

## **FEDERAL COMMENTERS**

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CC-411  
ENV-6.00

Ms. Lisa M. Gibson  
Senior Project Manager  
U.S. Army Corps of Engineers, Sacramento District  
1325 J Street, Room 1480  
Sacramento, California 95814-2922

Subject: City of Folsom (City) Sphere of Influence for Specific Plan Area; Army Corps of Engineers Action SPK-2007-02159

Dear Ms. Gibson:

Enclosed are detailed comments by the Bureau of Reclamation’s to the Draft Environmental Impact Statement/Environmental Impact Report (DEIS/DEIR) that was prepared for the City of Folsom’s Sphere of Influence—South of U.S. Route 50 development (Specific Plan Area (SPA)). In summary:

- Reclamation is currently evaluating the legal, policy, and operational implications of a proposed long-term assignment of up to 8,000 acre feet per year (AFY) of Central Valley Project settlement contract water Project water) from Natomas Central Mutual Water Company to the City for use in the SPA. Because that process is not yet completed, the DEIS/DEIR was unable to fully analyze the impacts of the potential transfer. If approved, Reclamation expects the assignment will require a supplemental EIS. | 1
- The document relies upon assumptions contained in the water supply assessment (appended to the DEIS/DEIR) that shortages would be no more than 25 percent. These assumptions are not correct as shortages during drought could be much more severe than a reduction of 25 percent--i.e., baseline allocations could be reduced to zero under the agricultural contract conditions; | 2
- The DEIS/DEIR did not address National Historic Preservation Act section 106 compliance for the assignment; | 3
- There is no analysis to support Endangered Species Act compliance for the assignment; | 4
- The analysis did not address potential changes in flows through Alder Creek (via the development) which could affect the groundwater under this stream channel and the | 5  
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subsequent movement or remediation of contaminated ground water relative to the adjacent Aerojet Superfund site;

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- An analysis of the efficiency of return flows once they are used consumptively by the development was not contained in the document. In addition, it is not clear whether this return flow would go back into the American River to help meet instream/downstream requirements or into the Cosumnes River

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- Alternative water supply analysis is narrow in scope and does not present any reasonable alternatives to the proposed assignment. For example, the option of reducing existing water supplies North of U.S. Route 50 to meet this relatively small demand (i.e., 5,600 AFY) South of U.S. Route 50 was not analyzed in the DEIR/DEIS. Other alternative water supplies have not been evaluated that may be reasonable; and

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- The analysis of future water demands (SPA Water Supply Assessment) over estimates the outdoor water use—the irrigation efficiency adjustment factor is different from that in California Model Water Efficient Landscape Ordinance. Also, California’s 2020 urban water use baselines (as per Senate Bill x7-7 enacted in 2009) call for 55 gallons per capita per day (gpcd), which would be consistent with a 20 percent reduction for Folsom. The Water Supply Assessment states that the average indoor water use is 70 gpcd for both existing single family and multi-family residential use. The assumption is made that this use rate can be lowered by 10 percent to 63 gpcd, an understatement when placed in context with Statewide 2020 water conservation mandates.

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The City may desire to certify the current document. However, for purposes of National Environment Protection Act compliance, a supplemental EIS would need to be developed to adequately address the impacts of water supply and water assignment.

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If you have any questions, please contact Mr. Rob Schroeder at 916-989-7274 or rschroeder@usbr.gov.

Sincerely,

Michael R. Finnegan  
Area Manager

Enclosure



<b>TECHNICAL/ENVIRONMENTAL COMMENTS</b>		
<b>Comment #</b>	<b>Section and Page #, Figure #, or Table #</b>	<b>Comment</b>
1	Appendix M2; Wagner and Bonsignore Report, Page 207-246 Appendix M	The source of the water for the proposed action is unused Natomas Mutual contract supplies. There is a tech memo (Appendix M2 - Wanger and Bonsignore Report) that describes a water budget analysis that determines that unused water is potentially available from the contract source for the assignment outside of the district. Within this analysis there is no discussion of land use changes in the Natomas Mutual district (Ag) vs. City of Sacramento (Urban). Because of this the water budget of Natomas Mutual is slowly shrinking.
2	General comment	There is a general mischaracterization that the CVP operates and delivers a full contract amount to Natomas diversion point. The document then states that Natomas water would then potentially flow downstream to the Freeport location. This assumes a very limited reoperation based on the supposition of non-diversion of full contract delivery rather than systematic operation. There is no discussion of water/land use changes due to the proposal.
3	General comment	The CVP only delivers to Natomas Mutual diversion point what has been historically used within the district to support the agricultural activities. Therefore, there is not additional water that would flow downstream to the Freeport location. The proposed assignment water would represent a new water demand associated with the Folsom land use water demand development. This fact creates a re-operation affect on the CVP-SWP system that is not analyzed in this document. The analysis contained in the document is not sufficient to support an assignment from NCMWC to Folsom because the actual impacts to the CVP have not been addressed. This includes a valid analysis of the historic use of the subject water by NCMWC, and how diversion of possibly unused water may affect the overall demand for CVP water.
4	Chapter 3 "Water " sections (general comment)	The document contains no discussion of full CVP-SWP reoperation affects due to the potential assignment. There is no analysis of the re-operation or the affects of distribution of the assignment as "new demand" in the Central Valley. This information should have appeared in the Chapter 3 "Water" sections.
5	ES 5.1 (page 2)	"The Water Facilities Study Area includes the Natomas Central Mutual Water Company (NCMWC) service area, portions of the Sacramento River, and pipeline alignments and water treatment plant (WTP) locations which extend from the community of Freeport through central and eastern Sacramento County to the SPA." <i>The water facilities area of effect (i.e., were it not for the assignment of offsite water supplies from Natomas to Folsom) for purposes of NEPA must include the integrated system of the CVP (Shasta Reservoir, Upper tributaries, Sacramento River, American River, and the Delta).</i>



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<b>Comment #</b>	<b>Section and Page #, Figure #, or Table #</b>	<b>Comment</b>
6	ES.5.2; Elements of the Project (page 3)	<p>"The City proposes to add the Freeport POD to the assigned CVP water to facilitate the diversion of these supplies at the existing Freeport Project diversion. The City proposes to pump and convey the assigned NCMWC CVP water supply through the Freeport Project diversion facility and conveyance pipeline to the point where SCWA and East Bay Municipal Utilities District (EBMUD) pipeline split or the bifurcation point. The City would then construct new water supply conveyance infrastructure from the bifurcation point to the SPA."</p> <p><i>What are the other options to this diversion at Freeport--capacity issues aren't clearly described in document.</i></p>
7	Section 1.2. Project History and Planning Context (page 5)	<p>"Water Supply. Demonstrate that <u>the City has a sufficient water supply to serve existing customers, future customers within the existing service area, and all proposed uses within the project site in compliance with the terms and conditions of the Water Forum Agreement.</u> This demonstration must be sufficient for LAFCo to determine water availability per California Government Code section 56668(k)."</p> <p><i>How is sufficiency of surface water supply from Natomas addressed in the analysis of impacts (rescheduling base supply to cover shortages and long-term reliance on this water source)?</i></p>
8	Section 1.2; Page 6	<p>"Water Supply. Identify and secure the sources of water supply to serve the SPA without reducing the existing water supply currently serving users to the north of U.S. 50, and at no cost to existing Folsom City residents."</p> <p><i>City Ordinance No. 1022 (Measure W) passed with support from 69% of the City voters. The option of reducing existing water supplies No. of 50 to meet this relatively small demand (5,600 AFY) South of U.S. 50 should be analyzed in the DEIR/DEIS. Once the annexation of the new So. of 50 development is approved by LAFCO, the tax base would be readjusted. NEPA requires all reasonable alternatives be analyzed, even those beyond the authority of the agency to implement.</i></p>



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<b>Comment #</b>	<b>Section and Page #, Figure #, or Table #</b>	<b>Comment</b>
9	Section 1.3.1.; Project Purpose and Need: City of Folsom Considerations (Page 7)	<p>"The purpose of the Folsom South of Highway 50 Specific Plan project is to provide a mixed-use, master-planned community within an area south of U.S. 50 that would be annexed to the City of Folsom, and also to secure a reliable water supply consistent with the requirements of Measure W and objectives of the Water Forum Agreement and the necessary off-site conveyance infrastructure to facilitate the planned development of the SPA."</p> <p><i>The City didn't appear to look at reliable water sources for the development that could meet the requirements of Measure W besides the NCMWC assignment of CVP settlement contract water. The analysis should look at the benefits/disadvantages of the various alternative sources--one of the criteria being whether the proposal would meet the Water Forum Agreement objectives. Another key objective is whether the water supply alternative would hamper in any way the Bureau of Reclamation's ability to meet in-stream/downstream flow and temperature requirements as per the June 4, 2009, NMFS BO in accordance with its public trust resource responsibilities.</i></p>
10	Section 3B.9.3 Environmental Consequences and Mitigation Measures (Thresholds of Significance)—Hydrology and WQ; page 20	<p>"For the purposes of this analysis, the following assumptions were made in applying CALSIM II to the Off-site Water Facility Alternatives: ► The analysis depicts a "worst-case" for NCMWC whereby it analyzes <u>project water (not base supply) being re-allocated into an urban demand pattern for the assignment;</u>"</p> <p><i>The agreement between NCMWC and SFP indicates that base supply would need to be rescheduled into the critical months. This change in pattern of use, was not analyzed.</i></p>
11	Section 3B.9.3 Environmental Consequences and Mitigation Measures (Thresholds of Significance)—Hydrology and WQ; page 20	<p>Another assumption in applying CALSIM II to the Off-Site Water Facility Alternatives: "► For the purposes of this EIR/EIS analysis, <u>the efficiency of irrigation return flow to the Sacramento River is assumed to be 35% – or an efficiency rate of 75%.</u>"</p> <p><i>What is the efficiency of the return flow once it is used consumptively by the development--will this return flow go back into the American River or into the Consumnes River?</i></p>
12	Appendix M1-Water Facilities (M1_Draft_WSA.pdf); Section 2.1.1 page 14	<p>"2.1.1 Historic Demand Factors. <u>Section 2.1 (Demand Projection Methodology) provides a basis for the unit demand factors for the water demand estimate by reviewing the unit water demand factors of both the City of Folsom and other water purveyors in the region,</u> as well as additional conservation drivers. Both the historic demand factor assessment and the conservation drivers provide a foundation for the water demand projection methodology contained in Section 2.2."</p> <p><i>NCMWC didn't appear to be included in this analysis of water demand factors.</i></p>



