
PO Box 1157
Oxford, MS 38655-1157
doug.shields@ars.usda.gov
ph 662.232.2919
fax 662.232.2988
Hi Doug,

The NLIP threatens to remove several heritage oak trees from behind our property on the East Main Drain Canal in Sacramento.

I'm interested in any studies you have done regarding levee instability due to trees. I've copied what I've read on the SAFCA web site, but I've also talked with a local soil engineer, who indicated he had seen something regarding weakening the levees when the trees are killed, because the roots decay and make for more seepage pathways.

He suggested we hire an agronomist, but I'm not even sure where to look. The Corps indicates they do not have an agronomist on staff.

Can you help point us to some information that might help preserve these trees?

Thanks

David Lichman

5000 Tunis Rd.
Sacramento, CA 95835
(916) 648-1092 (office)
(916) 205-1092 (cell)

Dr. F. Douglas Shields, P.E., Research Hydraulic Engineer
USDA Agricultural Research Service National Sedimentation Laboratory

Role of Vegetation in Levee Slope Stability and Revetment Durability

ABSTRACT

Effects of vegetation of slope stability of sandy levees were investigated. Six sites on the river side of the Sacramento River levee supporting various types of vegetation were intensively studied during the summer of 1987. Information on levee geometry,
soils, vegetative cover, and root sizes and distributions was collected. These data were then used in seepage and slope stability analyses. Roots reinforced the levee soil and increased factors of safety for infinite slope and circular arc-type analyses of slope stability. Seepage analyses indicated no problems related to vegetation except under the most extreme (and unlikely conditions). These findings were confirmed using a recently developed numerical bank stability model, which predicted failure of the riverside levee slope without vegetation during extreme hydrologic conditions but stability with either bunch grass or large tree cover. Effects of woody vegetation on the ability of Sacramento River revetments to withstand forces created by high flows were examined by documenting vegetative cover on revetments before and after the 1986 flood using inspection records and aerial photographs. Revetment damage rates were significantly higher for older revetments, but differences based on vegetation cover were not significant.

Dr. F. Douglas Shields, P.E., Research Hydraulic Engineer
USDA Agricultural Research Service National Sedimentation Laboratory
PO Box 1157
Oxford, MS 38655-1157
Tel: (662) 232-2919
Email: dshields@ars.usda.gov <mailto:dshields@ars.usda.gov>
Web: iapreview.ars.usda.gov/pandp/people/people.htm?personid=5120

Doug has been a research hydraulic engineer at the National Sedimentation Laboratory of the USDA Agricultural Research Service since 1990. Prior to coming to NSL, he worked ten years in the Environmental Laboratory of the US Army Engineer Waterways Experiment Station, and he spent two years with the Nashville District of the Corps of Engineers. He earned a M.S. in environmental and water resources engineering from Vanderbilt (1977) and a Ph.D. in hydraulic engineering from Colorado State (1987). Research interests include stream corridor habitat rehabilitation in incising streams, role of woody debris in fluvial systems, riverine backwater rehabilitation and the influence of vegetation on sedimentation and erosion. During the late 1980s he conducted studies of the effects of woody vegetation on Sacramento River revetments and levees. Doug is a member of the American Society of Civil Engineers and co-edited the book River Channel Restoration (John Wiley and Sons, 1996). He also was a contributor to the document, “Stream Corridor Restoration: Principles, Processes, and Practices”, jointly published by 14 federal agencies. He is a registered as a professional engineer in Mississippi.

On Nov 24, 2008, at 9:11 AM, Holland, Elizabeth G SPK wrote:

David,

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about the trees you are referring to but the project will only remove trees required to meet levee stability criteria and nothing more than that. The tree removal will be compensated for based on requirements under CEQA and county policy.

If you would like a hard copy of the FEIS please let me know and I will send one to you. We only sent actual documents to those who had commented - you stated that you commented on the document - we did not receive any comments from you on the Draft EIS - where and what did you sent? We work very hard to make commenting and public input as simple as possible, if you have any suggestions on making this process better please let me know. Letters were sent to over 700 people in the project area - and yes only 16 comments were made. While this seems like very little we can only provide the opportunity to comment but not make people actually send in comments. We did hold multiple public meetings and few people (no more than 20) showed up at those meeting so the 16 comment letters was not surprising to us.

We do not have an agronomist on staff at the Corps - decisions with regards to tree removal are made at our Headquarters level based on best available science and our geotechnical engineers expertise. I would again emphasize that the Corps will only require tree removal of those trees required for levee stability and Corps policy. Trees in levees and their risk factor is being studied extensively at the Corps but to date no new results have been verified to change our current policy.

Please let me know if you would like any additional information.

Thank you

Liz Holland
U.S. Army Corps of Engineers
Environmental Resources Branch
(916) 557-6763
elizabeth.q.holland@usace.army.mil

------ End of Forwarded Message
Media Communiqué

California Levee Vegetation Policy: 
Next Steps
21 September 2007

Background

The devastation of New Orleans by Hurricane Katrina in 2005 has focused national attention on levees and public safety concerns.

As a result, the U.S. Army Corps of Engineers (Corps) has determined that existing levee maintenance standards must be more rigorously enforced across the nation. In April 2007 the Corps released a draft white paper on the “Treatment of Vegetation within Local Flood Damage Reduction Systems” that called for the removal of wild growth, trees, and other encroachments which might impair levee integrity or flood-fighting access in order to reduce the risk of flood damage.

The Corps has proposed that levees which fail to meet these existing standards be rated as unacceptable, with the consequence that they could lose eligibility for federal assistance in post-flood levee rehabilitation as well as certification under FEMA’s National Flood Insurance Program.
Due to the unique history of the flood control system in the California Central Valley, levee slopes often contain brush and trees that are the last remnants of a vast riparian forest which once extended across the valley floor adjacent to the Sacramento and San Joaquin rivers. Much of this vegetation provides important environmental, recreational, and cultural benefits that would be impacted by the stricter enforcement of Corps regulations.

In order to learn more about how levee safety goals can be met while protecting these environmental assets, the Corps, the State of California, and the Sacramento Area Flood Control Agency sponsored a levee vegetation symposium in Sacramento on August 28-29, 2007. The symposium brought together over 500 scientists, engineers, and policy-makers who shared important information about the risks, benefits, and methods to manage vegetation on and near levees.

**Proposed Vegetation Management Approach**

Following the symposium a group of senior leaders representing both flood management and resource protection agencies - including the Corps, the California Department of Water Resources, the State of California Reclamation Board, the U.S. Fish and Wildlife Service, NOAA's National Marine Fisheries Service, the California Department of Fish and Game, Reclamation District No. 2068, and the Sacramento Area Flood Control Agency - met to discuss how they could cooperate in achieving better levee safety while protecting and enhancing the environmental values that levees also provide.

The agencies agreed to work together to draft a phased system-wide plan, with short-term and long-term elements, that will include vegetation management requirements for Central Valley levees and adjoining channels. Participants also agreed that levee-maintaining districts should defer any substantial vegetation removal along levees while this plan is being developed.

In drafting this phased plan the Agencies will be guided by the following fundamental principles:

- Public safety is the top priority;
- It is urgent that levee integrity and maintenance concerns be addressed as rapidly as possible;
- Levee deficiencies not associated with vegetation issues will require corrective action, with the most urgent and cost-efficient actions implemented first. In the short-term, vegetation-related deficiencies will be addressed through this collaborative effort;
- The plan will be collaboratively formulated, focus on public safety, and respect the public trust responsibilities of all the involved agencies;
This plan may include bio-engineering techniques that could allow for the retention of stream bank riparian vegetation; the retention of vegetation on the landward side except where site-specific removal of brush and trees that compromise levee safety and emergency response access is required; and mitigation for any required levee slope vegetation removal. These actions would be phased in over a presently-undetermined time period combined with more intensive trimming and monitoring of existing vegetation. The plan will be comprehensive, in that it will also address other maintenance and engineering concerns that affect levee safety and use.

Consistent with the Corps’ interim guidance, the State of California will take the lead in developing this phased plan, working closely with affected local levee-maintaining agencies. A draft framework for the plan will be available for stakeholder review in early 2008.

The Corps and the State of California will continue to conduct joint levee inspections this fall, rigorously applying the Corps’ existing maintenance standards. Portions of the Central Valley levee system may receive consideration for a variance from the Corps’ vegetation standard provided [1] that vegetation management meets the requirements of the inter-agency plan described above; and [2] the variance retains the safety, structural integrity, and functionality of the flood damage reduction system. The participating agencies agreed that preliminary ‘unacceptable’ ratings regarding vegetation would not cause levees within the Corps levee rehabilitation program to be classified as ‘inactive’ while this plan is being collaboratively developed and vegetation management progress meets the requirements of the plan. However, vegetation issues that are deemed by the joint inspection teams to significantly impair levee integrity or operations will require immediate attention.

This phased approach will give the State and local levee-maintaining agencies time to plan, design, and finance more intensive levee maintenance and vegetation management programs; apply the best available science; and deal with habitat mitigation on a system-wide basis. A phased approach will also ensure that public safety is not compromised and will allow flood risk to be reduced by addressing the most urgent problems first.
I3-1 See Responses to Comments I2-2 and I2-4.
From: Bassett, John (MSA)
To: Rader, David; Dunn, Francine; Henningsen, Sarah;
Holland, Elizabeth G SPK;
Subject: FW: Swabbies
Date: Thursday, March 05, 2009 10:37:01 AM

From: Jay Davis [mailto:jdavis@gualco.com]
Sent: Wednesday, March 04, 2009 8:46 AM
To: Bassett, John (MSA)
Cc: Barbara Gualco
Subject: FW: Swabbies

----- Forwarded Message
From: Christopher Barabino <swabbies_ontheriver@msn.com>
Date: Wed, 4 Mar 2009 15:28:19 +0000
To: Jay Davis <jdavis@gualco.com>
Subject: Swabbies

Jay,

I have been hearing some chatter from Garden Hwy residents about road closures on the Garden Hwy and the extensive extra work being done under the I-5 bridge area. As you know Swabbies is very concerned over the type and amount of access it will have during the construction period. For instance if North Bayou was shut down for days or months it would have catastrophic results on the business during that period since it will be during peak season. Please let me know of any news and I will be looking for the new EIR concerning the 2010 project.

Sincerely,

Chris Barabino

----- End of Forwarded Message

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I4-1  As stated in the Phase 3 DEIS/DEIR, approximately 1,000 feet of Garden Highway (about 500 feet upstream and 500 feet downstream of the I-5 Bridge) would be closed for approximately 8 to 12 weeks during the summer season to allow for cutoff wall construction. Access would be maintained to the two nearby marinas. North Bayou Road's intersection with Garden Highway would remain open; however, it would have a detour with a gravel surface during construction. This would allow access to the two private marinas north of the public boat launch ramp to remain open. Following completion of the cutoff wall, the intersection would be rebuilt, and roadway paving would be replaced.

As discussed in Impact 4.2-c, “Potential to Physically Divide or Disrupt an Established Community,” in the Phase 3 DEIS/DEIR, temporary disruptions to access for residents and businesses are considered a significant impact. SAFCA would provide residents and business owners located adjacent to the construction areas with a construction timeline and will post its construction schedule on the SAFCA Web site (www.safca.org), as well as road closures and detour information. The schedule will be updated on a monthly basis (see Mitigation Measure 4.2-c, “Notify Residents and Businesses of Project Construction and Road Closure Schedule; and Implement Mitigation Measure 4.12-a, [Prepare and Implement a Traffic Safety and Control Plan for Construction-Related Truck Trips,] and Mitigation Measure 4.12-c, [Notify Emergency Service Providers about Project Construction and Maintain Emergency Access or Coordinate Detours with Providers],” in the Phase 3 DEIS/DEIR).
Hi Barbara,

My 10am appointment slot is open on that day. I could easily book the meeting with you in that time.

Thank you,
Diane

On Tue, Mar 10, 2009 at 4:36 PM, Barbara Gualco <bgualco@gualco.com> wrote:

Hello Diane:

Would you be available any part of Monday, March 16 to meet at SAFCA offices in Sacramento. I have set aside time on the SAFCA calendar for an in-office meeting. Please let me know if you are free to meet, most likely in the a.m.

Regards,

Barbara Gualco

On Mar 9, 2009, at 6:08 PM, Barbara Gualco wrote:

If you would like to reach me by phone I am working at my desk...351-0600.