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13	RMC Water Resources-- Potable Water Distribution; page 3B 16-1	<p>"The City's current total water demand (2006) for areas within the city limits is 27,392 acre-feet per year (AFY) and includes non-potable industrial water use at Aerojet. The 5,600 AFY of demand for the SPA is separate from the City's current demand and would be served by separate infrastructure. <u>Water use within the current city limits is projected to experience a slight decrease by 2030 to 27,069 AFY based on average unit water demand factors applied to City land uses assumed in the City's 2005 Urban Water Management Plan (UWMP ). This minor decrease in water use is largely attributed to a decrease in water use for construction activities.</u> Senate Bill (SB) 7 – Statewide Water Conservation, the estimates are likely to be further reduced depending on the City's established baseline usage."</p> <p><i>How is this related to the water use anticipated in the SPA and the state law that requires a 20 percent per capita reduction in urban water use statewide by 2020? Also, since the SPA is supposed to be annexed to the City wouldn't this projected water use (by 2030) include the SPA?</i></p>
14	RMC_Hydrology; Page 3B 9-27	<p>"Based on modeling conducted by SWRI, Inc (2008), using CALSIM II, the principle changes in flow as a result of the operation of the Off-site Water Facilities occur downstream of Freeport and <u>are a consequence of modifying the current agricultural delivery schedule for the 8,000 AFY of CVP water to an M&amp;I delivery schedule. This change in delivery modifies the timing of diversions to smaller, more consistent withdrawals of surface water throughout the year as opposed to large diversions during the summer months when crop water demands are high.</u> This phenomenon is demonstrated in Table 3B.9-3 whereby the Off-site Water Facility Alternatives results in a net decrease in CVP water use during the months of July and August. The data produced by SWRI is provided in its entirety in Appendix M-IX."</p> <p><i>The Agreement between NCMWC and SFP, the developer, indicates the need to reschedule base supply into the summer months. How is this factored into the analysis?</i></p>
15	Appendix M1; Page 44-45;	<p>"The SFP-NCMWC Agreement is effective until April 1, 2012, unless extended by SFP. Under that agreement, SFP may extend its term for up to five additional one-year periods. During the period that the SFP-NCMWC Agreement is effective, both NCMWC and SFP must satisfy specific obligations to ensure that water can ultimately be made available for use as a municipal and industrial supply in the Folsom SPA. Those obligations include, but are not limited to (1) preparation of an engineering study to ensure NCMWC may meet its future demands in the absence of the assigned supply; (2) approval from USBR to reschedule the assigned supply from an irrigation demand schedule to a municipal and industrial demand schedule; and (3) completion of all state and federal environmental review."</p> <p><i>The timing of the agreement to ensure a secured water source (additional one-year periods) is not consistent with a long-term assignment of the water by Reclamation.</i></p>

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17	Appendix M1 Water Supply Analysis; Footnotes 65 and 66—Page 41	<p>"The City of Folsom and SFP have executed a non-binding memorandum of Understanding (See Appendix E) (footnote 65). The City and SFP cannot sign a binding legal agreement until after the environmental review – of which this WSA is a part – is completed. The ultimate goal is to <u>have USBR assign a portion of NCMWC's Project Water supply to the City of Folsom pursuant to NCMWC – Bureau contract provisions in NCMWC's contract with USBR. (Footnote 66)"</u></p> <p><i>The City --not the developer, would need to work with Reclamation and Natomas to get approval for the assignment.</i></p>
18	Appendix M1_Water Facilities; Section 3.1, page 40 "Explanation of Proposed Water Supply"	<p>"The use of this water supply does not impact either the City's or EID's existing water supplies or conveyance facilities. <u>Through the SFP, the City intends to acquire water from NCMWC to serve only the Folsom SPA. Water treatment will occur at either newly constructed facilities that will not be connected to the City of Folsom's or EID's existing treatment and conveyance facilities or at third parties' treatment facilities. Thus, neither the water demands associated with the land uses in the City of Folsom exclusive of the Folsom SPA, nor the water supplies used to serve these areas, are analyzed in this Folsom SPA WSA.</u></p> <p><i>This statement indicates that the water supplies used to service the other areas in Folsom are not accounted for in the analysis. What is the reasoning here? The new development areas will eventually be annexed into the larger SOI. This is a connected and related action under NEPA that would need to be evaluated.</i></p>
19	Chapter 3_Affected Environment; Section 3.1.6, page 9	<p>"Although <u>the City would be responsible for implementing mitigation measures associated with the water supply facilities</u>, nearly all of the improvements and mitigation actions necessary to provide water to the project site require improvements that would occur outside of the City of Folsom jurisdictional boundaries."</p> <p><i>Section and page reference for these mitigation measures should be identified. Who would be responsible to mitigate these impacts associated with the water supply facilities (any specifics about whose jurisdiction these facilities are located in should be included).</i></p>

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20	Chapter 3B.03_RMC_Biological Resources; Page 3B.3-51	<p>“As provided in Chapter 2, “Alternatives,” implementation of the Off-site Water Facility Alternatives <u>would not result in changes to existing irrigation patterns within NCMWC’s service area or limit the availability of surface water for continued irrigated agriculture.</u> Similarly and based on this circumstance, operation of the Off-site Water Facility Alternatives would result in no adverse effects to giant garter snake within the Natomas Basin. For this reason, a less-than-significant impact would occur. [Similar]”</p> <p><i>Wouldn't the rescheduling of base supply into the summer months necessitate a change in existing irrigation patterns ?</i></p> <p><i>In general, the biological affects of the water supply are not analyzed—this chapter includes a limited project footprint: i.e., NCMWC service area to the new point of diversion on the Sacramento River (Freeport Project) through final point of delivery in the SPA. Because the project is operated as an integrated system, the water supply portion of this biological effects analysis must consider the impacts of the diversion (both the rescheduling of project supply as M &amp; I and seasonal diversion pattern change) as well as the scheduling of the base supply into the critical months of July and August, and how these changes in pattern and seasonal use will effect fish species due to the reoperation of the CVP (system wide from Shasta Reservoir into the Delta).</i></p>
21	Chapter 3B.03_RMC_Biological Resources; Page 3B.3-56	<p>“<u>No new groundwater pumping would be required within NCMWC’s service area and, therefore, no changes to surface water hydrology within wetlands and other sensitive wetland features within the NCMWC’s service area is anticipated.</u> For these reasons, direct and indirect impacts to sensitive communities from long-term operation of the Off-site Water Facilities would be less than significant. [Similar]”</p> <p><i>The land-use changes that would result in the NCMWC’s service area due to the assignment have not been fully analyzed. See the Agreement between the land developer SFP and NCMWC (Appendix M_ Water Facilities) that concludes the surface water needs would need to be analyzed (i.e., engineering study required to determine if future NCMWC service area needs are met).</i></p>

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22	Chapter 3B.03_RMC_Biological Resources; Page 3B.3-56-55	<p>“As provided in Table 3B.9-3, of Section 3B.9, Hydrology and Water Quality “Water,” the operation of the Offsite Water Facility Alternatives would involve negligible changes to existing flows within Zone 2 of the “Water” Study Area and downstream locations within the Delta. <u>Based on these findings, neither the operations of the Offsite Water Facilities nor the assignment of water supplies from NCMWC in the Sacramento River basin would have substantial adverse effects on riparian habitat or other sensitive natural communities along the Sacramento River as a result of substantial changes in water levels or diversion of flow.</u> No new groundwater pumping would be required within NCMWC’s service area and, therefore, no changes to surface water hydrology within wetlands and other sensitive wetland features within the NCMWC’s service area is anticipated. For these reasons, direct and indirect impacts to sensitive communities from long-term operation of the Off-site Water Facilities would be less than significant. [Similar]”</p> <p><i>This seems to conclude that natural communities would be affected only by substantial changes in water levels or diversion of flow. Sensitive fish species are susceptible to affects due to changes in water temperature and seasonal flow fluctuations (NMFS BO, June 2009). These impacts have not been addressed.</i></p>

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Comment #	Section and Page #, Figure #, or Table #	Comment
23	Chapter 3B.03_RMC_Biological Resources; Page 3B.3-61	<p>Operations of the Off-site Water Facilities would produce only minor levels of noise from pumps, and would not lead to on-going disturbance that would interfere with the movement of any native wildlife species or wildlife corridors and nursery sites. <u>Assignment of water from NCMWC to the City would result in slight, permanent increases in river flows (see Chapter 3B.9.3) within a section of the Sacramento River, north of Freeport. In considering the combination of a change in delivery schedule, addition of a new point of diversion, and quantity of water diverted, the Off-site Water Facilities could realize benefits in terms of increased flows within the Sacramento River when compared to existing conditions, and therefore, could realize added minor benefits to fisheries. The direct and indirect impacts would be less than significant. [Similar]"</u></p> <p>The minor changes in hydrologic conditions would have only very minimal impacts on overall aquatic habitat quantity and quality <u>and would contribute additional flows to a section of the Sacramento River (e.g., Zone 2 of the "Water" Study Area).</u> In this context, the operation of the Off-site Water Facility Alternatives would not result in any substantial changes in flows that could contribute to a reduction in fish populations or the quality or quantity of aquatic habitat within the Sacramento River system, including the Delta, for any special-status wildlife and fishery species and the direct and indirect impacts are considered less than significant. [Similar]</p> <p><i>Return flows need to be analyzed--i.e., those that would normally get into the American River to help meet downstream requirements as per the NCMWC's unused contract irrigation supply. How are these being factored in? This seems to suggest the return flows would continue down the Sacramento River and into the Consumnes River?</i></p>
24	Chapter 3B.03_RMC_Biological Resources; Section 3B.3.3 Environmental Consequences and Mitigation Measures (page 3B.3-33)	<p>"For the purposes of this analysis, an impact to biological resources would be considered significant if the construction or operation of the Off-site Water Faculty Alternatives would:</p> <p>► <u>have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game, National Marine Fisheries Service, or U.S. Fish and Wildlife Service;..."</u></p> <p>There is no discussion regarding the resource management agency Consultation and Coordination phase of this project, in particular, a consultation on the impacts of the off-site water supply alternative on listed species due to the changes in delivery pattern/season/place of use under the assignment. Also, there is no analysis to support ESA Section 7 compliance for the assignment.</p>

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25	Section 3A.18 "Water Supply", page 29; Section 3A.09 "Hydrology and Water Quality", page 6	<p>The analysis indicates, "there are wells within the Laguna area to the south of Zone 4 of the "Water" Study Area that exhibit elevated levels of nitrates, arsenic, TDS, boron, chromium VI, and THMs (total). In contrast, SCWA's Mather wells to the north exhibit elevated concentrations of lead, high pH, and require mandatory sampling and monitoring for NDMA, TCE, and perchlorate." However, the conclusion that follows, which is based on the groundwater samples taken in 2007, is that local groundwater supplies are already being used for potable uses within Zone 4 of the "Water" Study Area and the use of groundwater would not create a significant hazard to users within the Folsom SPA. When this option is compared to the NCMWC assignment (Off-site Water Facility Alternative), the analysis indicates that that groundwater supplies may exhibit more issues related to taste and odor along with higher TDS levels, which would be considered a potentially significant impact; i.e., greater than the Proposed Off-site Water Facility Alternative).</p> <p><i>The conclusion one reaches is that the Groundwater Basin Option described on page 23 does not appear to be a viable alternative to the Natomas assignment given the contaminant levels within the surrounding areas that have been documented. Also, data may be incomplete to make any conclusions regarding impacts; see statement in Section 3A.09 "Hydrology and Water Quality" page 6, "There is no comprehensive water quality monitoring station in the project vicinity, and water quality data are limited."</i></p>
26	3A.9-5	<p>Groundwater quantity typically varies locally throughout the SPA. Seasonal perched groundwater may be present in the fractures...<i>(This seems to suggest groundwater over a semi-confining layer and an unsaturated condition below the layers. This may not be the case for fractured bedrock.)</i></p>
28	3A.9-6	<p>For the listed designated beneficial use is listed as "irrigation". <i>We believe the designated beneficial use should be labeled "agriculture". The CVRWQCB is adding or may have added the "commercial" (COMM) beneficial use for these water bodies.</i></p>
29	3A.9-9	<p>The groundwater underlying Area 40 is contaminated with volatile and semi-volatile organic compounds... <i>Although section 3A.9-5 discussed groundwater hydrology in the SPA, there was no mention of how potential changes in flows through Alder Creek due to development could affect the underlying groundwater under this stream channel and the subsequent movement or remediation of the contaminated groundwater.</i></p>
30	3A.9-13	<p>It should be noted that for the following metals (cadmium, chromium, copper, lead, nickel, silver, and zinc) their associated water quality criteria are dependent on the hardness of the water. <i>Because the SPA is located in an area known to contain asbestos, are there any concerns with asbestos getting into the water ways for the short term during construction? Also, the units for Organic Pesticides should be noted as "ng/L".</i></p>



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31	3A.9-20	The final sentence mentions an impoundment on Alder Creek that may be considered under the DSOD jurisdiction but does not offer any additional information about the impoundment - size, location, purpose, etc. If this is a feature of the project, this would need to be fully analyzed.
32	3A.9-38 & 39	It should be noted that detention basins are effective at removing many water quality contaminants associated with storm water flows if they are maintained and a long term strategy is in place to keep them operating efficiently. Page 38 - Under the bullet "Source control program to control water quality ..." we suggest a commitment to ensure long term sustainability of these activities through a permanent funding source.
33	ES-174 3B.17-2	The summary Table states: "3B.17-2: <b>Depletion of Groundwater Supplies Through Pumping</b> No mitigation measures are required. Significance after Mitigation: less than significant." <i>It is unclear from the DEIS if GW pumping will increase in dry years. If it does increase, mitigation would be required to ensure that impacts remain less than significant.</i>
34	1.3.1 and Section 2; 1-7 and Pages 2-80 through 2-103	The federal project purpose as stated is: "The project purpose, as considered by USACE, is to construct a large scale, mixed-use development, with associated infrastructure, within eastern Sacramento County." <i>This purpose can be achieved without the assignment of CVP water, yet the water supply alternatives described in Section 2 do not appear to include any alternative water sources.</i>
35	2.6; 2-80	<i>The following statement is found in Section 2.6: "A complete listing and screening process for other water supply and conveyance alternatives considered in this EIR/EIS, but not carried forward for equal-level analysis, is described in Section 2.15 below." Comment: Section 2.15 is not found in the document.</i>
36	3B.10; 3B.10-19	Under the proposed action, approximately 37% of NCMWC's project water would permanently no longer be available for use within their service area. This would appear to be a significant amount from the standpoint of surface water availability for use in NCMWC's service area. If this is accurate, explain how this would affect NCMWC?.
37	General Comment	In general, it was difficult to read the document due to its organization. For example, there is water discussion scattered in several locations throughout the document which is difficult to piece together. The additional alternatives, or "water supply options" are contained in the land, or "A" section of the document near the end of Volume 3. Because these options are considered reasonable alternatives to the assignment (as described in section 3A. 18), they may have best been located in the appropriate alternatives section of the document and carried forward for analysis.
38	General Comment	There is no indication that compliance with NHPA section 106 sufficient for the assignment has been considered.



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39	General comment	It would be ideal to avoid adding more water to the drainage over chutes that cross Folsom South Canal as they are currently at their design capacity. Additional water added may need to be detained to avoid overflow into the canal.	76
40	General comment	Any pipelines crossing the canal would need to go above the canal rather than under it. Boring under the canal could cause earth movement that could damage the structural integrity of the canal lining.	77
41	General comment	We do not recommend using Douglas Bridge as a crossing point for pipelines as it already houses several utilities and space is restricted.	78
42	3B.15-1	This section does not address the construction of the six (6) lane International Drive in Zone 4.	79
43	3B.16-1	If the water is for use on Folsom's existing city limits, and (according to the State Urban Water Management Plan) they indicate that all future population through 2025 are assumed to remain at the 2010 levels, then <i>why does Folsom need the additional water?</i> In addition, in the DEIR/DEIS it states, "Water use within the current city limits is projected to experience a slight decrease by 2030 to 27,069 AFY based on average unit water demand factors applied to City land uses assumed in the City's 2005 Urban Water Management Plan." <i>SB 7 (20% reduction by 2020) is a State law, so any additional growth could also be served by the 20% savings.</i>	80 81
44	3B.16-7	"The assigned CVP water entitlement would continue to be stored in upstream reservoirs, but would be delivered under an M&I schedule as opposed to the existing agricultural delivery schedule." <i>Will the storage continue to be in Shasta? We expect no evolution of these projected impacts?</i>	82
45	Appendix M_Water Facilities; Water Supply Assessment (page 10)	The city discusses a calculation that includes a variety of factors to determine the outdoor water demand. I may be more simple to take the historical January/February metered water data and assume that is the indoor water use; then subtract that from the summer average to obtain the outdoor water use.	83
46	Appendix M_Water Facilities; Water Supply Assessment (page 11, Table 2-1)	Its not clear where the 3920 sf (Landscape Area) comes from. Assuming a landscape area of 40% (each unit) and a parcel size of 10,890, then shouldn't it be 4356sf.	84
47	Appendix M_Water Facilities; Water Supply Assessment (page 11)	A discussion indoor water use in a "per unit" context is given, but then converted to gpcd. If we know how many dwelling units will be built, but not how many people will be moving into them, then keeping the data in the per unit context helps to clarify how much water is anticipated for each dwelling unit.	85
48	Appendix M_Water Facilities; Water Supply Assessment (page 20)	We recommend that the document shows the full effect of CAL Green by showing a range of 10% - 20% savings. This would bring the anticipated indoor use to 56 gpcd, which is in line with state conservation goals. In keeping with this rationale, Table 2-4 could also reflect this range.	86



<b>TECHNICAL/ENVIRONMENTAL COMMENTS</b>			
<b>Comment #</b>	<b>Section and Page #, Figure #, or Table #</b>	<b>Comment</b>	
49	Appendix M_Water Facilities; Water Supply Assessment (page 30)	In terms of the additional 5% included in the dry-year total (table 2-9), why was this figure chosen? Rationale for why the City and EID would not encourage more conservation during dry years should be included.	87
50	Appendix M_Water Facilities; Water Supply Assessment	The draft Folsom Specific Plan Area Water Supply Assessment (FSPAWS) dated 2010 contains assumptions on future landscape and indoor water use that are inconsistent with the current California Model Water Efficient Landscape Ordinance (MWELO) and the 2020 urban water use baselines being developed as a result of the SBX7 7 process. In light of the MWELO and SBX7 7 planning efforts, we encourage the City to reevaluate its FSPAWSA for both the indoor and landscape future water use projections.	88
51	Appendix M_Water Facilities; Water Supply Assessment (Section 2.1.1 page 10)	The CA Model Water Efficient Landscape Ordinance limits the estimated total landscape water to use the ET Adjustment factor which is defined as: "...a factor of 0.7, that, when applied to reference evapotranspiration, adjusts for plant factors and irrigation efficiency, two major influences upon the amount of water that needs to be applied to the landscape. A combined plant mix with a site-wide average of 0.5 is the basis of the plant factor portion of this calculation. For purposes of the ETAF, the average irrigation efficiency is 0.71. Therefore, the ET Adjustment Factor is (0.7) - (0.5/0.71). ETAF for a Special Landscape Area shall not exceed 1.0. ETAF for existing non-rehabilitated landscapes is 0.8." The MWELO, Appendix A-Reference Evapotranspiration (ETo) Table indicates that the ETo for Fair Oaks is 50.5" which is lower than the 53" that is used in the Plan. The Plan should substantiate why its value differs from that supplied in the Ordinance.	89
52	Appendix M_Water Facilities; Water Supply Assessment (Section 2.1.3.3, page 15)	The assumption of landscape water use of 85% Eto in section 2.1.3.3 of the FSPWSA is inconsistent with the MWELO 0.7 (70%) Eto. This is due to the plans use of an irrigation efficiency adjustment factor which is already included in the landscape ordinances 0.7 factor. Therefore, the Plan over estimates the outdoor water use. Page 17 of the report assumes that the future landscape use for residential and non-residential landscape is 3.73 Acre Feet per Acre. This should be adjusted to 3.1 Acre Feet per Acre for all new development.	90
53	Appendix M_Water Facilities; Water Supply Assessment (Section 2.2.1.1, page 20)	Page 20, 2.2.1.1 of the Plan states that the average indoor water use is calculated to be 70 gallons per capita per day (gpcd) for both existing single family and multi-family residential use. The assumption is made that this use rate can be lowered by 10% to 63 gpcd. The state's new baseline that is being developed calls for 55 gpcd for the 2020 baseline which would be consistent with a 20% reduction for Folsom. The 55 gpcd day is the baseline being used on average for all indoor residential use for the state. Given that Folsom has not yet implemented metering, and that indoor water conservation devices are mandatory in all new residential building the 55 gpcd for the entire service area appears realistic. It also appears realistic that new residential areas will have gpcd lower than the 55 gpcd baseline being developed through the State's SB7 7 effort.	91