On Mar 9, 2009, at 5:31 PM, Diane Hovey wrote:

Hello Barbara,

True, this is not something that would normally go into a formal review. However, it is representative of the reality of what it is like living beneath the shadow of this project, coupled with the other slings and arrows life is throwing at all of us at present time. Perhaps, including it would bring a more human perspective to a project that has worked so diligently at removing that element for those of us living on the river side of the levee. In rereading my prior email, I note a grammatical error, but I do not read it as being the ramblings of a madwoman. That is, of course, my personal perspective. Left up to me, I would include it, as well as this response in the formal record.

Best regards,
Diane Hovey, Ph.D.
On Mon, Mar 9, 2009 at 5:14 PM, Barbara Gualco <bgualco@gualco.com> wrote:

Diane. Thank you for your message. I can certainly appreciate your position. I am presuming you do not wish this email to be entered in the formal record of comments that will become public record. Please confirm what you would like me to do with this message.

Barb Gualco

On Mar 6, 2009, at 6:48 PM, Diane Hovey wrote:

Barbara,

Thank you. As you might imagine I feel as though I am standing in front of an on-coming train. The value of my house has dropped significantly. Ben and I put a lot of cash into the construction phase, so I cannot afford to sell it. (Ben died a week after we moved in...the will and trust to change beneficiaries arrived a few hours after his death.) My client base has decreased due to the economy, which is making it nearly impossible to negotiate a refinance the 15-year mortgage to 30-years, which would let me meet my payments. Then, I am looking at construction that would further erode my ability to make a living. And, of course, there is the problem with my eroding river bank that is responding to the change in the flow of the river due to the DWR work across the the way, which I am ill equipped to repair. Meanwhile, the tax bill still comes in asking me to contribute to all of the projects that are "conspiring" to cause me to lose my home and all of my savings. Tell me again why I should be sanguine about what is happening around me.

Best regards,

Diane Hovey, Ph.D.

On Fri, Mar 6, 2009 at 5:34 PM, Barbara Gualco <bgualco@gualco.com> wrote:

Diane,

Thank you for the follow-up message. I have responded to what I can tell you at this time. We look forward to discussing all issues noted in your email messages when a proposed project design is available for review. SAFCA's Natomas Levee Improvement Program Project Manager and designers have been made aware of your concerns.

Again, when this information becomes available, I will contact you and set a meeting.

Regards,

Barb Gualco

On Mar 6, 2009, at 12:00 AM, Diane Hovey wrote:
Hello Barbara,

Thank you for your response. I note that you have responded to three of the issues, but have declined to address the issue of relocation of my place of business from my home to an office during the construction phase although you do reference relocation to a hotel as a point of temporary residence. The nature of NeuroMuscular Therapy or any other type of therapy that involves physical contact is not something that translates well to a hotel environment. My home office is just that, it has a separate entrance, dedicated bath/restroom, waiting room, treatment room, and office. If I must relocate, I would need an office with equal amenities.

Best regards,

Diane Hovey, Ph.D.

On Thu, Mar 5, 2009 at 5:50 PM, Barbara Gualco <bgualco@gualco.com> wrote:

Ms. Diane Hovey  6075 Garden Highway
Hello and thank you for your email. I have not seen the "Garden Highway group's" email you referenced, so I am unable to respond specifically to its content. However, I am familiar with your location from our prior exchanges.

As you are probably aware, the EIS/EIR is meant to address several construction alternatives that could be implemented for the project and evaluate the potentially significant environmental impacts of those alternatives. However, it does not determine which of those alternatives will ultimately be constructed in any given area. Well before the 2010 construction season begins, SAFCA's project designers will have more definitive plans developed which will help to address the issues you have raised: 1.) information regarding any suggested detours for traffic necessitated by road closures, 2.) proper notification of pending 24-hour construction, if applicable, and 3.) the opportunity for impacted residents to temporarily relocate to a hotel.

I anticipate that this detailed construction information will be available in the fall of 2009. SAFCA will work to explore opportunities to reduce the impact on residents living and working near the project. SAFCA staff and consultants will certainly take into consideration the issues you have raised and work with you to address them. Once we have those details, we would be happy to schedule a meeting with you to discuss how construction may impact your property specifically and the mitigation measures that are available. In the meantime if there is anything that you require, please do not hesitate to get in contact with my office.

Barbara Gualco  cc: Jay Davis, Ombudsman

Hello Barbara,

There was a recent email from the Garden Highway group that stated the work at Garden Highway and N.Bayou road will require the road be closed to traffic for an extended period along with the 24 x...
7 truck activity. Apparently SAFCA is offering to cover hotel rooms for those who will not be able to sleep through the noise.

I work from my home. My therapy office was designed into the house and has its own business entrance. If the road is closed to traffic, how am I supposed to a) live in my house and b) make a living...that activity that produces the income that goes to pay the taxes, that fund the jobs of the people that will apparently be keeping me from working..... Is SAFCA proposing to obtain a professional office (of equal quality) for me in another location for the duration of the construction period? If so, is SAFCA also going to pay for moving my office equipment to and from that new location?

Based on what I have seen on the drawings, I thought the property across from me is supposed to have seepage wells installed instead of widening the levee. That seems quite at odds with closing the road at N. Bayou and Garden Highway for widening. Please clarify SAFA's intentions for me. I am located at 6075 Garden Highway, about 0.4-mile north of the I-5 overpass and the N.Bayou / Garden Highway intersection.

Best regards,

Diane Hovey
I5-1

See Response to Comment I4-1.

Mitigation Measure 4.14-a, “Implement Noise-Reducing Construction Practices, Prepare a Noise Control Plan, and Monitor and Record Construction Noise Near Sensitive Receptors,” in the Phase 3 DEIS/DEIR requires that residents in or near the affected work area would be afforded the opportunity, at SAFCA’s expense, to temporarily relocate to a nearby hotel for as long as the 24/7 cutoff wall construction schedule persists within 500 feet of their residence. Under the Proposed Action, access to residences along Garden Highway would remain open, with some temporary construction closures. Mitigation Measure 4.2-c, “Notify Residents and Businesses of Project Construction and Road Closure Schedule; and Implement Mitigation Measure 4.12-a, “Prepare and Implement a Traffic Safety and Control Plan for Construction-Related Truck Trips,” and Mitigation Measure 4.12-c, “Notify Emergency Service Providers about Project Construction and Maintain Emergency Access or Coordinate Detours with Providers,” requires SAFCA to notify residents and businesses of the construction schedule and road closures and detours. Under the Levee Raise-in-Place Alternative, Mitigation Measure 4.2-c further requires SAFCA to negotiate an agreement, consistent with the terms of existing leases, with any business required to suspend operations during levee/cutoff wall construction in order to reimburse them for loss of revenue during the time that they will be closed, based on actual income for that time of year. USACE and SAFCA are committed to maintaining good communications with potentially affected residents and business owners throughout project planning and construction, and meeting with those affected to discuss individual concerns. See also Master Response: 24/7 Cutoff Wall Construction.
Phase 3 comment

Liz Holland  
U.S. Army Corps of Engineers 
Environmental Resources Branch  
(916) 557-6763  
elizabeth.g.holland@usace.army.mil

-----Original Message-----
From: linda_lantana@yahoo.com [mailto:linda_lantana@yahoo.com]  
Sent: Thursday, March 12, 2009 3:23 PM  
To: Holland, Elizabeth G SPK  
Cc: BassettJ@saccounty.net  
Subject: Natomas Levee Improvement Program

This is a follow-up to our conversation yesterday at the public forum held regarding the Natomas Levee Improvement Program.

I am a resident of South Natomas, living at 15 Prado Ct., Sacramento, CA 95833. I have been told that if this area floods, my house will be under 20 to 25 feet of water.. I have also been told that, depending on the location of the break, I will have 2 feet of water at my doorstep within 20 minutes. Based on these facts and on the recent determination that Natomas has insufficient flood protection, my life and property are in danger. I would appreciate your help getting this situation remedied and quickly. Thank you.

I would like to know the best evacuation route for me to take in case of a flood given my specific address. I would also like to know the nearest, safest location I might be able to reach, if little time is available. I once thought a small boat or raft might help if the streets were flooded, but I no longer think that would work, as I have to pass multiple houses and apartment complexes to get out and someone would take it away from me. Any suggestions or tips you can provide would be greatly appreciated.

Linda Luhman
I6-1  As stated in Section 1.4.1, “Project Purpose/Project Objectives,” in the Phase 3 DEIS/DEIR, one of SAFCA’s objectives for the NLIP is to provide at least a 100-year level of flood risk reduction to the Natomas Basin as quickly as possible. Similarly, USACE’s purpose is to select an alternative that would reduce the risk of flood damage in the Natomas Basin. The Phase 1 and 2 Projects have already been approved; construction of the Phase 1 Project is complete and construction of the Phase 2 Project will begin in spring 2009.

I6-2  This is not a comment on the Phase 3 DEIS/DEIR; however, SAFCA forwarded this request to the City of Sacramento. General information regarding emergency services, including the Sacramento County Evacuation Plan, can be found at www.sacramentoready.org. General information for areas outside of the City of Sacramento can be found by calling (916) 264-5011. City of Sacramento residents can call 311 for general information.
John, Francine, and Sarah,

I received a call from Mr. Ed Bianci with regards to the Phase 3 NLIP project - he would like to make an official comment on the design of the levees and irrigation ditches. He would like the footprint to be as small as possible because the larger the footprint the more land he will loose. He does not want his land to be fragmented with ditches and native grasses. He does not understand and does not want there to be a 50 to 60 foot buffer on the landside of the levee or irrigation ditches. He does not want the ditches to be so large and does not believe they need to have a 5:1 slope.

He would like to receive any future documents related to this project.

John - he is also expecting an engineer to call him this week per Jay Davis. I also informed him that we do not have control over the irrigation ditches and the extra land being obtained beyond the levee structure and the required landside maintenance road. He said you told him all of the design was based on requirements from the Corps of Engineers - I told him only the levee structure and maintenance area has Corps requirements - not the irrigation ditches. Can you please call him and discuss the irrigation ditches and their design.

Thank you all.

Liz Holland
U.S. Army Corps of Engineers
Environmental Resources Branch
(916) 557-6763
elizabeth.g.holland@usace.army.mil
I7-1 Comment noted; USACE and SAFCA have designed the Phase 3 Project in an effort to reduce acquisition of private property.

I7-2 Comment noted; Appendix H of the Phase 3 DEIS/DEIR includes a list of parcels that are located within the Phase 3 Project footprint. The Proposed Action includes the relocation of the existing Elkhorn Canal south of Elkhorn Reservoir. Portions of privately maintained local canals, some of which may provide a drainage function, would be overlapped by the footprint of the adjacent setback levee along the Sacramento River east levee. Drainage would need to be rerouted to new replacement canals before the existing canals are decommissioned to ensure that local drainage and ponding areas would not be adversely affected as a result of project construction. Detailed plans for these replacements are still under development.

As noted in Mitigation Measure 4.4-b, “Coordinate with Landowners and Drainage Infrastructure Operators, Prepare Final Drainage Studies as Needed, and Implement Proper Project Design,” in the Phase 3 DEIS/DEIR, project engineers will coordinate with owners and operators of local drainage systems and landowners served by the systems throughout detailed project design. This coordination will enable the project engineers to evaluate the preproject and postproject drainage needs and the design features to consider in project design.

The footprint of the setback levee, maintenance corridor, levee setback area, and extension of the Elkhorn Canal would encroach upon the western side of the commenter’s property, adjacent to the existing levee. The project footprint would be restricted to the west side of the property; therefore the property would not be fragmented into smaller pieces and would not make farming practices difficult or infeasible. The alignment of the Elkhorn Canal was sited as close to the new levee toe as possible, which reduces land acquisition. The width of the right-of-way for the relocated canal is needed to accommodate the canal itself, embankments on both sides, and patrol roads. The canal alignment is described in Appendix H of the Phase 3 DEIS/DEIR.

I7-3 A 50-foot-wide operations and maintenance corridor is required by CVFCB, and necessary for considerations such as utility upkeep and woodland corridor function. Specific circumstances, such as residences, businesses, and some existing utilities allow for a reduced corridor of 20 feet in width in certain areas. SAFCA will compensate owners for land acquired as a result of project implementation.