<b>CONTRACTURAL/POLICY/LEGAL COMMENTS</b>		
Comment #	Section and Page #, Figure #, or Table #	Comment
1	Proposed Water Supply (page 3A.18-12)	Reclamation is currently evaluating all aspects of the proposed assignment from a contractual perspective. Additional comments may be forthcoming once that evaluation is completed. One consideration may be the ability to change our contract with NCMWC and what the benefits would be to the CVP.
2	3A.18-1	Reclamation is currently evaluating all aspects of the proposed assignment from a contractual perspective. Additional comments may be forthcoming once that evaluation is completed. One consideration may be the base supply rescheduling out of the months April-October; how would this be allowed under the current contract.
3	3A.18-1	Reclamation is currently evaluating all aspects of the proposed assignment from a contractual perspective. Additional comments may be forthcoming once that evaluation is completed. For example, consideration may be given to the use of NCMWC's contract supply. During the last 10 years NCMWC has only used 62% of it's cumulative contract "base supply" water, and only 37% of it's cumulative contract "project water" supply.
4	General comment	The document does not recognize that Reclamation may be making certain decisions regarding the proposed partial assignment of Natomas Central Mutual Water Company's (NCMWC's) contract to the City of Folsom that are different from those decisions the ADEIS/ADEIR refers to as "assumptions". As a result, the ADEIS/ADEIR does not analyze the environmental impacts of each of the possible alternative decisions. The ADEIA/ADEIR identifies the following discretionary Reclamation decisions as "assumptions": 1) Reclamation will approve NCMWC's partial assignment to the City of Folsom of its entitlement under its existing Sacramento River water right settlement contract to annually divert in July and August up to 8,000 acre-feet of Project water in most years and 6,000 acre-feet of Project water in critical years; 2) Reclamation will agree to make the assigned Project water available to the City of Folsom on a year-round M&I pattern rather than making it available only in July and August; 3) Reclamation may be able to make the assigned Project water available to the City of Folsom subject to the same shortage provisions that are included in Reclamation's CVP water right settlement contracts rather than the shortage provisions that are included in Reclamation's CVP water service contracts i.e. that Reclamation could make the full supply of the assigned Project water available in all but critical years, as that term is defined in the NCMWC contract and to reduce that supply of Project water in critical years by no more than 25%. (Opinion) By characterizing those decisions as "assumptions" and not analyzing the environmental impacts of each of them and their respective alternatives, the EIS/EIR is to be insufficient for Reclamation to use for alternative decision making.

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<b>CONTRACTURAL/POLICY/LEGAL COMMENTS</b>		
Comment #	Section and Page #, Figure #, or Table #	Comment
5	ES Page 2	"In addition to the authorizations and approvals requested from the City and USACE, permits and other approval actions from the following Federal, state, regional, and local agencies <b>may be required...</b> " <i>Authorizations from the Bureau of Reclamation <b>would be</b> required for the water supply portion of the Folsom SOI project to cover the pumping at the new point of diversion on Freeport project, easement across FSC, and assignment of NCMWC CVP settlement contract water to Folsom.</i>
6	Section 1.2.; Page 5	► Mitigation Monitoring. "Comply with the mitigation measures identified in environmental review for expansion of sphere of influence boundary and adopted pursuant to CEQA by LAFCo Resolution LAFC 1193, including:... <u>Identify secure sufficient water supplies.</u> " <i>The DEIS/DEIR concedes to the fact that the assignment of the settlement contract water would need to be approved by Reclamation (see Agreement included in Appendix M1_ Water Facilities between NCMWC and the developer, SFP-Section 17 Environmental Review and Section 1.10) before water supplies could be "secured". How is this mitigation being met?</i>
7	Section 3B.9.3 Environmental Consequences and Mitigation Measures (Thresholds of Significance)— Hydrology and WQ; page 20	From Section 3B.9.3 Environmental Consequences and Mitigation Measures-- Hydrology and WQ ► The analysis depicts a "worst-case" for NCMWC whereby it analyzes <u>project water (not base supply)</u> being re-allocated into an urban demand pattern for the assignment;" <i>Currently, base supply cannot be taken out of April - October delivery pattern and rescheduled into another period (contract terms and conditions).</i>
8	Appendix M1 Water Supply Analysis; Footnotes 65 and 66—Page 41	"The City of Folsom and SFP have executed a non-binding memorandum of Understanding (See Appendix E)65 The City and SFP cannot sign a binding legal agreement until after the environmental review – of which this WSA is a part – is completed. "...the ultimate goal <u>is to complete an assignment of a portion</u> of the NCMWC's Project Water supply..." <i>The City --not the developer, would need to work with Reclamation and Natomas to get approval for the assignment.</i>

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<b>CONTRACTURAL/POLICY/LEGAL COMMENTS</b>		
<b>Comment #</b>	<b>Section and Page #, Figure #, or Table #</b>	<b>Comment</b>
9	Chapter 3A.18_Water Supply; Section 3A.18.3 Environmental Consequences and Mitigation Measures-- Thresholds of Significance (page 7)	<p>"The thresholds for determining the significance of impacts for this analysis are based on the environmental checklist in Appendix G of the State CEQA Guidelines. These thresholds also encompass the factors taken into account under NEPA to determine the significance of an action in terms of its context and the intensity of its impacts. The Proposed Project or alternatives under consideration were determined to result in a significant impact related to water supply if they would do any of the following:▶ require or result in the construction of new water treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects; or▶ <u>have insufficient water supplies available to serve the project from existing or permitted entitlements and resources, or require new or expanded entitlements.</u>"</p> <p><i>First, the assignment is not an entitlement –the assignment from Natomas Central Mutual Water Company would need to be approved by Reclamation, Also, this assignment as proposed would represent an expanded entitlement; i.e., change of season and rescheduling of base supply into the critical months. Therefore, the proposed assignment would represent a significant action and the impacts of implementing this have not been adequately analyzed.</i></p>
10	General Comment	<p>Reclamation is currently evaluating all aspects of the proposed assignment from a contractual perspective. Additional comments may be forthcoming once that evaluation is completed. One consideration may be determining the certainty that storage in Shasta could be provided over the time frame necessary.</p>
11	General comment--related to Water Supply Analysis	<p>In Section 10910 (c)(3), CA Water Code states, "(3) If the projected water demand associated with the proposed project was not accounted for in the most recently adopted urban water management plan, or the public water system has no urban water management plan, <u>the water supply assessment for the project shall include a discussion with regard to whether the public water system's total projected water supplies available during normal, single dry, and multiple dry water years during a 20-year projection will meet the projected water demand associated with the proposed project</u>, in addition to the public water system's existing and planned future uses, including agricultural and manufacturing uses."</p> <p><i>How is this time horizon being addressed? The agreement between the developer, SFP, and Natomas, is for one year increments not to exceed five years—there is no long term commitment of water reliability.</i></p>
12	General comment	<p>It is uncertain whether the proposed major federal action can go forward without addressing the cumulative impacts of implementing the two OCAP BO's.</p>

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<b>CONTRACTURAL/POLICY/LEGAL COMMENTS</b>		
Comment #	Section and Page #, Figure #, or Table #	Comment
13	NCMWC's Contract Conditions	Reclamation is currently evaluating all aspects of the proposed assignment from a contractual perspective. Additional comments may be forthcoming once that evaluation is completed. One consideration may be the quantity of project water available under contract--this is related to the amount of Base Supply (Article 9 of contract --Agreement of Water Quantities).
14	NCMWC's Contract Conditions	<p>NCMWC's contract has certain conditions,such as: "The purposes being for ...the United States and the Contractor will work in partnership and with others within the Sacramento Valley, including other contractors, to facilitate the better integration within the Sacramento Valley of all water supplies including, but not limited to, the better management and integration of surface water and groundwater, the development and better utilization of surface water storage, the effective utilization of waste, seepage and return flow water, and other operational management options that may be identified." (Article 6 Integrated Water Management and Partnerships).</p> <p><i>Reclamation is currently evaluating all aspects of the proposed assignment from a contractual perspective. Additional comments may be forthcoming once that evaluation is completed. One consideration may be how does this stated purpose "integrated Sacramento Valley water supplies, better utilization of surface water storage, etc.," align itself with what's being proposed under the assignment: change in POU (outside the sac valley), purpose of use, and season of use?</i></p>
15	General	Will the assignment be through March 31, 2024 (when NCMWC's contract expires)?

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USBR-1

*The comment states that the U.S. Bureau of Reclamation (Reclamation) is currently evaluating the legal, policy, and operational implications of a proposed long-term assignment of up to 8,000 acre feet per year (AFY) of Central Valley Project (CVP) settlement contract water (“Project” water) from Natomas Central Mutual Water Company (NCMWC) to the City for use in the specific plan area (SPA). The comment further states that because the process is not yet complete, the DEIR/DEIS does not fully analyze the impacts of the assignment and a supplemental EIS may be required.*

The City believes that the DEIR/DEIS analyzes all reasonably foreseeable environmental impacts of implementation of the proposed assignment. NCMWC’s settlement contract (Contract No. 14-06-200-885A-R-1) anticipates, in Articles 3(e) and 7(a), that: (1) use of NCMWC’s supplies may shift from agricultural to Municipal & Industrial (M&I); and (2) NCMWC may assign “Project” water under that contract use outside of NCMWC, subject to the Bureau of Reclamation’s consent, which the Bureau of Reclamation may not unreasonably withhold. (Appendix G to DEIR/DEIS’s Appendix M1, pages 10, 13.) Based on NCMWC’s settlement contract, the DEIR/DEIS analyzed the impacts that the proposed assignment would have based on certain assumptions. Reclamation could seek to approve the proposed assignment under different conditions, in which case further environmental review could be necessary. Because the proposed assignment would not result in work in navigable waters or the discharge of dredged or fill material into waters of the U.S., this proposed activity is not within the USACE’s scope of analysis. Therefore, if Reclamation (as the Federal agency with authority over the assignment) determines that a supplemental Environmental Assessment/Finding of No Significant Impact (EA/FONSI) or EIS is necessary for compliance with NEPA, the USACE anticipates that Reclamation would be the lead Federal agency.

To reflect these considerations, additional clarifying language is provided in Chapter 5, “Errata,” of this FEIR/FEIS.

USBR-2

*The comment states that the DEIR/DEIS relies upon assumptions contained in the Water Supply Assessment (appended to the DEIR/DEIS) that shortages would be no more than 25 % and are not correct (i.e., baseline allocations could be reduced to zero under the agricultural contract conditions).*

As Reclamation’s comment letter recognizes (see response to comment USBR-1), the proposed assignment would be of “Project” water under NCMWC’s settlement contract, which is included in the DEIR/DEIS as Appendix G to the DEIR/DEIS’s Appendix M1. Under Article 5(a) of NCMWC’s contract, the maximum reduction in “Project” water is 25%. Under Article 3(e) of that contract, NCMWC can assign “Project” water for M&I use outside of NCMWC’s service area, with Reclamation’s approval, which may not be unreasonably withheld. In addition, Article 7(a) of that contract indicates that Reclamation and NCMWC recognized that use of “Project” water under the contract could shift to municipal and industrial use. The proposed assignment is consistent with all of these terms of NCMWC’s settlement contract, which the City of Folsom believes may constrain Reclamation’s exercise of its approval authority under that contract. In addition, the proposed assignment would not convert the assigned supply to a CVP water-service supply that would be subject to reductions to zero as a converted agricultural supply under Reclamation’s proposed M&I Water Shortage Policy.

However, if Reclamation was to approve the proposed assignment, it could seek to do so under different conditions, including different or additional water shortage conditions or limited liability provisions which could require additional environmental review and NEPA compliance.

USBR-3

*The comment states that the DEIR/DEIS did not address National Historic Preservation Act (NHPA) Section 106 compliance for the assignment.*

To satisfy the requirements of Section 106, Federal agencies are required to determine the area of potential effects (APE) and perform an inventory of cultural resources, including historic properties subject to management under Section 106 (36 Code of Federal Regulations [CFR] Section 800.4), within the APE. As described on page 2-71 of the DEIR/DEIS, to capture all the components associated with the Off-site Water Facility Alternatives, a “Water” Study Area was delineated and divided into four zones based on their associated connection to the Off-site Water Facility Alternatives. These zones are depicted in Exhibits 2-24 and 2-25 of the DEIR/DEIS and include NCMWC’s service area (Zone 1), the Sacramento River (Zone 2), the Freeport Project (Zone 3), and the affected area for facility components specific to each of the Off-site Water Facility Alternatives (Zone 4).

As provided in the “Affected Environment” subsection on page 3B.5-1 of the DEIR/DEIS, the placement of new structural facilities as part of the Off-site Water Facility Alternatives would be limited to Zone 4 of the “Water” Study Area. For this reason, the affected environment for cultural resources (or APE for the purposes of Section 106) is commensurate with Zone 4 of the “Water” Study Area. As provided on pages 2-74 and 2-76 of the DEIR/DEIS, no new facilities or changes to existing facilities are proposed within Zones 1, 2, and 3 of the “Water” Study Area as part of the Off-site Water Facilities alternatives, and therefore, these zones have not been included within the APE as identified by USACE. Documented historical resources within Zone 4 of the “Water” Study Area are described on pages 3B.5-1 and 3B.5-2 of the DEIR/DEIS. Table 3B.5-1 (DEIR/DEIS page 3B.5-3) further identifies the resources present within the affected areas for each of the Off-site Water Facility Alternatives.

Because of the programmatic evaluation of the Off-site Water Facility Alternatives as provided in the DEIR/DEIS, intensive cultural resources surveys have not been conducted. For this reason, USACE is currently in the process of consulting with the State Historic Preservation Officer (SHPO) on the creation of a Programmatic Agreement (PA) within the SPA and Zone 4, which would satisfy the requirements of Section 106 for the APE (see Appendix E3 of the DEIR/DEIS for correspondence between USACE and SHPO concerning the use of a PA for the project). A phased identification, evaluation, treatment, and mitigation plan for the preferred Off-site Water Facility Alternative would occur under the PA as described on pages 3A.5-11 through 3A.5-13 of the DEIR/DEIS. The PA would be executed before a Record of Decision (ROD) is issued for this EIS by USACE.

Although the City does not believe that there would be any impacts to cultural resources within Zones 1, 2 and 3, because no new facilities or changes would occur within these areas, because these areas are not within the APE of USACE, if Reclamation determines that impacts would occur or have the potential to occur to cultural resources, the USACE anticipates that Reclamation would be responsible for ensuring any additional compliance with Section 106 of the NHPA.

USBR-4

*The comment states that no analysis is provided in the DEIR/DEIS to support Endangered Species Act compliance for the assignment.*

Based on the assumption concerning the proposed assignment explained in response to comment USBR-1 above, the DEIR/DEIS analyzes all foreseeable environmental issues associated with the proposed assignment—including all reasonably foreseeable impacts on species listed under the Federal or state Endangered Species Act (ESA)—and the DEIR/DEIS therefore provides an extensive and sufficient technical basis for any ESA analysis that may be required for approval of a proposed assignment consistent with those assumptions (see pages 3B.3-37 through 3B.3-40, 3B.3-50 through 3B.3-52, 3B.3-55 through 3B.3-56, and 3B.3-61 through 3B.3-62). As also explained in response to comment USBR-1, the proposed assignment is consistent with the terms of NCWMC's settlement contract with Reclamation, which may affect Reclamation's exercise of its approval authority in considering the proposed assignment. This in turn may affect the need for analysis under the ESA (see *National Association of Home Builders v. Defenders of Wildlife* [2007] 551 U.S. 644, 663, 669 [U.S. Supreme Court].)

However, because the proposed water assignment would not result in work in navigable waters or the discharge of dredged or fill material into waters of the U.S., this proposed activity is not within the USACE's scope of analysis or permit area. Therefore, if Reclamation determines that consultation with the U.S. Fish and Wildlife Service (USFWS) and/or National Marine Fisheries Service (NMFS) would be required for the proposed assignment, the USACE anticipates that Reclamation would be responsible for this consultation.

USBR-5

*The comment states that the DEIR/DEIS analysis did not address potential changes in flows through Alder Creek (via the development).*

The DEIR/DEIS, Appendix H, contains an analysis of the project's effects on Alder Creek flows. As described in DEIR/DEIS Impacts 3A.9-2 and 3A.9-3 (pages 3A.9-28 through 3A.9-43), the project would conform to applicable state and local regulations regarding surface water runoff and would limit peak discharges to levels existing before development (pre-project levels) through the use of detention basins and Low Impact Development (LID) control measures. The goal of the LID features, which are required in the Sacramento County and City of Folsom Phase I National Pollutant Discharge Elimination System (NPDES) MS4 Permit, would be to mimic the pre-project hydrology at the SPA. Any flow increase caused by project development would be eliminated through the use of stormwater detention facilities, which would be sized to maintain peak storm flows not to exceed the level existing before development. Modeling results presented in the DEIR/DEIS in Table 3A.9-3 (page 3A.9-35) indicate that with the detention basins as proposed, peak flows under development conditions would remain at or below existing conditions for the 100-year and 10-year storm events. Modeling results for the 5-year and 2-year peak flow events, also presented in the DEIR/DEIS in Table 3A.9-3 (page 3A.9-35), show that there would be a minor increase in peak flows in Alder Creek leaving the study area; however, these increases would be minor and are not anticipated to affect downstream facilities. If it is determined during detailed design studies that downstream facilities would be affected, outlet facilities on the detention basins would be modified to reduce the flows to pre-project conditions for the 5-year and 2-year events.

In addition, the minor effects to surface flows reflected in the modeling results for surface flows in Alder Creek indicate that impacts on groundwater under Alder Creek's stream channel are expected to be minor. Finally, Alder Creek does not traverse Area 40, as

Alder Creek exits the northwestern corner of the project site and Area 40 is located approximately 1 mile to the south.

USBR-6 *The comment states that the analysis in the DEIR/DEIS does not address potential effects on groundwater under the stream channel of Alder Creek.*

See response to comment USBR-5.

USBR-7 *The comment states that the analysis in the DEIR/DEIS does not address the potential movement or remediation of contaminated groundwater related to the adjacent Aerojet Superfund site under the stream channel of Alder Creek.*

See response to comment USBR-5.

USBR-8 *The comment states that an analysis of the efficiency of return flows once they are used consumptively by the development was not contained in the DEIR/DEIS.*

Pages 3B.9-20 and 3B.9-29 of the DEIR/DEIS describe the City's modeling assumptions regarding the efficiency of return flows before and following the assignment. As described, under existing conditions the efficiency of irrigation return flows within NCMWC were assumed to be 65%; whereby 35% of the diverted water flows back to the Sacramento River. Under the proposed assignment, the efficiency of return flows under an M&I use was conservatively assumed at 80%; thereby reducing return flows back to the Sacramento River to 20% of the flow diverted.

USBR-9 *The comment states that it is not clear whether return flows would go back into the American River to help meet in stream/downstream requirements or into the Cosumnes River.*

Following the assignment, the principal source of return flow to the Sacramento River would occur via discharge at the Sacramento Regional County Sanitation District's (SRCSD) Wastewater Treatment Plant (WWTP). SRCSD discharges into the Sacramento River and, therefore, the primary source of return flows would not be expected to contribute to flows within the American or Cosumnes Rivers.

Flows associated with landscape irrigation and stormwater runoff would flow into one of the 14 water quality detention basins proposed within the SPA, as described in DEIR/DEIS Chapter 2 (pages 13–23), Appendix H, and Table 3A.9-6 (Section 3A.9, "Hydrology and Water Quality"). These basins would discharge into Alder and Buffalo Creeks, which are tributary to the American River, and Carson Creek, which is a tributary to the Cosumnes River. These basins have been designed to ensure that normal flows leaving the SPA would not be greater than pre-project conditions. The only discharges that would occur from these detention basins would be from 2-year, 5-year, 10-year, 100-year or higher storm events. Impacts of the discharge of water during these storm events are analyzed in Section 3A.9, "Hydrology and Water Quality."

USBR-10 *The comment states that the alternative water supply analysis is narrow in scope and does not present any reasonable alternatives to the proposed assignment, including the option of reducing existing water supplies.*

See Master Response 20 – Formulation of Off-site Water Facility Alternatives and Water Supply Options. NEPA requires an evaluation of a reasonable range of alternatives. The alternatives evaluated in the DEIR/DEIS were developed based on the USACE and the

City's project purpose and need, as well as the comments received on the Notice of Intent/Notice of Preparation (NOI/NOP). Because one of the requirements of Measure W is that the City, before applying to annex the SPA to the City, "[i]dentify and secure the source of water supply(ies) to serve the [SPA, which] new water supply shall not cause a reduction in the water supplies designated to serve existing water users north of Highway 50 . . . ." (City Charter, Section 7.08.A), it was determined that reducing water supplies north of U.S. 50 is not a reasonable alternative. The DEIR/DEIS considered and eliminated numerous water-supply alternatives (DEIR/DEIS, pages 2-97 to 2-103). In addition, the DEIR/DEIS also considered several water supply options under CEQA (DEIR/DEIS, pages 3A.18-23 to 3A.18-52).

The consideration of alternatives is also driven by the associated approval authorities for the Federal agencies involved. Because the proposed assignment would not result in work in navigable waters or the discharge of dredged or fill material into waters of the U.S., this proposed activity is not within the USACE's scope of analysis. Therefore, if Reclamation as the Federal agency with authority over the assignment, determines that a supplemental EA/FONSI or EIS is necessary for compliance with NEPA, the USACE anticipates that Reclamation would be the lead Federal agency.