I7-4 The proposed canal embankments are planned to be built with a 3:1 ratio, not a 5:1 ratio, as the commenter states. Regarding the size of the ditches, canals, and other irrigation components, project design is based upon needs in Natomas Basin, including irrigation system connectivity considerations. These components also include operations and maintenance corridors. See Section 2.3.4, “Irrigation and Drainage Components,” and Appendix H, “Construction Details,” in the Phase 3 DEIS/DEIR for further information.

I7-5 Comment noted; the commenter has been added to the NLIP distribution list for future environmental documents.

I7-6 See Response to Comments I7-2 through I7-4 and Master Response: Sacramento River East Levee Prism.
Mr. John Bassett  
Director of Engineering, SAFCA  
1007 7th St.  
Sacramento, Ca. 95814  

April 6, 2009  

Ref: Natomas Levee Improvement, Phase 3 DEIS/DEIR  

As a resident of Valley View Acres, I am surprised the DEIS/DEIR has not provided more specific information regarding construction to the NEMDC and a better analyze of the impacts to our community.  

Valley View Acres is an approximately 300 acre community bounded by Elkhorn Blvd on the north, Del Paso Road on the south, Sorento Road on the west, and the East Levee Road on the east. Included in this area are 150 residential homes, two horse farms, one cattle ranch, and other livestock. Water for drinking, cleaning, agricultural irrigation, and livestock care is provided by private wells maintained by Valley View Acre Residents.  

The NEMDC construction will border our community for two miles. It will create the usual issues of road closures, noise, traffic etc. However, I have special concerns regarding the impact to ground water and thus affecting our well water.  

1. The ground water evaluation as provided by the consulting engineers Luhdoerf and Scalmanini are based on the Integrated Groundwater and Surface Water Models (IGSM) dated 2004 for present conditions and project conditions for the year 2030. An updated model by WRIME in 2008 is the model for the Sutter/Placer County portion. Is there an update model for Sacramento City/County/Natomas areas? After three years of drought and maybe more to follow, should a new drought-type model be prepared?  

2. According to the Luhdoerf and Scalmanini Groundwater Report, the impact of ground water flows beneath the NEMDC West Levee with proposed cutoff walls installed will drop from 684 to 547 acre feet yearly for the 2004 (“existing”) simulation and from 38 to 30 acre feet yearly for the 2030 simulation (Table 6-6) for a 3% drop. The slurry walls along the length of the levee are estimated to be 60-80 feet deep. Most of our residential water wells are 50-60 feet deep. How can these combined conditions not greatly impact our access to water? Our water wells may have to go deeper. If needed, will the DEIS/DEIR provide compensation for water well improvements?  

3. According to section 9.3, “no groundwater contamination would be expected due to construction of the proposed slurry walls and other improvements…” After 30 years of living in Valley View Acres, my water has been contaminated three or four times for periods of three to eight days when some new well has been dug in the neighborhood. If my water has been contaminated by a 12 inch bore, why would it not be contaminated by a two mile 80 foot slurry wall?
This DEIS/DEIR document appears to ignore ground water impacts that may occur during the NEMDC construction. If not addressed in this document, I hope a through up to date analysis will be conducted with appropriate mitigation measures included in Phase four documentation.

Thank You for the chance to comment,

Anthony Trujillo
| I8-1 | See Master Response: Groundwater Hydrology in the Vicinity of the NEMDC. |
| I8-2 | See Master Response: Groundwater Hydrology in the Vicinity of the NEMDC. |
| I8-3 | See Master Response: Groundwater Hydrology in the Vicinity of the NEMDC. |
| I8-4 | See Master Response: Groundwater Hydrology in the Vicinity of the NEMDC. |
| I8-5 | See Master Response: Groundwater Hydrology in the Vicinity of the NEMDC. |
To: Mr. John Bassett  
   Ms. Elizabeth Holland

From: Chris and Caroll Mortensen  
   6576 Garden Hwy  
   Sacramento, CA 95837

RE: EIR / EIS Phase Three Landside Improvement Project

Please accept these comments in response to the draft EIR / EIS:

As property owners on the landside of the Garden Hwy in Reach #8, we are still concerned that an EIS / EIR is still proceeding with so many variables that have not been decided. It seems that it would be problematic to determine the scope of the project.
We have not received any type of formal offer or estimate as to where and how much of our property would be needed to complete the project. This seems a necessary step and critical to the estimation of the scope and impact of the project. Without knowing what the levee and other improvements would look like on our property it is not understandable as to what the EIR/ EIS should look for and what the alternatives are.

Along these lines, but in the broader scope, the same uncertainty as to what the impact to our parcel seems to exist for the final project. It seems problematic to perform an adequate EIR/ EIS under those circumstances.

The latest EIR/EIS appears to show our parcel surrounded by borrow sites. Since the ground water is extremely high in the winter we are concerned that we will surrounded by a potential swamp. We are concerned the type of eco system that this will promote and the potential for mosquitoes.

Specifically clarity is lacking regarding:

What structures as well as trees and other vegetation are proposed to be removed and from where.

Clarity is also lacking as to the relocation of the power poles along the Garden Hwy and where and when they will be moved.
In the areas where they will be constructing 'slurry walls', it appears there will be around the clock, 7 day per week construction. It is unclear if this evaluated in this phase of the EIR / EIS.

It also appears that the possibility of around the clock, 7 day per week construction for ANY sections deemed necessary to keep the project moving within the timeline. It is not clear in what areas slurry walls will be constructed, or how long noise and construction will affect individual homeowners.

Construction of this type will likely have to noise, dust, and vibration generated from the tremendous trucking and digging activity that will be happening at the various 'borrow' sites located adjacent to the Garden Hwy. This seems to be a larger impact that the previous construction schedules and the increase does

Also, it appears that there are future variables with requirements that are likely to be imposed by other agencies including the Army Corps of Engineers that will come in the future that may necessitate changes in the proposed current project. This also makes the complete and adequate preparation of an EIR / EIS problematic

Thank you for your consideration of these comments. Please contact us if you have further questions.
Chris and Caroll Mortensen

Elizabeth.G.Holland@usace.army.mil

ATTN: US Army Corps NLIP Phase 3 DEIS

And

BassettJ@saccounty.net

ATTN: SAFCA N

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The scope of the project is addressed in Chapter 2.0, “Alternatives,” in the Phase 3 DEIS/DEIR where the construction methods are described, as well as in Appendix H, “Project Construction Details,” in the Phase 3 DEIS/DEIR. Impact analysis has proceeded on the basis that design refinements, including exact property acquisition requirements, would occur beyond the timeframe of the Phase 3 DEIS/DEIR. Where uncertainty exists in terms of ultimate project footprint or use of potential soil borrow sites, the impact analysis is based on probable worst-case scenarios. As noted in Section 2.3.6, “Lands, Easements, Relocations, and Rights-of-Way,” in the Phase 3 DEIS/DEIR, privately owned lands would be acquired in fee. Real property acquisition and relocation services would be accomplished in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC 4601 et seq.) and implementing regulation, 49 CFR Part 24; and California Government Code Section 7267 et seq.

As described in Section 3.3.4.5, “Groundwater Hydrology,” in the Phase 3 DEIS/DEIR, groundwater levels in the Natomas Basin average 10–25 feet below ground surface level. Borrow material excavation would be between 2 and 5.4 feet, as described in Table 2-2 of the Phase 3 DEIS/DEIR, and should therefore not penetrate underground aquifers. In addition, groundwater monitoring in the Natomas Basin has been in place for decades (see Appendix B of the Phase 3 DEIS/DEIR). Data extracted from this monitoring, in conjunction with geotechnical borings completed prior to excavation activities would ensure that use of borrow materials would not be extracted to a depth that would create swamp habitat that may be an attractant to mosquitoes.

See Response to Comment O2-5 regarding removal of encroachments. Mitigation Measure 4.17-b, “Verify Utility Locations, Coordinate with Utility Providers, Prepare and Implement a Response Plan, and Conduct Worker Training with Respect to Accidental Utility Damage,” in the Phase 3 DEIS/DEIR addresses the potential impacts of power pole relocations. Exact locations for relocated power poles would be determined through detailed project design. The timing of relocation of power poles is addressed in Appendix H, Section 2.2, “Construction Sequence,” in the Phase 3 DEIS/DEIR.

Impacts associated with noise, dust, and vibration are presented in Sections 4.13, “Air Quality,” and 4.14, “Noise,” in the Phase 3 DEIS/DEIR. Magnitude and duration of construction of various project phases may overlap and could occur over a different time frame than presented in the Phase 3 DEIS/EIR. The scenario presented in the Phase 3 DEIS/EIR is the reasonable worst-case scenario and encompasses the maximum extent of impacts from implementation of the Phase 3 Project.

With any proposed project, it is likely that as detailed project design proceeds, project refinements or modifications may become necessary. As these refinements/modifications are identified, the lead agencies must consider whether the environmental review adequately evaluated the impacts of the refined/modified proposed project, or whether additional or supplemental analyses are warranted.
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-----Original Message-----
From: Gibson Howell [mailto:gib@mail.com]
Sent: Monday, April 06, 2009 4:57 PM
To: Bassett. John (MSA)
Subject: Phase 3 NLIP Comments

John,

SAFCA

Below are my comments concerning SAFCA's Phase 3 of the NLIP DEIS:

1. This document is 484 pages and very disjointed. It repeats itself in several areas, very technical for the average 'stakeholder', and includes very significant information couched within seeming unimportant subsections (i.e.: not in the synopsis). I would like to know how many of the SAFCA board and USACE staff have been able to review the ENTIRE document in a detailed way.

2. From on my read of the EAR, the 'No Action Alternative' is MUCH worse to the residents of Natomas and the environment than the EIR implies. Based on current USACE standards, Natomas residents would not gain any meaningful flood protection, and the Army Corps would require 'de-nuding' of the levees causing irreparable harm to the environment, those living on the Garden Hwy, and the greater community who enjoys all the recreational activities and beauty the river provides.

3. I am very concerned the EIR dismissed other flood protection improvement alternatives that could reduce the risk to Natomas, lessen the strain on the levee during floods, and possibly relegate the levee to a 'backup' during flood events. This could also allow the levee to exist in its 'current state' (with all environmental habitat preserved) since the chance of flooding would be greatly diminished.

Please provide further explanation why these alternatives were dismissed:
Increasing the use of bypasses (Yolo, Fremont, Sacramento, etc) to contain the massive amount of water that has to flow down a relatively narrow channel (the river). The Central Valley Flood Protection Board (CVFPB) includes this as a viable option they are working on in their current "Framework" document. SAFCA seems to dismiss it because it would involve "too many other agencies outside of their control". Doesn't the State have a plan to work together, called "FloodSAFE"?

Increasing the number of reservoirs. We are living in drought conditions, yet no government agencies seems willing to address the need for more reservoirs. This would increase our water supply and reduce the chance of flooding. A win/win in my opinion.

Study and implement 'watershed plans' that have been proposed by scientists to improve flood control, enhance our environment, and increase our water supply.

4. Disruption of utility service during NLIP construction

Local residents have still not been informed how long they can expect to be without utility service during the construction and power pole relocation. I think this is basic information we need to know since we all rely exclusively on electricity for everything (no city gas, sewer, water).

5. SAFCA has continually advocated the 'adjacent setback levee' will move the "levee prism" landside and effectively remove our properties from current USACE, RD1000, and Title 23 levee standards. I agree with the concept and feel they are actively advocating this position, but I have never seen an actual diagram of the "new" levee prism showing we will be outside of it and thus exempting any requirement to conform to 'levee prism' standards.

6. Title 23 (Waters) Division 1, Chapter 1, Article 8, Paragraph 133 needs to be updated to address the 'adjacent set-back levee'. This section was specifically created to accommodate the unique conditions of the Natomas section of the levee. This section was written in 1996, and should be re-written to incorporate the obvious advantages gained by the increased size of the levee.

7. 24/7 Construction. Nowhere in the NLIP does it state how long the "average" homeowner will be subject to 24/7 construction. Furthermore, it states there is a possibility for continuous 24/7 construction and does
not address the fact that this construction would require the use of equipment and trucks along a great length of the Garden Hwy due to the use of multiple 'borrow facilities' next to the homeowners. How can we judge this EIR if we have no idea how long we will be affected?

Thank you for your time and consideration,

Gibson Howell
3551 Garden Hwy
916/730-0141
I10-1 The Phase 3 DEIR/DEIS has been prepared by both the USACE, Sacramento District, as Federal lead agency under NEPA and SAFCA as state lead agency under CEQA. As such, appropriate staff from both lead agencies has participated in the development and review of the Phase 3 DEIR/DEIS, which was developed in accordance with applicable NEPA and CEQA regulations. See Chapter 9.0, “List of Preparers,” in the Phase 3 DEIS/DEIR for a list of the individuals who prepared sections of the DEIS/DEIR, provided significant background materials, or participated in preparing the DEIS/DEIR.

I10-2 See Responses to Comments L3-10 and O2-2, which address concerns regarding the environmental effects of the No-Action Alternative.

I10-3 Numerous alternatives have been considered by SAFCA to provide flood risk reduction to the Natomas Basin. USACE and SAFCA evaluated and eliminated these alternatives from further consideration during completion of previous environmental documents. More detailed information on alternatives considered but eliminated is provided in Chapter 2.0, “Alternatives,” and Appendix I, “Alternatives Formulation and Screening Details,” of the Phase 3 DEIS/DEIR. See also Response to Comment L3-8.

The Yolo Bypass Improvements Alternative was eliminated because (1) it would be too costly for SAFCA to implement; (2) even following implementation of this alternative, some levee height increases and substantial seepage, underseepage, and slope stability remediation would still be required for the perimeter levee system, adding to the costs; (3) these improvement lie outside of SAFCA’s jurisdiction and would require Federal, state, and location cooperation and funding; and (4) the project objective of restoring 100-year flood protection to the Natomas Basin could not be achieved as quickly as possible (considered and eliminated in Phase 2 EIR and Phase 2 EIS). The alternatives that were carried forward would address the immediate flood control issues facing the Natomas Basin in a way that would not adversely affect other portions of the Sacramento River system or other entities with flood management responsibilities. These alternatives would not prejudice the state’s FloodSAFE effort or other future efforts from identifying additional long-term solutions to the flood protection system deficiencies related to the river system, including improvements to the Yolo and Sacramento Bypass systems and additional reservoir and watershed management plans.

I10-4 See Response to Comment O2-3. Temporary electrical service outages during relocation of electrical utilities are expected to be approximately four hours in duration and are not anticipated to exceed eight hours. No disruption of service during construction of flood risk reduction facilities is anticipated.


I10-6 See Response to Comment O2-8.

I10-7 See Master Response: 24/7 Cutoff Wall Construction. Further, as shown in Plate 10 in the Phase 3 DEIS/DEIR, and as agreed upon in the settlement agreement between SAFCA the Garden Highway Community Association (Appendix G of the Phase 3 DEIS/DEIR), haul routes for levee embankment material would not be located on Garden Highway.
From: Laura Gilbeau [mailto:lauragilbeau@gmail.com]
Sent: Monday, April 06, 2009 9:32 PM
To: Bassett. John (MSA)
Subject: Sacramento Levee project - 5871 Garden Highway

April 6, 2009

Dear Interested parties

Metro Marina, located at 5871 Garden Hwy, is in the business of renting space for a Restaurant (Swabbies), residences, boat slips and dry storage. Closing or disrupting our business in the middle of summer could seriously impact our ability to charge rents due to the seasonality of our location. Some of our boat customers rent slips for the year with the anticipation of having the prime time use during summer. If our customers were forced to find other accommodations during the levee repairs they may not return, impacting our revenue for several months after the access is regained. Please consider making adequate access roads around construction so we don’t lose our valuable clients to other marinas.

Sincerely,

Laura and Harvey Gilbeau
Don and Anita Glidewell
916-869-2625
Metro Marina Partnership
I11-1 See Responses to Comments I4-1, PH-2, and PH-3.
April 6, 2009

Dear SAFCA and interested parties,

Swabbies Restaurant at 5871 Garden Hwy is currently a thriving seasonal destination. We rely on a number of different patrons such as boaters, motorcyclists, airport employees, fisherman, and local Garden Hwy residents to name a few. The draft EIR spells out possible closures or disruptions in 2010, during our peak season. Even a moderate disruption during the critical summer months could result in the entire 2010 being lost.

Our business needs the best possible access from all directions that is suitable for all types of vehicles. In addition the access needs to be simple without creating time delays for our customers. We also rely on the Elkhorn Boat Launch for business. I have suggested that perhaps a co-op arrangement be made to temporary connect the two properties and share driveways during construction. I have also suggested that we could possibly save asphalt grindings during the levee tear down and use it to make a solid two lane temporary access to our business.

Please consider my verbal statements from May 19th in front of the board of supervisors. Hopefully our restaurant can continue to thrive even with the levee repairs. Please don’t hesitate to contact me for further information or mitigation suggestions.

Sincerely

Christopher Barabino
Owner Swabbies Restaurant
916-320-4126
<table>
<thead>
<tr>
<th>Letter I12 Response</th>
<th>Christopher Barabino, Owner, Swabbies Restaurant</th>
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<tr>
<td>I12-1</td>
<td>See Response to Comments I4-1, PH-2, and PH-3.</td>
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<td>I12-2</td>
<td>See Response to Comments I4-1, PH-2, and PH-3.</td>
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March 27, 2009

Mr. John Bassett
Director of Engineering
SAFCA
1007 7th Street, 7th Floor
Sacramento, CA 95819

Re: Draft Environmental Impact Statement/Draft Environmental Impact Report (DEIS/DEIR) for the Natomas Levee Improvement Program (NLIP), Phase 3 Landslide Improvement Project (Phase 3 Project)

Dear Mr. Bassett,

My family and I have are long time residents of the Valley View Acres Community (VVA) residing on Sorento Road between Del Paso Road and the East Levee Road. Because our location within the Natomas Basin and a constant threat of flooding, we have been supportive of all flood control efforts by SAFCA and the U.S. Army Corps of Engineers. In general, we are in support of the Phase 3 Project. However, we are concerned that the DEIS/DEIR never addressed critical areas of concern for the VVA Community. These critical areas of concern include groundwater and wells, traffic impacts, noise, soils and land use. Because these issues were not covered in the DEIS/DEIR, we believe these documents must be revised and re-circulated to comply with the requirements of the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA).

In the Phase 3 DEIS/DEIR there is no mention of the traffic related noise and emergency service impacts to the Valley View Acres Community. Most importantly, there is no mention of impacts to domestic wells for VVAC residents.

Chapter 3 page 54, there is no mention of using Sorento Road as a project area road way for the project which is a vital road way for my family.
In Chapter 4, Hydrology and Hydraulics, there is no review of the effects on groundwater and domestic wells. This issue is important to my family and other residents here in VVA. We are concerned that are wells will not go dry because of the improvements to the levee. We believe that if wells are affected, it should be the responsibility of SAFCA to amend and finance the needed improvements to ensure my well, as well as all domestic wells within our community, are protected and run as they had prior to levee improvements. This issue must be reviewed and analyzed prior to moving forward with this project.

My family and I are long time supporters of flood protection within the Natomas Basin including additional assessments on properties for flood protection. However, because the Phase 3 Project DEIS/DEIR failed to review potentially significant impacts to the community my family and I reside in, Valley View Acres Community, we must call for the analysis to be revised and relevant mitigation measures be included, to address the impacts of how this project will effect my family and other residents of the Valley View Acres Community.

Respectfully,

Joe Angel & Angela Angel

5600 Sorento Road
Sacramento CA 95835
I13-1 Comment noted; the commenters are long-time residents of the Valley View Acres Community Association.

I13-2 See Response to Comment O4-13.

I13-3 See Response to Comment O4-25.

I13-4 See Response to Comment O4-17 regarding emergency service impacts to East Levee Road, adjacent to the Valley View Acres Community. Noise-sensitive land uses that could be affected by construction on the NEMDC west levee are discussed under Impact 4.14-a, “Generation of Temporary, Short-Term Construction Noise,” in the Phase 3 DEIS/DEIR. These would include the VVA neighborhood. See also Master Response: Groundwater Hydrology in the Vicinity of the NEMDC.

I13-5 See Response to Comment O4-11. Construction of the Phase 3 Project would not include the use of Sorento Road as a truck haul route (see Plate 10 in the Phase 3 DEIS/DEIR).

I13-6 See Master Response: Groundwater Hydrology in the Vicinity of the NEMDC.

I13-7 See Response to Comment O4-25.
CALL TO ORDER THE SACRAMENTO AREA FLOOD CONTROL AGENCY MEETING FOR MARCH 19, 2009.

WOULD YOU LIKE TO CALL THE ROLL.

JAMES GALLAGHER
JIM MILLER - HERE
JOHN SHIELS - HERE
BRIAN HOLLOWAY -
VIRGINIA MOOSE - HERE
STEVE COHN -
BONNIE PANNELL - HERE
RAY TRETHEWAY -
ART GEE - HERE
DENNIS ROGERS - HERE
DON NOTTOLI -
ROGER DICKINSON - HERE
SUSAN PETERS - HERE

MADAM CHAIR WE HAVE A QUORUM

OKAY, THANK YOU.

OUR FIRST ITEM IS A CLOSED SESSION, WHICH WE ARE GOING TO CANCEL SINCE THE ANALYSIS HAS NOT BEEN COMPLETED AND THEN WE WILL LOOK TO DO THAT AT OUR NEXT MEETING.

SO WE WILL GO ON TO TIMED ITEMS NOW.

I NEED TO READ THE OPENING STATEMENT

OKAY, THAT’S FINE

GOOD AFTERNOON LADIES AND GENTLEMEN, THIS MEETING OF SAFCA IS BEING BROADCAST LIVE AND WILL BE CABLECAST WITHOUT INTERRUPTION ON METRO CABLE 14. TODAY’S MEETING WILL BE REPEATED ON FRIDAY, MARCH 20TH, AT 1:00 P.M. ON CHANNEL 14. THIS MEETING IS BEING CLOSED CAPTIONED AND WILL BE EBCAST AT WWW.SACMETROCABLE.TV STREAMING VIDEO OF THE BOARD MEETING IS AVAILABLE ON WWW.SAFCA.ORG WITHIN 48 HOURS AFTER THE MEETING. A VHS COPY IS ALSO AVAILABLE FOR CHECK OUT FROM ANY LIBRARY BRANCH.

MEMBERS OF THE AUDIENCE WISHING TO ADDRESS THE BOARD SHOULD FILL OUT A BLUE SPEAKER FORM LOCATED ON THE TABLE AT THE ENTRANCE OF THE CHAMBERS AND AT THE PODIUM, AND GIVE IT TO THE CLERK. WHEN ADDRESSING THE BOARD, PLEASE IDENTIFY YOURSELF FOR THE RECORD AND SPEAK DIRECTLY INTO THE MICROPHONE AND PLEASE LIMIT YOUR COMMENTS TO THREE MINUTES. THANK YOU.

OKAY, THEN I SUPPOSE WE OUGHT TO DO THE PLEDGE, MR. ROGERS..
MARCH 19, 2009 - SAFCA BOARD OF DIRECTORS MEETING TRANSCRIPT

ALL:
I PLEDGE ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA, AND TO THE
REPUBLIC FOR WHICH IT STANDS, ONE NATION UNDER GOD, INDIVISIBLE, WITH LIBERTY
AND JUSTICE FOR ALL.

CHAIR SUSAN PETERS:
SO NOW WE’LL SAY THAT WE ARE CANCELLING THE CLOSED SESSION AND MOVING ON TO
TIMED ITEMS.

CLERK:
TIMED ITEM; ITEM 1. PUBLIC HEARING – DRAFT ENVIRONMENTAL IMPACT
STATEMENT/ENVIRONMENTAL IMPACT REPORT ON THE NATOMAS LEVEE IMPROVEMENT PROGRAM
PHASE 3 LANDSIDE IMPROVEMENTS PROJECT.

TIM WASHBURN:
MADAM CHAIR, MEMBERS OF THE BOARD, TIM WASHBURN, SAFCA STAFF.

THIS ITEM IS A PUBLIC HEARING ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT
AND ENVIRONMENTAL IMPACT REPORT FOR THE NATOMAS LEVEE IMPROVEMENT PROGRAM
PHASE 3. IT’S THIS DOCUMENT AND I KNOW WE INCLUDED IT IN
THE BOARD’S PACKET AND IT’S OF COURSE POSTED ON SAFCA’S WEBSITE, AND WHAT WE
HAVE TODAY FOR THE BOARD, I WILL MAKE KIND OF A BRIEF OVERVIEW OF WHAT’S IN THE
PROJECT AND THEN YOU CAN OPEN THE HEARING, TAKE COMMENTS FROM THE PUBLIC THAT WE
WILL RECORD AND REPRODUCE AND RESPOND TO, IN THE FINAL EIR/EIS WHEN WE GET
THERE.