USBR-11

*The comment states that the analysis did not evaluate other alternative water supplies that might be reasonable.*

See response to comment USBR-10.

USBR-12

*The comment states that the analysis of future water demands (SPA Water Supply Assessment) overestimates the outdoor water use because the irrigation efficiency adjustment factor is different from that in the California Model Water Efficient Landscape Ordinance (MWELO).*

As indicated in the water supply assessment (WSA) prepared for this project, an outdoor demand factor of 3.73 acre-feet/acre/year was developed and used for the SPA future housing. This value accommodates variances in plant factors and irrigation efficiencies as recognized by the Model Water Efficient Landscape Ordinance (MWELO), which the City has adopted. MWELO is the primary conservation ordinance related to landscape water use efficiency for land use planning purposes and is contained in Chapter 2.7 (commencing with Section 490) of Division 2 of Title 23 of the California Code of Regulations. Specifically, this value accommodates the MWELO requirements at the land planning stage but also accounts for the "human factor" of potential overwatering (even with irrigation controllers installed), piecemeal changes in landscape design for individual lots, reduction in irrigation efficiencies through long-term product wear, and limited resources for enforcement in the absence of dedicated irrigation meters. These conservative estimates and unpredictable future variables are used out of an abundance of caution in order to ensure that the long-term SPA demands could always be met in all year types with the identified water supplies.

USBR-13

*The comment states that California's 2020 urban water use baselines (as per Senate Bill X7-7 [SBx7-7], enacted in 2009) call for 55 gallons per capita per day (gpcd), which would be consistent with a 20 % reduction for Folsom.*

SBx7-7 requires the City to set a 2020 water conservation target based on one of four methods. (Water Code Section 10608.20[a]-[b].) Method 2 includes the 55 gpcd indoor water use target identified by Reclamation, but that target is not binding. (Water Code Section 10608.20[b][2][A].) The City may also choose one of the other three target-

setting methods. In addition, SBx7-7 specifically states that a water supplier “may meet its urban water use target through efficiency improvements in any combination among its customer sectors.” (Water Code Section 10608.26[b].) SBx7-7 does not set any mandatory indoor water use standard.

USBR-14

*The comment references the WSA statement that the average indoor water use is 70 gpcd for both existing single-family and multi-family residential use, and that a reduction of 10% (to 63 gpcd) is an understatement when placed in context with Statewide 2020 water conservation mandates.*

A 10% reduction for single and multi-family uses reflects the best available information concerning what indoor water uses would be in the SPA. The WSA relies on data regarding indoor water uses in the City’s existing service area and then adjusts that data to reflect several additional factors that would apply to the SPA, resulting in the 63 gpcd indoor estimate used by the WSA. The use of a 10% reduction provides a conservative basis for determining the project’s total water supply needs consistent with the requirements of CEQA. The risk in applying a higher reduction in indoor water from conservation, as suggested by the commenter, would be a potential under-estimating of the project’s total water supply needs. In addition, as explained in response to comment USBR-13, SBx7-7 does not mandate the implementation of any particular indoor water use standard. SBx7-7 also authorizes the use of a variety of measures to implement the conservation targets to be calculated under that legislation. (See Water Code Section 10608.26[b].)

USBR-15

*The comment states that although the City may desire to certify the FEIR/FEIS, for purposes of NEPA compliance, a supplemental EIS would need to be developed to adequately address the impacts of water supply and water assignment.*

As discussed in response to comment USBR-1, the DEIR/DEIS analyzed the impacts of the proposed assignment based on certain assumptions, which were based on the terms of NCMWC’s settlement contract with Reclamation. These assumptions form the basis for the project’s operational parameters from which the environmental effects on baseline environmental conditions were considered in the DEIR/DEIS. However, if Reclamation was to approve the proposed assignment, it could seek to do so under different conditions, including consideration of the effects of distribution or CVP re-operation of this “new demand” in the Central Valley, which could require additional environmental review and NEPA compliance. In response to this comment, the City has added additional text to page 3-2 of the DEIR/DEIS to clarify this understanding as shown in Chapter 5, “Errata” of this FEIR/FEIS.

USBR-16

*The comment states that the source of the water for the proposed action is unused NCMWC contract supplies that are available as a result of a shrinking water budget. The comment further states that the analysis in the DEIR/DEIS provides no discussion of the land use changes within NCMWC’s service area that have contributed to this condition.*

The DEIR/DEIS provides an adequate discussion regarding the land use changes within the Natomas Basin, which are already established in the environmental baseline. The Wagner and Bonsignore Report (contained in Appendix M2 of the DEIR/DEIS) does indicate that NCMWC’s water budget is slowly shrinking. As provided on pages 3B.10-4 through 3B.10-5 of the DEIR/DEIS, the NCMWC service area (or Zone 1 of the “Water” Study Area) is experiencing a transition from irrigated agricultural uses to urban uses as a result of ongoing planned growth by the City of Sacramento, Sacramento County, and southern Sutter County. Table 3B.10-1 of the DEIR/DEIS (page 3B.10-5) further

documents this change as reflected by a nearly 4,500-acre reduction in agricultural land between 2004 and 2007. Based on a series of planned developments within the Natomas Basin, including but not limited to, the Metro Air Park, Natomas Joint Vision, and Sutter Point Specific Plan, it is reasonable to expect that this pattern of development could continue regardless of the assignment. Further, these land use patterns were well established and in place prior to the issuance of the NOP/NOI for the project.

These other projects were also considered in the cumulative analysis for the Off-site Water Facility Alternatives as described on DEIR/DEIS pages 4-7 through 4-13. Even if these projects were to develop in the future, no net increase in total water usage within NCMWC's service area beyond its total settlement contract amount of 120,200 AFY is expected. Rather, given current building code standards and water conservation requirements for new development, urban growth within the Natomas Basin would likely have a reduced water demand on a per acre basis when compared to current agricultural uses within NCMWC's service area. Additionally, the Natomas Joint Vision Memorandum of Understanding (MOU) signed by the City of Sacramento and Sacramento County encourages a 1:1 ratio of open space to development, thereby further limiting total urban water use.

To reflect these considerations, additional discussion has been added to page 4-59 of the DEIR/DEIS under the "Water Supply" heading as shown in Chapter 5, "Errata" of this FEIR/FEIS.

USBR-17

*The comment states that the DEIR/DEIS mischaracterizes CVP operations by assuming that Reclamation delivers NCMWC its full contract entitlement.*

The City disagrees that the DEIR/DEIS mischaracterizes CVP operations and deliveries to NCMWC. Although the Wagner and Bonsignore report indicates that NCMWC has not used its full contract entitlement in either 2004 or 2007, the actual water use does not negate the fact that NCMWC could have used its entire contract supply in either year. The full use of NCMWC's Base Supply and "Project" water supplies was considered appropriate for the DEIR/DEIS analysis for four important reasons.

First, Reclamation renewed NCMWC's settlement contract in 2005, which is the source water supply for the assignment. This supply was covered under an EIS for NEPA compliance, and the ROD was approved in 2005. The full amount of NCMWC's settlement contract was incorporated into Reclamation's Operations Criteria and Plan (OCAP) (2004 and 2008) and is factored into the baseline for CalSim II in which the effects of the assignment were evaluated. Since the circulation of the DEIR/DEIS, the California Court of Appeal also has issued a decision that supports the DEIR/DEIS' approach in using the full amount of NCMWC's settlement contract. Specifically, in *Cherry Valley Pass Acres and Neighbors v. City of Beaumont* (2010) 190 Cal.App.4th 316, the Court of Appeal upheld an EIR for a proposed development that used, as the EIR's baseline for water supply impact analysis, the full amount of a groundwater right associated with the relevant property under a stipulated groundwater adjudication where water use on the property had declined between the time that the adjudication occurred and the time that the EIR was prepared. (*Cherry Valley, supra*, 190 Cal.App.4th at pages 335-346.) The City's reliance on the full amount of NCMWC's settlement contract is similar because that contract states the continuing terms under which Reclamation and NCMWC have agreed to resolve their dispute concerning the CVP's impacts on NCMWC's pre-CVP water rights. That settlement contract therefore has the same function as the stipulated groundwater adjudication in *Cherry Valley* and provides an appropriate basis for this project's EIR/EIS analysis.

Second, the City cannot speculate as to what other beneficial uses Reclamation could have supplied with NCMWC's unused CVP water. In reality, this unused water could have remained in storage in Shasta Reservoir, been delivered to another CVP contractor either north or south of the Delta, or been used to support Delta outflows either through inflow-bypass or storage releases. In addition, under the Central Valley Project Improvement Act, NCMWC could have transferred that unused supply annually in the area of origin. (Central Valley Project Improvement Act [CVPIA] Sections 3405[a][1][A], 3405[a][1][M].) In the absence of speculation by the City and in considering Reclamation's recent renewal of NCMWC's settlement contract, the full contract amount, subject to contract shortage provisions, is adequate for the purposes of characterizing existing conditions and analyzing potential effects.

Third, the DEIR/DEIS assesses potential impacts to the Sacramento River and CVP based on the full diversion of the 8,000 AFY (see Table 3B.9-3 of the DEIR/DEIS). As described in Chapter 2 of the DEIR/DEIS, the City only proposes to divert up to 6,000 AFY through the Freeport Project; hence, the impact analysis provides an overly conservative analysis of the potential impacts to both the CVP and the Sacramento River. In most years, the contract surplus would be available for Reclamation to put to beneficial use consistent with the provisions of the CVPIA (see Table 3B.9-3 of the DEIR/DEIS).

Finally, the City will be diverting water only within the Freeport Project's available capacity, which the Bureau already has incorporated into OCAP (2004 and 2008). Accordingly, whatever the status of NCMWC's use of CVP water, Reclamation's operations already account for the water that the City would otherwise divert. However, if Reclamation was to approve the proposed assignment, it could seek to do so under different conditions that could require additional environmental review and NEPA compliance.

USBR-18

*The comment states that the DEIR/DEIS suggests the assigned water would flow further downstream to the Freeport Project diversion as opposed to being diverted in NCMWC's service area.*

The comment is correct in its characterization of the assignment's change in the physical point of diversion along the Sacramento River from NCMWC's service area to Freeport. This operational characterization is important in correctly framing the proposed assignment as a change in the point of diversion as opposed to creating a new diversion. As discussed in response to comment USBR-17 above, the City's use of the Freeport diversion means that the City's diversion of the water assigned by NCMWC is already incorporated within the OCAP. In addition, the DEIR/DEIS describes and analyzes the operational changes associated with the assigned water. As described in the second paragraph on page 2-81 of the DEIR/DEIS, the major change associated with the assignment is the corresponding change in the delivery schedule of the assigned water to an M&I schedule. This change in the delivery schedule, which currently occurs during the months of July and August, would be decreased to smaller, more consistent diversions on a year-round basis from an existing diversion site further south. In the context of the 1.8 to 2.8 million acre feet (MAF) of supply conveyed through Reclamation's Sacramento River Division, the anticipated changes do not justify any additional analysis of system reoperations beyond that provided in the DEIR/DEIS.

However, if Reclamation was to approve the proposed assignment, it could seek to do so under different conditions, including the consideration of the proposed water/land use

changes under the assignment and the resulting reoperation effects on the CVP, which could require additional environmental review and NEPA compliance.

USBR-19

*The comment states that the DEIR/DEIS assumes a very limited reoperation scenario based on the assumption of non-diversion of full contract delivery to NCMWC rather than systematic operation. The comment further states that no discussion is included about water/land use changes resulting from the proposal.*

See response to comment USBR-18.

USBR-20

*The comment states that the CVP only delivers to Natomas Mutual diversion point what has been historically used within the district to support agricultural activities and, therefore, no additional water would flow downstream to the Freeport location.*

See responses to comments USBR-1 and USBR-17 (concerning the recent *Cherry Valley* decision). The City believes that the proposed assignment triggers terms of the CVPIA that favor contractors in the area of origin. Specifically, the City believes that the assignment triggers CVPIA Section 3405(a)(1)(M), which states that transfers between area of origin contractors like the City and NCMWC are deemed to satisfy CVPIA Section 3405(a)(1)(A), which states that the amount of transfers would be based on historic use. The City is unclear on the commenter's suggested basis for treating the proposed assignment differently than how it would be treated as a transfer. Accordingly, congressional policy established in CVPIA dictates that the fact that NCMWC may not have taken full contract deliveries in recent years does not affect the amount of water available for NCMWC to assign. In addition, as discussed in response to comment USBR-1, NCMWC's settlement contract with Reclamation authorized NCMWC to assign "Project" water, subject to Reclamation's approval, which may not be unreasonably withheld.

However, if Reclamation was to approve the proposed assignment, it could seek to do so under different conditions, including the consideration of the historic use of contract water supply and its appurtenance to the NCMWC's served lands under the Sacramento River settlement contract (SRSC), which could require additional environmental review and NEPA compliance.

USBR-21

*The comment states that the proposed assignment water would represent a new water demand associated with the Folsom land use water demand development.*

The comment is correct in that development of the SPA would represent a new water demand. As provided on page 2-79 of the DEIR/DEIS, the project's total water demand is estimated at 5,543 AFY, which was rounded up to 5,600 AFY for the purposes of analysis. These demands, however, would be met with existing CVP water supplies via assignment from NCMWC, subject to the 25% shortage provision stated in Article 5(a) of NCMWC's settlement contract with Reclamation. (Appendix G to DEIR/DEIS Appendix M1, Article 5[a].) Hence, the assignment would not create a new CVP demand, but would rather change the pattern of delivery for an existing CVP demand. In addition, as discussed in response to comment USBR-17, the City's diversions of that water would be within Freeport Project's diversion and conveyance capacity that Reclamation already has incorporated into the OCAP.

However, if Reclamation was to approve the proposed assignment, it could seek to do so under different conditions, including the consideration of the historic use of contract water supply in NCMWC's service area and the severance of this supply from the land

through the assignment (i.e., new water supply), which could require additional environmental review and NEPA compliance.

USBR-22

*The comment states that the project assignment would create a reoperation effect on the CVP-State Water Project (SWP) system that is not analyzed in the DEIR/DEIS.*

The assignment would create a minor reoperation effect as a result of the change in delivery schedule from Agriculture to M&I. Article 3(e) of NCMWC's settlement contract with Reclamation contemplates that NCMWC could assign "Project" water to another entity and Article 7(a) of that contract contemplates that "Project" water could be shifted to municipal and industrial use. (Appendix G to DEIR/DEIS Appendix M1, Articles 3[e], 7[a].) The effect of implementation of the proposed assignment consistent with these contract terms is evaluated both at the project and cumulative levels in the DEIR/DEIS. However, the assignment would have no effect on existing CVP operations, because no CVP facilities would be used beyond the main channel of the Sacramento River and Shasta Reservoir in which NCMWC's supplies are already stored. Project-related effects to CVP operations are specifically shown in Table 3B.9-3 and discussed on pages 3B.9-28 through 3B.9-30 of the DEIR/DEIS and were concluded to be less than significant. Potential cumulative effects to the CVP/SWP system are discussed on pages 4-40 through 4-41 of the DEIR/DEIS and were not considered cumulatively considerable based on the small quantity of water involved in relation to the 9 million acre-feet of total supplies within the CVP/SWP system.

However, if Reclamation was to approve the proposed assignment, it could seek to do so under different conditions, including the consideration of the proposed water/land use changes under the assignment and the resulting reoperation effects on the CVP, which could require additional environmental review and NEPA compliance. Although the City considered these effects to be beyond the scope of the project, the City has added additional text to page 3-2 of the DEIR/DEIS to clarify this understanding as shown in Chapter 5, "Errata" of this FEIR/FEIS.

USBR-23

*The comment states that the analysis contained in the DEIR/DEIS is not sufficient to support an assignment from NCMWC to Folsom because the actual impacts to the CVP have not been addressed.*

As discussed in response to comment USBR-1, the DEIR/DEIS analyzed the impacts of the proposed assignment based on several assumptions concerning its implementation. The DEIR/DEIS' characterization and analysis of potential impacts to CVP operations from the proposed assignment is adequate. The potential effects of the assignment in the context of overall CVP operations are discussed in detail in Impact 3B.9-4 of the DEIR/DEIS on pages 3B.9-28 through 3B.9-30 and in the cumulative analysis on pages 4-40 through 4-41. DEIR/DEIS Table 3B.9-3 (page 3B.9-29) provides a monthly summary of the potential effects, including the CVP. As provided, the main effects of the assignment are associated with the change in the delivery schedule from Agriculture to M&I combined with a reduction in the efficiency of return flows (e.g., 65% to 80%) to the Sacramento River. Article 3(e) of NCMWC's settlement contract with Reclamation contemplates that NCMWC could assign "Project" water to another entity and Article 7(a) of that contract contemplates that "Project" water could be shifted to municipal and industrial use. (Appendix G to DEIR/DEIS Appendix M1, Articles 3[e], 7[a].)

These effects were then considered in the context of the City's proposed purchasing of capacity within the existing Freeport Project, which has already undergone NEPA review. The certified Freeport Project EIR/EIS is incorporated by reference into the

DEIR/DEIS. As described on pages 2-81 to 2-82 of the DEIR/DEIS, as part of proposed Off-site Water Facility Alternatives, the City would purchase diversion and conveyance capacity within the Freeport Project from Sacramento County Water Agency and, therefore, no increase in diversion capacity is proposed along the Sacramento River. Additionally, the assignment would involve the use of existing CVP contract supplies and, therefore, would not infringe on any other CVP contractor's supply. In this context, the effects described in DEIR/DEIS Impact 3B.9-4 consider all the operational changes that would occur in conjunction with the assignment and appropriately conclude the impact as less than significant.

However, if Reclamation was to approve the proposed assignment, it could seek to do so under different conditions, including the consideration of the effects to the overall CVP, which could require additional environmental review and NEPA compliance.

USBR-24

*The comment states that the discussion in the DEIR/DEIS is insufficient and needs to include a valid analysis of the historic use of the subject water by NCMWC and discuss how diversion of possibly unused water might affect the overall demand for CVP water.*

By analyzing possible impacts to the reach of the Sacramento River between NCMWC's diversion and the Freeport Project diversion, the DEIR/DEIS analyzes the portion of the CVP system that could be affected by the project. Because the project would involve Freeport diversions within the Freeport Project's capacity (DEIR/DEIS, pages 1-2 and 2-82 to 2-83), the use of that capacity is already incorporated into the OCAP and the DEIR/DEIS incorporates the Freeport Project's EIR/EIS (page 1-17), the project would not result in any impacts to the CVP below Freeport. In addition, the project would involve an assignment of a portion of NCMWC's "Project" water under its settlement contract and therefore the delivery of that water to NCMWC is also already incorporated into the OCAP. Moreover, as discussed above (see response to comment USBR-20), the CVPIA dictates that all of NCMWC's "Project" water is available for assignment. Further, as discussed in more detail below (see responses to comments USBR-92 and USBR-106), the amount of CVP "Project" water to be assigned from NCMWC to the City is extremely small in relation to the total amount of water within the CVP system. Finally, the DEIR/DEIS analyzes the project's impacts within NCMWC's service area and the Sacramento River between NCMWC and Freeport. (DEIR/DEIS, pages 3B.3-37 to 3B.3-38, 3B.3-50 to 3B.3-51, 3B.3-61, 3B.9-1 to 3B.9-6, 3B.9-19 to 3B.9-20, and 3B.9-28 to 3B.9-30.)

However, if Reclamation was to approve the proposed assignment, it could seek to do so under different conditions, including the consideration of the cumulative effects on the demand for CVP water, which could require additional environmental review and NEPA compliance.

USBR-25

*The comment states that the DEIR/DEIS does not contain a discussion of full CVP-SWP reoperation effects resulting from the potential assignment.*

See responses to comments USBR-1, USBR-22, and USBR-23. The project assignment would not create conditions that necessitate full CVP reoperation. The DEIR/DEIS provides a detailed discussion of the anticipated impacts to the CVP/SWP both within the Delta and CVP reservoirs. DEIR/DEIS Table 3B.9-3 (page 3B.9-29) provides specific detail as to the assignment's effects in terms of both changes to CVP use and changes to the Lower Sacramento River, which in turn may be correlated with potential changes downstream in the Delta. As provided in the last paragraph of Impact 3B.9-4 on page 3B.9-30 of the DEIR/DEIS, based on the change in delivery schedule, the assignment

would result in increased diversions during other times of the year when compared to existing conditions. This impact was determined to be less than significant in the context that the increased diversion would occur during times of the year when more water is present within the Sacramento River combined with a reduction in demand when water demands are at their highest (e.g. July and August) and river flows are at their lowest.

To provide additional details regarding the project's potential effects to average monthly storage within Shasta Reservoir, the City has added additional detail to Table 3B.9-3 of the DEIR/DEIS as shown in Chapter 5, "Errata" of this FEIR/FEIS.