LET ME JUST DO A… CAN YOU… I’LL HAVE TO IMPROVISE A LITTLE BIT HERE. SO, WHAT WE
ARE COVERING IN THE PHASE 3 PROJECT, IS THE WORK THAT WOULD GO ON ALONG THE EAST
LEVEE OF THE SACRAMENTO RIVER. (I THINK THAT IS PRETTY GOOD) EAST LEVEE OF THE
SACRAMENTO RIVER, BASICALLY JUST UPSTREAM OF ELVERTA ROAD, JUST DOWNSTREAM OF
THE PRICHARD LAKE PUMP STATION, RD’S PUMP STATION, RD1000’S PUMP STATION THERE,
AND THEN, CONTINUING ALONG THE EAST LEVEE, FOR ABOUT, A LITTLE MORE THAN 4
MILES, DOWN PAST I-5, THAT WOULD BE THE REACH ALONG THE SACRAMENTO RIVER AND IN
ORDER TO CLEAR THE WAY FOR THAT LEVEE WORK TO BE DONE, WE WOULD BE LOCATING THIS
LOWER PORTION OF THE ELKHORN IRRIGATION CANAL, THE NATOMAS CENTRAL MUTUAL WATER
COMPANY IRRIGATION CANAL, FROM JUST NORTH OF THE GOLF COURSE, ALL THE WAY DOWN
to JUST THE OTHER SIDE OF ELKHORN BLVD., AND THEN WE WOULD ALSO BE RELOCATING
OR CREATING, IN EFFECT, A NEW DRAINAGE CANAL; THE GIANT GARTER SNAKE DRAINAGE
CANAL, RUNNING FROM AGAIN, JUST THE NORTHERLY EDGE OF THE GOLF COURSE FROM THE
ELKHORN RESERVOIR THERE ALL THE WAY DOWN TO CONNECT TO THE RD1000 WEST DRAINAGE
CANAL HERE AT I-5.

AND THIS FACILITY, AS I’VE DISCUSSED WITH THE BOARD IN THE PAST, WILL OFF SET
THE RECONFIGURATION AND ESSENTIALLY ABANDONMENT OF THE AIRPORT WEST DITCH. THIS
IS A DRAINAGE AND IRRIGATION DITCH THAT RUNS THROUGH THE AIRPORT OPERATION AREA
ON SACRAMENTO INTERNATIONAL AIRPORT. AND WE WOULD BE SHIFTING THE FUNCTIONS OF
THE AIRPORT WEST DITCH, WHICH CURRENTLY CARRY IRRIGATION WATER AND PROVIDE A
DRAINAGE FUNCTION FOR PROPERTIES JUST TO THE WEST OF THE AIRPORT. THOSE
IRRIGATION AND DRAINAGE FUNCTIONS ALONG WITH THE HABITAT VALUES THAT WE WOULD
CREATE WOULD BE SHIFTED OVER TO THE GIANT GARTER SNAKE DRAINAGE CANAL AND THAT
WOULD ALLOW US TO RECONFIGURE AND ESSENTIALLY TURN WHAT IS NOW A RELATIVELY DEEP
DITCH WITH WATER THAT RUNS ALMOST CONTINUOUSLY THROUGH IT INTO A KIND OF A
GRASSY SWALE, THAT WILL STILL PROVIDE SOME MINIMAL DRAINAGE ON THE AIRPORT, BUT
WE WILL ELIMINATE IT AS A SIGNIFICANT DRAINAGE AND IRRIGATION FACILITY.

IN ORDER TO FINISH AND CONTINUE TO SUPPLY IRRIGATION WATER TO THE PROPERTIES
JUST WEST OF THE AIRPORT, THIS PHASE OF THE PROJECT ALSO INVOLVES OUR
CONSTRUCTION OF SOME IRRIGATION FACILITIES TO IRRIGATE THAT LARGE PARCEL JUST TO THE WEST OF THE AIRPORT.

PHASE 3 ALSO INCLUDES SOME SIGNIFICANT IMPROVEMENTS ON THE EAST SIDE OF NATOMAS. SO SWITCH OVER TO THE EAST SIDE OF THE BASIN AND WE WOULD BE IMPROVING, STRENGTHENING AND ADDRESSING THE UNDER SEEPAGE AND STABILITY ISSUES ON THE PLEASANT GROVE CREEK CANAL, WHICH IS ABOUT A THREE MILE REACH CONNECTING FROM THE CROSS CANAL DOWN JUST PAST SANKEY ROAD WHERE IT HITS THE NATOMAS EAST MAIN DRAINAGE CANAL. SO THE PLEASANT GROVE CREEK CANAL WOULD BE SLIGHTLY RAISED FOR A HUNDRED-YEAR FLOOD PROTECTION AT THE VERY UPPER END HERE, WOULD HAVE SEEPAGE REMEDIATION WORK DONE AND THE LEVEE STABILIZATION WORK OF THE LEVEE SECTION WOULD BE WIDENED IN THAT UPPER REACH OF NATOMAS.

AND THEN SWITCHING TO THE LOWER PORTION OF THE NATOMAS EAST MAIN DRAIN, PHASE 3 INCLUDES IMPROVEMENTS TO THE WEST LEVEE CANAL, EXTENDING ESSENTIALLY FROM ELKHORN BLVD., DOWN PAST OUR PUMPING STATION HERE, NEAR DRY CREEK AND ALL THE WAY DOWN TO NORTHGATE BOULEVARD. IN THIS SHORT UPPER REACH BETWEEN ELKHORN AND THE PUMPING STATION WE ARE ESSENTIALLY FIXING A LEVEE STABILIZATION ISSUE, AND THE LEVEE WILL BE WIDENED SIMILAR TO WHAT WE ARE DOING WITH THE ADJACENT LEVEE OVER ON THE EAST SIDE, IT WON’T BE RAISED, BUT THE LEVEE SECTION WILL BE MADE WIDER TO MAKE THAT LEVEE MORE STABLE. AND THEN IN THE REACH FROM THE PUMPING STATION DOWN TO NORTHGATE WE ARE ADDRESSING UNDER SEEPAGE IN THAT REACH OF THE LEVEE, PARTICULARLY IN SPOTS WHERE PRE-EXISTING SPOTS WHERE DRY CREEK, ARCADE CREEK, OLD MAGPIE CREEK CROSS UNDERNEATH THE LEVEE, AND WHERE THERE IS UNDER SEEPAGE POTENTIAL THERE.

SO THOSE ARE THE BASIC ELEMENTS IN THE PHASE THREE PROJECT, I SHOULD ALSO SAY THAT THERE ARE SOME PUMPING STATIONS THAT NEED TO BE ADJUSTED TO THE CHANGED LEVEE HEIGHT AND THAT WOULD BE RD1000’S PRICHARD LAKE PUMP STATION, WHICH WILL NEED TO BE RETRO FITTED AND IMPROVED TO GET OVER THE NEW LEVEE AND THE ELKHORN PUMPING STATION FOR NATOMAS CENTRAL MUTUAL WATER COMPANY THAT WILL HAVE TO BE RETRO FITTED AND IMPROVED TO ADJUST TO THE NEW HEIGHT OF THE SACRAMENTO RIVER EAST LEVEE.


THE DOCUMENT, AS WE HAVE IN THE PAST COMPARES ESSENTIALLY THREE ALTERNATIVES. ONE IS NO ACTION. AND NO ACTION IN THIS CONTEXT MEANS WE WILL HAVE COMPLETED THE PHASE 2 PROJECT WHICH THE BOARD RECALLS IS THE PROJECT TO IMPROVE THE CROSS CANAL RAISE AND STRENGTHEN THE CROSS CANAL WALLS, ALL 5.3 MILES OF IT AND TO DO THE UPPER REACHES OF THE SACRAMENTO RIVER EAST LEVEE. SO WE COME DOWN TO JUST PAST THE PUMPING STATION JUST NORTH OF ELVERTA ROAD. IT’S ASSUMED IN THIS DOCUMENT THAT, PHASE TWO, WHICH THIS BOARD CERTIFIED THE FIRST ENVIRONMENTAL DOCUMENT IN NOVEMBER AND WE DID A SUPPLEMENTAL DOCUMENT IN JANUARY, IN WHICH THE CORPS ISSUED A RECORD OF DECISION ON IN JANUARY, THAT THAT WORK WILL GO FORWARD BUT UNDER THE NO ACTION ALTERNATIVE; NO ADDITIONAL WORK WOULD BE DONE. AND SO UNDER THAT ALTERNATIVE, WHICH IS NECESSARY TO CONSIDER UNDER NEPA AND CEQA FOR THIS PURPOSE, IT WOULD BE ASSUMED THAT WOULD BE NECESSARY TO BRING THE SACRAMENTO RIVER EAST LEVEE INTO COMPLIANCE WITH THE CORP VEGETATION AND ENROACHMENT STANDARDS, WHICH UNDER THE NO ACTION ALTERNATIVE WOULD REQUIRE A
SUBSTANTIAL REMOVAL OF VEGETATION AND ENCROACHMENTS ALONG THE EAST LEVEE, TO MEET CORPS CRITERIA.

THOSE IMPACTS WOULD BE AVOIDED UNDER THE SECOND ALTERNATIVE THAT WE’RE LOOKING AT, WHICH THE BOARD IS FAMILIAR WITH AND WHICH IS IN FACT THE ALTERNATIVE THAT IS THE PREFERRED PLAN FOR SAFCA, WHICH IS THE ADJACENT LEVEE ALTERNATIVE. AND OF COURSE UNDER THE ADJACENT LEVEE ALTERNATIVE WE ESSENTIALLY BUILD A NEW LEVEE DIRECTLY CONNECTED TO AND ADJACENT TO THE GARDEN HIGHWAY LEVEE ON THE EAST SIDE, AND THAT AVOIDS THE NEED TO REMOVE VEGETATION AND ENCROACHMENTS ALONG THE SACRAMENTO RIVER EAST LEVEE, BUT OF COURSE, IT HAS MORE IMPACTS ON THE LAND SIDE OF THE LEVEE BECAUSE IT CONSUMES MORE LAND, SO THERE ARE MORE LANDSIDE WOODLANDS IMPACTS ASSOCIATED WITH THAT ALTERNATIVE, MORE LOSS OF AGRICULTURAL LANDS ASSOCIATED WITH THAT ALTERNATIVE. BUT, WE WOULD AVOID THE LOSS OF WOODLANDS, RIPARIAN HABITAT ON THE WATERSIDE OF THE LEVEE AND WOULD AVOID THE NEED TO REMOVE ENROACHMENTS, RESIDENTIAL ENROACHMENTS, IN PARTICULAR, ALONG THE WATERSIDE OF THE GARDEN HIGHWAY.

THE THIRD ALTERNATIVE AS IN THE PREVIOUS DOCUMENTS IS; RAISE THE LEVEE IN PLACE. SO UNDER THAT ALTERNATIVE, RATHER THAN BUILD THE RAISED ADJACENT LEVEE CONNECTING TO THE EXISTING GARDEN HIGHWAY, IT WOULD ESSENTIALLY, RAISE AND STRENGTHEN THE EXISTING GARDEN HIGHWAY LEVEE, WHICH WOULD HAVE MORE SEVERE IMPACTS ON THE VEGETATION AND ENCROACHMENTS ON THE WATERSIDE, BECAUSE YOU WOULD HAVE TO COMPLY WITH THE CORP STANDARDS AND OF COURSE THE SHORT-TERM CONSTRUCTION IMPACTS FOR FOLKS LIVING AND RELYING ON THE GARDEN HIGHWAY FOR TRANSIT WOULD BE MUCH MORE SEVERELY AFFECTED, BY THE RAISE-IN-PLACE ALTERNATIVE.

UNDER NEPA, THESE ALTERNATIVES NEED TO BE VIEWED ESSENTIALLY AT AN EQUAL LEVEL OF DETAIL AND ANALYSIS AND SINCE THIS DOCUMENT IS PROVIDING THE NEPA COMPLIANCE FOR THE CORPS DECISION MAKING, AND THE CORPS DECISION MAKING HERE AS THE BOARD WILL RECALL - IS THE CORPS HAS TO DECIDE TO GIVE SAFCA A PERMIT UNDER SECTION 408 OF THE RIVERS AND HARBORS ACT OF 1899 TO PHYSICALLY ALTER THE STATE PROJECT LEVEE AND THE CORPS HAS TO GIVE US A PERMIT TO FILL WETLANDS, AND THERE ARE SOME WETLANDS FILLED AS A PART OF THIS PROJECT, DEPENDING ON OUR ALTERNATIVE. SO IT WILL SERVE THE CORP’S DECISION-MAKING PROCESS FOR THE ISSUANCE OF THOSE PERMITS AND OF COURSE, IT WILL PROVIDE CEQA COMPLIANCE FOR SAFCA AND FOR THE CENTRAL VALLEY FLOOD CONTROL BOARD AND OTHER STATE AGENCIES WHO HAVE TO ACT IN CONNECTION WITH THIS PROJECT.

THE DOCUMENT WAS ISSUED ON FEBRUARY 13TH. THE COMMENT PERIOD WILL REMAIN OPEN UNTIL APRIL 6TH, AT WHICH POINT THE COMMENT PERIOD WILL THEN CLOSE, WE WILL RESPOND TO ALL THE COMMENTS THAT WE RECEIVE AND WE WILL PREPARE AND BRING TO THE BOARD A FINAL EIR SOMETIME PROBABLY IN MAY.

THE CORP WILL DO ITS OWN DECISION-MAKING PROCESS AND THEIR RECORD OF DECISION TYPICALLY IS ISSUED SOMETIME AFTER WE’RE READY TO CERTIFY UNDER CEQA. SO THAT’S THE PROCESS. I WOULD BE HAPPY TO ANSWER ANY QUESTIONS THAT THE BOARD MAY HAVE AND THEN WE COULD OPEN THE PUBLIC HEARING AND TAKE ANY PUBLIC COMMENTS THAT THERE MAY BE.

CHAIR SUSAN PETERS:
ANY QUESTIONS FROM THE BOARD AT THIS TIME? THANK YOU.

ANOTHER MOMENT AND WE WILL OPEN THE PUBLIC HEARING. I ONLY HAVE ONE REQUEST TO SPEAK, SO IF YOU ARE HERE AND YOU WANT SPEAK, PLEASE FILL OUT THE FORM, ITS AT THE BACK TABLE. CHRISTOPHER BARABINO.
PLEAS NOTE THAT WE HAVE A THREE MINUTE LIMIT.
CHRISTOPHER BARABINO:
GOOD AFTERNOON, MY NAME IS CHRISTOPHER BARABINO. MY WIFE AND I HAVE LIVED AT 5871 GARDEN HIGHWAY FOR SIX YEARS. WE OWN A SMALL SEASONAL BUSINESS ON THE RIVER LOCATED AT THE SAME ADDRESS. SINCE THE NEWS OF THE PENDING LEVEE PROJECT, I'VE BEEN TO MEETINGS, SPOKE TO THE BOARD OF SUPERVISORS. I'VE WRITTEN NUMEROUS LETTERS AND HAD IN PERSON MEETINGS TO ADDRESS CONCERNS.

AFTER RECENTLY REVIEWING THE DRAFT 3 EIR, PRINTED THIS FEBRUARY, I'M CONCERNED ON A NUMBER OF ISSUES. FIRST I'D LIKE TO MAKE IT CLEAR THAT WE'RE NOT, OUR COMPANY AND WHERE WE'RE LIVING AT, WE'RE NOT IN THE BUSINESS OF TRYING TO FIGURE SOME HANDOUT FROM SAFCA, OR ANY AGENCIES, I ALSO WOULD LIKE TO MAKE IT CLEAR THAT WE'RE NOT NECESSARILY AGAINST THE LEVEE PROJECT GOING IN FOR NATOMAS, TO PROTECT ITS RESIDENTS.

WHAT WE ARE FOR IS A RESPONSIBLY RAN PROJECT THAT MITIGATES FAIRLY. THE LATEST EIR ADDRESSED NONE OF MY PRIOR CONCERNS AND IN FACT, WAS FAR WORSE THAN PREDICTED. EVEN MORE SURPRISING IS THAT ANOTHER BUSINESS TO THE NORTH, TEAL BEND GOLF COURSE RECEIVED MENTIONS IN THE EIR ABOUT STAYING OPEN, EVEN THOUGH I'VE NEVER SEEN A REPRESENTATIVE OR COMMUNICATION FROM THEM. SUGGESTING THAT THE ENTIRE MARINA, RESTAURANT AND BOAT LAUNCH CLOSE DOWN AT SOME RANDOM DATE FOR TWO MONTHS IN THE MIDDLE OF THE SUMMER AND TELLING EVERYONE JUST TO GO ELSEWHERE, WOULD BE CONSIDERED A TOTAL SHUT DOWN FOR OUR 2010 SEASON. THIS SHUT DOWN WOULD NOT ONLY INCLUDE OUR RESTAURANT BUT ALSO ASSOCIATED BUSINESSES, RESIDENT RENTAL INCOME, MARINA INCOME.

I CAN'T SPEAK FOR THE MARINA AND RESTAURANT NEXT DOOR. BUT I WOULD ASSUME THEY'RE IN THE SAME BOAT. I FEEL THIS WOULD BE AN EXPENSIVE PROPOSITION BETWEEN THE TWO BUSINESSES AND THE BOAT LAUNCH, AND ESTIMATED $2.0 MILLION WORTH OF REVENUES FOR TAXES AND LOCAL MONEY SPENT, AND JOBS WOULD BE LOST FOR THAT SEASON. I THINK IT'S IMPORTANT THAT WE FIND WAYS TO KEEP THE TRAFFIC FLOW AROUND THESE BUSINESSES AND THE BOAT LAUNCH FLOWING. I THINK THERE ARE WAYS FOR US TO CONNECT THE PROPERTIES WITH THE BOAT LAUNCH AND OUR RESTAURANT PROPERTY TO ALLOW ENTRANCE FROM BOTH SIDES OF THE GARDEN HIGHWAY NORTH AND SOUTH, ON THE NORTH BAYOU ROAD.

I FEEL IT'S ONLY FAIR THAT IT'S TIME TO START GETTING SOME OF THE STATEMENTS THAT I'VE RECEIVED IN THE PAST VERBALLY AND IN WRITING, TELLING US WHAT TO EXPECT FOR THE FUTURE IN 2010. IF AGENCIES FEEL THAT WE'RE NOT GOING TO HAVE ANY INTERRUPTION WITH OUR POWER AND OUR WELL WATER ISN'T GOING TO BE AFFECTED, I THINK IT'S TIME TO GET THAT IN WRITING. IF AGENCIES ARE GOING TO PROMISE THAT WE'RE GOING TO HAVE ACCESS, I THINK IT'S TIME TO START GETTING THAT IN WRITING SO WE CAN START PLANNING OUR BUSINESS YEAR IN 2010. IT IS MY SINCEREST HOPE THAT WE CAN BUILD A PLAN THAT WORKS FOR EVERYONE AND ANY NEGATIVE BUSINESS IMPACTS ARE MINIMIZED. THANK YOU FOR YOUR TIME.

CHAIR SUSAN PETERS:
THANK YOU MR. BARABINO. COULD YOU PAUSE FOR A QUESTION?
TURN YOUR MICROPHONE ON...

CHRISTOPHER BARABINO:
I'M SOUTH OF ALAMAR. IT'S RIGHT NEXT TO THE ELKHORN BOAT LAUNCH.

DIRECTOR (DON'T KNOW WHO SPOKE)
OKAY THANK YOU.

CHAIR SUSAN PETERS:
TURN YOUR MICROPHONE ON.
THANK YOU. DID YOU WANT TO RESPOND TO COMMENTS AT THIS TIME?

TIM WASHBURN:
NO, WE ARE TAKING COMMENTS AND WE WILL RESPOND TO THESE COMMENTS IN THE FINAL EIS/EIR AND I WOULD CERTAINLY BE HAPPY TO, ONCE WE HAVE TAKEN ALL THE COMMENTS, RESPOND TO ANY QUESTIONS THE BOARD MAY HAVE.

CHAIR SUSAN PETERS:
OKAY. THANK YOU, STAY TUNED. NEXT SPEAKER IS CHRIS MCKENZIE?

CHRIS MCKENZIE
YES. THANK YOU FOR HAVING THIS HEARING AND ALLOWING ME TO SPEAK. I’VE PREPARED A BRIEF STATEMENT, BECAUSE THEY ARE NUMEROUS QUESTIONS, AND LOTS OF DETAILS INVOLVED, AND THE REPORTS, THEY ARE THIS THICK (HAND MOTION) AND I ....

CHAIR SUSAN PETERS:
MR. MCKENZIE FOR THE RECORD, COULD YOU IDENTIFY YOURSELF?

CHRIS MCKENZIE
OH YES. MY NAME IS CHRIS MCKENZIE, I LIVE AT 6641 PLEASANT GROVE ROAD, IN PLEASANT GROVE, WHICH IS IN SUTTER COUNTY. I’M A LONG TIME RESIDENT OF SUTTER COUNTY, I HAVE ABOUT 160 ACRES JUST EAST OF THE PLEASANT GROVE CREEK CANAL AND NORTH OF SANKEY ROAD.

I’M VERY CONCERNED ABOUT THE ASPECTS OF THIS EXPENSIVE PROJECT, AND ITS APPARENT ADVERSE IMPACT ON ALL PROPERTIES WHICH RELY ON THE PLEASANT GROVE CREEK CANAL, NATOMAS CROSS CANAL AND SACRAMENTO RIVER SYSTEM FOR DRAINAGE. THE APPARENT DESIGN IS TO HOLD THE WATER AT A HIGHER LEVEL, FOR A LONGER TIME, OUTSIDE OF THE BASIN. THE DOCUMENTS PRESENT - APPEAR TO INDICATE THAT THE IMPACT OF, UH NO, WAIT, JUST A SECOND, THE DOCUMENTS PRESENTED APPEAR TO INDICATE THE DESIGN WILL RESULT IN HIGHER FLOOD LEVELS IN THAT CANAL, AT EACH EVENT AND RESTRICTED FLOW VOLUMES. AND THESE ARE QUOTES, OF COURSE. THIS IS THE RESULT OF RESTRICTIONS IN THE CROSS SECTIONAL AREA, BACKFUNDS AND FLOODPLAIN PLANTING ZONES.

THE IMPACT ON DRAINAGE OF A SMALL INCREASE IN HIGH WATER ELEVATIONS AND FLOW RESTRICTIONS HAVE NOT BEEN DISCUSSED OR COMMENTED UPON SPECIFICALLY IN THE PLEASANT GROVE CREEK CANAL. ACTUAL EXPERIENCE HAS SHOWN THAT A RELATIVELY MINOR ELEVATION AT THE SACRAMENTO RIVER, DRAMATICALLY AFFECTS THE UPSTREAM DRAINAGE. IN 1986, 1995, 2003, ET CETERA. DETAILED MODELING IS NEEDED ON THE PLEASANT GROVE CREEK CANAL AND THE NATOMAS CROSS CANAL DRAINAGE. THIS NEEDS TO INCLUDE NEW AND UNMITIGATED DRAINAGE DEMANDS OF THE NUMEROUS NEW AND PLANNED COMMUNITIES IN PLACER COUNTY.

I DON'T KNOW IF YOU'RE AWARE OF IT, BUT VIRTUALLY EVERYTHING FROM THE MIDDLE OF AUBURN, DRAINS INTO THE PLEASANT GROVE CREEK CANAL AND THE NATOMAS CROSS CANAL. I'M ALSO CONCERNED ABOUT SPECIFIC IMPROVEMENTS NOT DETAILED ALONG PLEASANT GROVE CREEK CANAL AND HOW THESE MIGHT AFFECT EXISTING SANKEY ROAD, HOW THEY MIGHT AFFECT THE EXISTING SANKEY ROAD OVERFLOW GAP WESTWARD INTO NATOMAS AND SOUTH ALONG THE EAST MAIN DRAIN. WILL THE LEVEES BE EXTENDED TO THE EAST TO ACCOMMODATE FOR THE HIGHER WATER ELEVATIONS? WILL PROPERTY BE PURCHASED AND HOMES IN THE AREA FLOOD PROOFED? OR, WILL THERE BE PUMPS INSTALLED? IT'S NOT CLEAR. THE MAPPING AS PRESENTED IN THE FLYER DOES NOT INDICATE WHETHER EAST SIDE LEVEE IMPROVEMENTS WILL BE MADE IN ADDITION TO THE WEST SIDE LEVEE IMPROVEMENTS.
ANOTHER COMMENT, THE FLOODPLAIN PLANTINGS PRESENT OBVIOUS CONCERNS FOR THOSE OF
US WHO NEED THE SYSTEM TO CONTINUE TO WORK. HOW WILL THE GROWTH OF TREES AND
BRUSH BE MAINTAINED? WHAT CRITERIA WILL BE USED TO ENSURE ADEQUATE FLOOD STAGE
FLOWS AND ARE THE MAINTENANCE FUNDS BUDGETED AND BONDED?

ANOTHER COMMENT, THE FLOODPLAIN PLANTINGS PRESENT OBVIOUS CONCERNS FOR THOSE OF
US WHO NEED THE SYSTEM TO CONTINUE TO WORK. HOW WILL THE GROWTH OF TREES AND
BRUSH BE MAINTAINED? WHAT CRITERIA WILL BE USED TO ENSURE ADEQUATE FLOOD STAGE
FLOWS AND ARE THE MAINTENANCE FUNDS BUDGETED AND BONDED?

CONSIDER THE WIDESPREAD FLOODING IMPACTS IN 1986 AS A RESULT OF NOT CONTROLLING
THE OVERGROWTH IN A RELATIVELY SMALL ACREAGE AT FREMONT WEIR. THE CORPS, AND
SAFCA WILL UNDERSTAND THAT.

AND SECONDLY, WHAT HAPPENS IN FIVE OR TEN YEARS WHEN THE COTTONWOOD TREES AND
ELDERBERRIES - NEED TO BE REMOVED TO MAINTAIN WATER FLOW? DO WE GET ANOTHER
EIR/EIS AND HOW MANY DOLLARS WILL THAT COST AND STRUCTURES ON ENDANGERED SPECIES
THAT ARE NOT THERE NOW AND WE WOULD CREATE HABITAT FOR?

I THANK YOU FOR THE OPPORTUNITY TO EXPRESS MY CONCERNS AND OPINIONS. BUT WITH
THE DIRECT IMPACTS THIS PROJECT WILL HAVE ON MY PROPERTY. BY THE WAY, IN 1986 I
BUILT MY HOUSE APPROXIMATELY A FOOT HIGHER IN 1985, APPROXIMATELY A FOOT HIGHER
THAN WAS REQUIRED BY SACRAMENTO COUNTY. THE 1986 FLOOD WAS WITHIN 18 INCHES OF
INUNDATING THE HOUSE. WHEN THE WATER -- WHEN THE FLOOD LEVEL PEAKED AT
SACRAMENTO, WE HAD ALMOST 400- ACRE FEET OF WATER ON MY PROPERTY, IN SIX HOURS,
WITH A 6-INCH VARIATION IN ELEVATION AT SACRAMENTO RIVER, THAT WATER LEFT.

CHAIRS SUSAN PETERS:
THANK YOU MR MCKENSIE. IF YOUR COMMENTS ARE TYPED, GIVE THEM TO THE CLERK, THAT
WOULD BE HELPFUL.

THANK YOU. NEXT SPEAKER IS BRUCE SEVIER

BRUCE SEVIER:
HELLO, MY NAME IS BRUCE SEVIER AND I'M AT 7283 GARDEN HIGHWAY. THERE'S NOT MANY
HOMEOWNERS HERE BECAUSE I THINK THEY'VE KINDA GIVEN UP ON THE PROJECT, AS FAR AS
THE AFFECT TO HOMEOWNERS ALONG THE RIVER. WE RECOGNIZE THERE'S BEEN AN EFFORT TO
CUT BACK, TAKING THE TREES OFF THE RIVER. BUT THEN WHEN YOU LOOK AT THE LANDSIDE
PART, IT'S GOING TO REALLY DEVASTATE A LOT OF THE AREA.

ONE STATEMENT THAT WAS JUST MADE IN THE REPORT WAS RAISING THE PUMPING STATIONS,
AND I HAVE A QUESTION ABOUT THAT. ARE THEY BEING RAISED TO A HIGHER LEVEL
BECAUSE THE LEVEE IS GOING TO BE HIGHER? AND IF THAT'S THE CASE, WHEN WE BUILT
OUR HOME AND IT WAS FINISHED IN 2002. WE BUILT IT AT 200 YEAR FLOODPLAIN LEVEL,
WHICH WAS ABOUT THREE QUARTERS OF A FOOT HIGHER THAN THE LEVEE ROAD. SO, THAT
MEANS THAT WE ARE NOW IN DANGER OF BEING FLOODED. IF YOU READ THE PAPER TODAY,
THERE'S A DISCUSSION ABOUT OTHER LEVEES IN THE AREA BEING RAISED WITH SIMILAR
CONCERNS AS TO THIS PROJECT.

WE'VE BEEN TOLD IN PRIOR MEETINGS THAT PROBABLY THE OTHER LEVEES WOULD NOT BE
RAISED AND WE SHOULD NOT BE CONCERNED ABOUT THAT. I AM. AND I THINK A LOT OF
OTHER HOMEOWNERS WOULD BE AS WELL. I KNOW THERE'S A MINORITY OF US COMPARED TO
MANY THOUSANDS OF PEOPLE THAT LIVE ON THE OTHER SIDE OF THE LEVEE. BUT THEN
AGAIN, WHEN THOSE HOMES WERE BUILT WHO APPROVED THAT? I MEAN, THEY KNEW IT WAS
IN A FLOODPLAIN. SO ANYWAY, I GUESS MY QUESTION WOULD BE, IF WE'RE GOING TO BE
RAISING THE PUMPING FACILITY, THEN MAYBE WE SHOULD BE RAISING OUR HOMES AS WELL,
TO KEEP US OUT OF THE FLOODPLAIN.

CHAIR SUSAN PETERS:
THANK YOU.
ED BIANCHI.
ED BIANCHI:
I'M ED BIANCHI, FROM 7050 GARDEN HIGHWAY, NATOMAS AREA. I'VE GOT A COUPLE CONCERNS ABOUT THE DESIGN OF THE IRRIGATION FACILITIES AND THE AMOUNT OF GROUND BEING TAKEN FOR THIS PROJECT. ORIGINALLY IT WAS GOING TO BE AROUND 350 ACRES. I HAD SAFCA COME OUT AND MARK OFF MY PROPERTY AND IT'S BETWEEN 420 AND 460 FEET FROM THE TOE OF THE LEVEE. I UNDERSTAND THERE'S WHATEVER IS NEEDED FOR THE LEVEE AND THE MAINTENANCE ROAD IS ONE THING. BUT THEN IT BECOMES A PROBLEM WITH THE BIG DITCH THAT IS GOING TO BE SERVING LESS PROPERTY, THAT IS GOING TO HAVE HABITAT ADJACENT TO THE LANDSIDE, THAT WE FOUND IS NOT NECESSARY. IT WOULD PUT ANOTHER BURDEN ON THE FARMING OUT THERE IF THERE'S A HABITAT BETWEEN THE TOE OF THE DITCH, THE IRRIGATION DITCH AND OUR PROPERTIES. THAT'S MY MAIN CONCERN RIGHT NOW THAT I HAVE. I THINK SOMEONE OUGHT TO TALK US, SOMEONE BESIDES THE WATER COMPANY, OUT THERE BY WHO'S GONNA BE AFFECTED BY IT, THE FARMERS, OR WHOEVER

CHAIR SUSAN PETERS:
OKAY, ANY QUESTIONS FOR MR. BIANCHI? THANK YOU. MR WASHBURN, COULD YOU, THIS WOULD BE A GOOD OPPORTUNITY TO EXPLAIN HOW PEOPLE HAVE THEIR QUESTIONS ANSWERED AND ANYONE WHO'S WATCHING, IF THEY HAVE ADDITIONAL QUESTIONS, THEY HAVE UNTIL APRIL 6TH TO GET THEM IN.

TIM WASHBURN:
RIGHT AND UH,

CHAIR SUSAN PETERS:
IF YOU COULD EXPLAIN, PARTICULARLY TO THE FOLKS THAT TOOK THE TIME TO COME DOWN TODAY, HOW THEIR QUESTIONS WILL BE ANSWERED.

TIM WASHBURN:
THESE COMMENTS THAT WE'VE RECEIVED TODAY, WE WILL RECORD, REPRODUCE IN THE FINAL EIR/EIS AND PROVIDE A SPECIFIC RESPONSE TO EACH OF THE COMMENTS THAT WERE RAISED HERE TODAY. AND OF COURSE, EVERYONE IS FREE TO SUBMIT ADDITIONAL WRITTEN COMMENTS UP THROUGH APRIL 6TH EITHER TO SAFCA OR TO THE ARMY CORPS OF ENGINEERS. THE ADDRESSES ARE SET FORTH IN THE DOCUMENT ON OUR WEBSITE, AT WWW.SAFCA.ORG AND SO WE WILL BE RECEIVING WRITTEN COMMENTS THROUGH APRIL 6TH AND WE WILL RESPOND TO THE COMMENTS THAT WERE MADE TO THE BOARD HERE TODAY, AND IF THE BOARD WOULD LIKE, I DON'T KNOW IF YOU'RE INTERESTED IN ANY RESPONSE TO THE COMMENTS THAT HAVE BEEN MADE ON A PRELIMINARY BASIS OR NOT. THAT'S UP TO THE BOARD.

CHAIR SUSAN PETERS:
ANY QUESTIONS? MR. DICKINSON.

ROGER DICKINSON:
I HAVE ONE I WANTED TO FOLLOW UP ON. BUT I THINK IN GENERAL AS FAR AS I'M CONCERNED THERE DOESN'T NEED TO BE A RESPONSE TODAY. I DO THINK THAT, OF COURSE, AS WE RESPOND TO THESE COMMENTS WE NEED TO --BESIDES PUTTING THEM IN THE FINAL, WE SHOULD LET PEOPLE KNOW INDIVIDUALLY WHAT THE RESPONSE IS. BUT I WANT TO GO BACK TO, MR GARDINO? OUR FIRST..

CHAIR SUSAN PETERS:
BARABINO.

ROGER DICKINSON:
BARABINO?
MARCH 19, 2009 - SAFCA BOARD OF DIRECTORS MEETING TRANSCRIPT

CHRIS BARABINO:
BARABINO.

ROGER DICKINSON
BARABINO. THANK YOU, I'M SORRY,

CHAIR SUSAN PETERS:
???, MUCH (ROGER TALKING OVER HER, COULDN'T GET FIRST WORD)

ROGER DICKINSON:
YES. HE MAY HAVE ENVIRONMENTAL ISSUES THAT HE WANTS TO GET ON THE RECORD. I DIDN'T HEAR THINGS OF THAT NATURE. BUT WHAT I DID HEAR WAS A CONCERN ABOUT BUSINESS INTERRUPTION.

CHRIS BARABINO:
RIGHT.

ROGER DICKINSON:
AND I DON'T KNOW IF BARB HAS BEEN IN CONTACT WITH HIM OR NOT. BUT IN ANY CASE, WHETHER OR NOT WE CERTAINLY SHOULD BE WORKING TO GIVE HIM AS MUCH CERTAINTY, AS WELL AS THE OTHER BUSINESS OWNERS, THAT WILL BE AFFECTED, AS MUCH CERTAINTY, SO THEY CAN PLAN FOR WHATEVER THE INTERRUPTION MIGHT BE, AND OBVIOUSLY THAT'S AN ISSUE THAT WE HAVE TO TAKE INTO ACCOUNT AS A PRACTICAL MATTER WITH RESPECT TO THE FINANCIAL CONSIDERATIONS, WE'RE OBVIOUSLY INTERESTED FOR A HOST OF REASONS IN TRYING TO MINIMIZE BUSINESS INTERRUPTION. BUT I JUST WANTED TO MAKE SURE THAT WE'RE EITHER IN CONTACT WITH HIM AND TRYING TO ADDRESS HIS LEGITIMATE CONCERNS, OR WE WILL BE, PROMPTLY.

STEIN BUER:
THE ANSWER IS WE'VE BEEN HAVING ONGOING DISCUSSIONS WITH HIM.

ROGER DICKINSON:
OKAY, THAT'S GOOD. AND I UNDERSTAND HE WOULD LIKE THINGS THAT HAVE BEEN VERBALIZED TO BE REDUCED TO WRITING, AND IT MAY NOT BE POSSIBLE TO DO THAT WITH THE SPECIFICITY NOW, BUT I DO THINK THE UNDERLYING CONCERN IS LEGITIMATE, OF HAVING, AS EARLY AS POSSIBLE, A CLEAR AND RELIABLE SENSE OF SCHEDULE, SO THAT HE CAN MAKE SUITABLE AND APPROPRIATE PLANS AS HIS FELLOW BUSINESS, AS CAN HIS FELLOW BUSINESS PEOPLE WHO ARE IN AN UNCERTAIN AMOUNT OF --WE HAVE A CERTAIN AMOUNT OF UNCERTAINTY OURSELVES I SUPPOSE, BECAUSE OF THE NATURE OF THE FLOW OF FUNDING. BUT THAT'S WHAT WE NEED TO TRY TO REDUCE AS MUCH AS WE CAN, I THINK.

CHAIR SUSAN PETERS:
I AGREE WITH YOUR ROGER, IN A SEASONAL BUSINESS YOU REALLY NEED TO KNOW AT LEAST A SEASON AHEAD, IF AT ALL POSSIBLE, WHAT IS GOING TO BE HAPPENING WITH YOUR BUSINESS, RECOGNIZE THAT, ANY FURTHER QUESTIONS?

JAMES GALLAGHER:
MADAM CHAIR

CHAIR SUSAN PETERS:
MR. GALLAGHER?

JAMES GALLAGHER:
YAH, I HAVE A COUPLE QUESTIONS.

ONE, JUST A CLARIFICATION, TIM, AS FAR AS THE SANKEY GAP, ON PHASE THREE PROJECT, THAT IS NOT PROPOSED TO BE CLOSED OFF DURING THIS PROJECT, RIGHT?
TIM WASHBURN:

THAT'S CORRECT.

JAMES GALLAGHER:

AND I THINK MR. MCKENZIE RAISED SOME IMPORTANT ISSUES REGARDING THE FLOW RESTRICTIONS IN PLEASANT GROVE CREEK AND NATOMAS CROSS CANAL. I DIDN'T REALLY SEE THAT IN WHAT I HAD READ IN THE EIR. BUT DOES THAT -- HAVE WE DOCUMENTED WHAT IMPACT IF ANY THAT WILL HAVE ON FLOW IN THE CANAL AND THE NATOMAS CROSS CANAL?

TIM WASHBURN:

AGAIN, ON THE EAST SIDE OF NATOMAS, AS ON THE SACRAMENTO RIVER, OUR IMPROVEMENTS ARE ALL TO THE LANDSIDE, IN ORDER TO AVOID GOING WATERSIDE, WE'RE WIDENING THE LEVEE TO THE LANDSIDE. SO I CERTAINLY NEED TO FOLLOW-UP WITH MR. MCKENZIE TO FIND OUT WHAT THE FLOW RESTRICTION ISSUE IS, BECAUSE AS I UNDERSTAND, THE PROJECT HERE, EVERYTHING IS KINDA ON THE LANDSIDE WITH NO CHANGE IN THE CHANNEL CONFIGURATION WATERSIDE. I'LL FOLLOW UP WITH MR. MCKENZIE.

CHAIR SUSAN PETERS:

OKAY, GOOD.

JAMES GALLAGHER:

OKAY, AND THEN THIS IS MY LAST QUESTION, WITH REGARD TO THE ISSUE ABOUT HABITAT, OBVIOUSLY WE HAVE TO DO A CERTAIN AMOUNT OF MITIGATION AS WE'RE GOING FORWARD WITH THIS PROJECT AND IN TERMS OF ADDRESSING, YOU KNOW A LOT OF TIME WHEN WE PUT THESE BUFFER ZONES OR HABITAT AREAS RIGHT NEXT TO AN AGRICULTURAL AREA, THOSE HABITAT AREAS OR BUFFER ZONES CAN BECOME, YOU KNOW, KIND OF A HOME PLACE FOR PESTS THAT CAUSE PROBLEMS FOR OUR AGRICULTURAL INTERESTS. SO, I MEAN, WE MAY IN THE FINAL, JUST NEED TO THINK HOW WE CAN ADDRESS THOSE POTENTIAL CONFLICTS.

TIM WASHBURN:

WHAT I BELIEVE MR. MCKENZIE WAS REFERRING TO IS THE GRASS LANDS THAT WOULD BE PLACED ON TO THE LANDSIDE OF THE IRRIGATION CANAL BERM. SO IT'S A PERENNIAL NATIVE GRASS THAT DOES PROVIDE SOME HABITAT VALUE, BUT IT'S NOT A SUBSTANTIAL ENVIRONMENTAL FEATURE IN THAT RESPECT. THERE ARE ALSO WOODLANDS IN HIS AREA, BUT THEY WOULD TEND TO BE ON THE LANDSIDE OF THE CANAL. SO WHAT IS IMMEDIATELY ADJACENT WOULD BE THE GRASS LANDS ON THE BERM OF THE IRRIGATION CANAL.

JAMES GALLAGHER:

OKAY.

CHAIR SUSAN PETERS:

OKAY. ANY OTHER QUESTIONS FROM THE BOARD?

OKAY, JUST TO REPEAT TO ANYBODY WHO IS IN THE AUDIENCE OR WATCHING, THE COMMENTS WILL BE RESPONDED TO IN THE FINAL EIS AND EIR AND THE FEIR WILL BE PRESENTED TO THE BOARD IN LATE SPRING OR EARLY SUMMER, SO YOU HAVE STILL HAVE UNTIL APRIL 6TH, AT 5:00 P.M., TO COMMENT, SO THAT YOUR QUESTIONS ARE ANSWERED IN THE FINAL DOCUMENT.

SO WE'LL CLOSE THE PUBLIC HEARING AND MOVE ON

CLERK:

NEXT UP, WE HAVE CONSENT MATTERS, MADAM CHAIR THEY ARE IN ORDER.

CHAIR SUSAN PETERS:

DOES ANYBODY HAVE ANY QUESTIONS ABOUT CONSENT OR WANT TO PULL ANYTHING?
PH-1
See Responses to Comments PH-2 through PH-4.

PH-2
As stated in the Phase 3 DEIS/DEIR, although a section of Garden Highway would be closed for approximately 8–12 weeks during the summer season to allow for the construction of a cutoff wall in the Sacramento River east levee (adjacent to the I-5 Bridge), access would be maintained to the two nearby marinas. However, as stated under Impacts 4.2-c, “Potential to Physically Divide or Disrupt an Established Community,” and 4.15-b, “Temporary Changes in Recreational Opportunities during Project Construction Activities,” in the Phase 3 DEIS/DEIR, overall, these temporary disruptions during project construction are considered to be a significant impact. As such, USACE and SAFCA are committed to maintaining good communications with potentially affected residents and business owners throughout project planning and construction, and meeting with those affected to discuss individual concerns.

PH-3
See Response to Comment PH-2. Access to the two private marinas near the I-5 Bridge would be maintained. However, the construction of a cutoff wall in the Sacramento River east levee would prevent access to Sacramento County’s Elkhorn Boat Launching Facility at this location (Reach 9B).

PH-4
Comment noted. As previously stated, USACE and SAFCA are committed to maintaining good communications with affected residents and business owners throughout project planning and construction, and meeting with those affected to discuss individual concerns.

PH-5
This is not a comment on the Phase 3 DEIS/DEIR.

PH-6
The channel structure of the PGCC would not be altered; therefore, hydraulic changes would not occur as a result of the Proposed Action. The information regarding hydraulic changes presented by the commenter refer to the NCC discussion contained in the Phase 2 EIS and do not apply to the PGCC. See also Response to Comment PH-8.

With regard to the commenter’s modeling comment, a UNET hydraulic computer model was used to compare existing conditions in the waterways surrounding the Natomas Basin and in the larger SRFCP with and without the Proposed Action (With Project and Without Project [i.e., No-Action Alternative], respectively) and other reasonably foreseeable improvements to Folsom Dam and the urban levees outside the Natomas Basin. Table 4.4-1 in the Phase 3 DEIS/DEIR summarizes the conditions and assumptions associated with each of the model runs. The modeling outputs generated by these conditions under the targeted flood scenarios are displayed in Tables 4.4-2 through 4.4-8 in the Phase 3 DEIS/DEIR.

PH-7
The Phase 3 Project includes raising of the PGCC west levee to meet “200-year” FEMA levee height requirements, slope flattening and widening, and seepage remediation, as discussed in Chapter 2.0, “Alternatives,” and Appendix H of the Phase 3 DEIS/DEIR. The lower height levee segments at Howsley and Sankey Roads would remain at their current elevations, thereby not causing any project-related changes in flood stages.

Sankey Road would be used to transport personnel, equipment, and other construction materials to the PGCC west levee during project construction, which would result in a temporary increase
in traffic, as discussed under Impacts 4.12-a, “Temporary Increase in Traffic on Local Roadways,” in the Phase 3 DEIS/DEIR. Mitigation Measure 4.12-a, “Prepare and Implement a Traffic Safety and Control Plan for Construction-Related Truck Trips,” in the Phase 3 DEIS/DEIR would reduce this impact; however, the impact would remain significant and unavoidable because of the high amount of hauling required for the Phase 3 Project and the limited number of roadways in the project vicinity that would be suitable for hauling between borrow sites and project construction sites.

See also Response to Comment PH-8.

PH-8 The Phase 3 Project includes improvements to the PGCC west levee; no improvements are proposed for the PGCC east levee.

As noted in Section 2.3.1.1, “Levee Raises, Widening, and Slope Flattening,” in the Phase 3 DEIS/DEIR, the levee segment of the PGCC at Sankey Road that lacks adequate levee height would be maintained at its current elevation, under the Phase 3 Project, because the flows through this levee segment into the interior of the Natomas Basin during a FEMA 100-year or “200-year” design event would not damage the levee and are subject to management as part of Natomas Basin’s interior drainage system.

PH-9 It is not clear what is meant by the comment’s reference to floodplain plantings. The floodplain is protected by the Natomas Basin perimeter levee system. Woodland plantings would occur in this protected floodplain, on the landside of the Sacramento River east levee. These plantings would have no effect on flood stage flows, which occur in the designated floodway on the waterside of the Sacramento River east levee. Section 2.3.3.6, “Long-Term Management of Habitat Components,” in the Phase 3 DEIS/DEIR addresses the long-term management of habitat areas, such as woodland plantings. Funding mechanisms for Phase 3 Project habitat improvements would be addressed in SAFCA’s Programmatic Long-Term Management Plan.

PH-10 The only proposed revegetation of the PGCC would be with native perennial grasses. No trees or elderberry shrubs would be planted on the banks of the PGCC. The native grasses would replace ruderal and annual nonnative grass habitat that currently provides foraging habitat for raptors and terrestrial habitat for the aquatic giant garter snake. See also Response to Comment PH-9.

PH-11 Comment noted; SAFCA acknowledges the commenter’s history of flooding at his property.

PH-12 Comment noted. Vegetation removal is discussed under Impact 4.8-a, “Loss of Woodland Habitats,” in the Phase 3 DEIS/DEIR.

PH-13 USACE does not allow pipes that convey water into the Natomas Basin to penetrate the levees below the design water surface profile. Such low-level penetrations create vulnerabilities in the levees. Pipes can only be installed in the levees. Therefore, because the Phase 3 Project includes raising the levees, the pipes also need to be raised above the design water surface profile.

The Phase 3 Project would not change the water surface elevations in the channel with the raised levee. Further, the Phase 3 Project would not alter the existing water surface elevation and would not increase the commenter’s existing exposure to flood damage.

**Plate 3, “Levee Segments Requiring Seepage Remediation and Levee Height Increases,”** in the Phase 3 DEIS/DEIR illustrates the locations and amounts of levee height deficiency that would be addressed by the Phase 3 Project.
PH-14  See Response to Comment PH-13 regarding raising of pumping facilities. Hydraulic impacts of the Phase 3 Project are addressed in Impact 4.4-a, “Hydraulic Impacts on Other Areas and Exposure to Flood Risk.” Additional information regarding hydraulic impacts to Garden Highway residents was provided in the Phase 2 FEIR under Master Response 1, “Hydraulic Impacts of the NLIP” (SAFCA 2007b).

PH-15  See Response to Comment I7-2. SAFCA is currently discussing issues with the commenter specific to his property.

PH-16  See Response to Comment I7-2.