USBR-26

*The comment states that no analysis is provided of the reoperation or the effects of distribution of the assignment as "new demand" in the Central Valley. The comment suggests that this information should appear in the Chapter 3, "Water" sections of the DEIR/DEIS.*

See response to comment USBR-25.

USBR-27

*The comment states that the "Water" Study Area includes NCMWC service area, portions of the Sacramento River, and pipeline alignments and water treatment plant (WTP) locations, which extend from the community of Freeport through central and eastern Sacramento County to the SPA, but not the integrated system of the CVP (Shasta Reservoir, Upper tributaries, Sacramento River, American River, and the Delta).*

See response to comment USBR-24.

USBR-28

*The comment states that other options to a diversion at Freeport, based on capacity issues, are not clearly described in the DEIR/DEIS.*

The DEIR/DEIS considered options to the diversion at Freeport. Section 2.8 of the DEIR/DEIS describes the "Water" Alternatives considered but eliminated from further evaluation in the DEIR/DEIS. Section 2.8.1 of the DEIR/DEIS describes the screening process and result of the various alternatives considered. As provided on page 2-99 of the DEIR/DEIS, a new Sacramento River diversion and water right was not considered as part of the Off-site Water Facility Alternatives primarily due to greater physical and operational impacts to the Sacramento River and the additional length of conveyance facilities that would be required. For this reason, the diversion of the assigned water at Freeport was selected for further consideration under NEPA. In addition, the DEIR/DEIS incorporates the Freeport Project's EIR/EIS by reference (DEIR/DEIS, page 1-17).

As explained in response to comment USBR-1, because the proposed assignment would not result in work in navigable waters or the discharge of dredged or fill material into waters of the U.S., this activity is not within the USACE's scope of analysis, and therefore USACE determined that the screening criteria for the water supply alternatives is sufficient for its purposes. If Reclamation were to determine that additional analysis would be required on the proposed assignment for compliance with NEPA, the USACE anticipates that Reclamation would be the lead Federal agency. In addition, the USACE understands that this additional NEPA analysis might include an analysis of some or all of the water supply alternatives that were screened out within this EIS, or an analysis of other alternatives developed by Reclamation.

USBR-29

*The comment asks how sufficiency of the surface water supply from Natomas is addressed in the analysis of impacts (rescheduling base supply to cover shortages and long-term reliance on this water source).*

The sufficiency of NCMWC's water supply for the project is evaluated extensively in Section 3A.18, "Water Supply" of the DEIR/DEIS. As provided on page 3A.18-9 of the DEIR/DEIS, the analysis provided in the WSA and summarized in Table 3A.18-7 concludes that the NCMWC water supply would be sufficient to meet projected water demands in normal and critically dry years. This conclusion is supported by the draft agreements and MOUs entered into between the City and/or project applicants, and some of these critical approval entities (e.g., NCMWC)(see Appendices E-G to DEIR/DEIS Appendix M1; see also FEIR/FEIS Appendix T), thereby establishing a solid initial framework for the required approvals. Further, the DEIR/DEIS notes that because there is no complete certainty as to the legal and regulatory approvals required, including those from Reclamation, successful implementation of DEIR/DEIS Mitigation Measure 3A.18-1 would be required prior to approval of any small-lot tentative subdivision map.

Further, the assignment does not propose the purchasing or rescheduling of NCMWC's Base Supply and, therefore, the City anticipates no change to the delivery pattern for NCMWC's Base Supply. This conclusion is supported by the findings of the report prepared by Wagner and Bonsignore (contained in Appendix M2 of the DEIR/DEIS, see Tables 18 and 19), which indicates that no change in the delivery of NCMWC's Base Supply would be required, even during the critical year condition, to satisfy 2007 cropping patterns. As discussed in more detail below in response to comment USBR-35, the NCMWC-South Folsom Properties, LLC (SFP) agreement itself resolves this issue.

To further clarify this distinction between NCMWC's "Base Supply" and "Project" water," additional text has been added to page 2-81 of the DEIR/DEIS as shown in Chapter 5, "Errata" of this FEIR/FEIS.

USBR-30

*The comment suggests that the option of reducing existing water supplies north of U.S. 50 to meet the relatively small demand of the project (i.e., 5,600 AFY) should be analyzed in the DEIR/DEIS.*

See responses to comments USBR-10, USBR-12, and USBR-13.

USBR-31

*The comment states that NEPA requires all reasonable alternatives to be analyzed, even those beyond the authority of the agency to implement.*

See responses to comments USBR-10, USBR-12, and USBR-13.

USBR-32

*The comment states that the City did not appear to look at reliable water sources for the development that could meet the requirements of Measure W besides NCMWC assignment of CVP settlement contract water.*

See response to comment USBR-10. As provided on page 2-99 of the DEIR/DEIS, the City evaluated a total of 10 water sources for the project. Each of these alternative water sources were initially considered, but not carried forward for additional evaluation in the DEIR/DEIS as a result of one or more reasons described on page 2-99, except for the primary preferred source. Additionally, to satisfy the requirements of CEQA, the City evaluated three additional water supply options (to meet CEQA requirements under the *Vineyard* case) for the assignment in Section 3A.18.5, "Water Supply" of the DEIR/DEIS. The selection of the NCMWC CVP settlement contract supply for full

consideration under NEPA is rooted in the fact that this supply is most closely aligned with the purpose and need of the water portion of the project.

USBR-33

*The comment suggests that the analysis should look at the benefits/disadvantages of the various alternative sources, one of the criteria being whether the proposal would meet the Water Forum Agreement (WFA) objectives.*

As provided on page 1-8 of the DEIR/DEIS, a primary objective of the water portion of the project is to secure a reliable water supply consistent with the objectives of the Water Forum Agreement (WFA). Other alternatives considered but not carried forward for further evaluation are described in Section 2.8 on pages 2-97 through 2-104 of the DEIR/DEIS. Of the other alternatives considered, their consistency with the WFA was central to the City's evaluation and ultimate decision to carry forward the NCMWC supply with diversion at Freeport for consideration under NEPA and CEQA.

USBR-34

*The comment states that a key objective is [to determine] whether the water supply alternative would hamper in any way Reclamation's ability to meet in-stream/downstream flow and temperature requirements, as per the June 4, 2009, National Marine Fisheries Service (NMFS) Biological Opinion (BO), in accordance with its public trust resource responsibilities.*

The comment does not account for the fact that the City proposes to divert water only within the Freeport Project's existing capacity (DEIR/DEIS, page 1-2), which is already considered in the USFWS/NMFS Biological Opinions (BOs) and the Reasonable and Prudent Alternatives (RPA) prescribed by these agencies (DEIR/DEIS, page 3B.9-14). The DEIR/DEIS (page 1-17) also incorporates the Freeport Project's EIR/EIS by reference. Additionally, the comment does not consider the benefits of changing the Agricultural delivery schedule to an M&I schedule. This change would reduce deliveries in July in August, but would extend the deliveries into months of September, October, and November, thereby contributing minor additions of flow to the section of the Sacramento River between NCMWC's existing diversion point and the Freeport project and the stabilization of flows during the fall-run/late fall-run spawning period consistent with RPA and CVPIA Anadromous Fish Restoration Program guidelines. (DEIR/DEIS, pages 3B.3-37 to 3B.3-38, 3B.3-50, 3B.3-61, 3B.9-1 to 3B.9-6, 3B.9-19 to 3B.9-20, and 3B.9-28 to 3B.9-30.)

USBR-35

*The comments states that the agreement between NCMWC and the City indicates that the base supply would need to be rescheduled to the critical months, which is not analyzed in the DEIR/DEIS.*

While the NCMWC-SFP agreement suggests the possibility that NCMWC would seek to change the timing of the delivery of its Base Supply, that agreement also indicates that the issue (described in Milestone A of that agreement) was resolved by the time that NCMWC and SFP signed that agreement. (NCMWC-SFP agreement, Sections 1.6, 1.7, 8.2 [Appendix E to DEIR/DEIS Appendix M, pages 2, 5, and 17].) Any rescheduling of Base Supply that might have been contemplated is therefore not an issue for the DEIR/DEIS.

USBR-36

*The comment asks about the efficiency of the return flow once it was used consumptively by the project.*

See responses to comments USBR-8 and USBR-9.

- USBR-37 *Then comments asks for clarifications as to whether return flows under the assignment would go back into the American River or into the Cosumnes River.*
- See responses to comments USBR-8 and USBR-9.
- USBR-38 *The comment states that NCMWC did not appear to be included in the analysis of water demand factors.*
- Because the WSA only addresses the M&I water supplies associated with the project, its water-demand analysis did not review NCMWC's agricultural water demands. The WSA includes a review of demands within the service areas of nearby municipal and industrial water suppliers besides the City. (DEIR/DEIS, Appendix M1, pages 12-13.)
- For water demands within NCMWC's service area, the Wagner & Bonsignore Report provided in Appendix M2 of the DEIR/DEIS includes an analysis of available supplies before and after the assignment and their adequacy based on 2004 and 2007 cropping patterns.
- USBR-39 *The comment asks how projected water use within the current city limits is projected to experience a slight decrease by 2030 to 27,069 AFY and whether this decrease is anticipated in the SPA and reflects a 20% per capita reduction in urban water use statewide by 2020.*
- As the DEIR/DEIS text quoted by the comment explains, the SPA's water demands are separate from the water demands of the existing City service area. As the WSA explains, the City's 2005 urban water management plan (UWMP) addressed only the City's existing service area and the SPA's water demands were not included in the 2005 UWMP's analysis. (DEIR/DEIS, Appendix M, page 1.) As also described in the WSA, the 2009 conservation legislation supports the City's water-demand analysis for the SPA. (DEIR/DEIS, Appendix M, page 14.)
- USBR-40 *The comments asks whether the City's projected water use (by 2030) as provided in the City's Water Master Plan includes the SPA demand because the SPA is supposed to be annexed before 2030.*
- See response to comment USBR-39.
- USBR-41 *The comment states that the assignment suggests a need to reschedule base supply in the summer months, and the comment asks how is this factored into the DEIR/DEIS analysis.*
- See response to comment USBR-29.
- USBR-42 *The comment states that the timing of the agreement between NCMWC and SFP to ensure a secured water source (additional 1-year periods) is not consistent with a long-term assignment of the water by Reclamation.*
- The comment misinterprets the NCMWC-SFP agreement. Under that agreement, SFP has an initial period of 5 years to close its acquisition of 8,000 AFY from NCMWC and that 5-year period can be extended in 1-year increments. (NCMWC-SFP agreement, Section 8.7 [Appendix E to DEIR/DEIS Appendix M, page 6].) Once closed, SFP's acquisition of that supply would be permanent. (NCMWC-SFP agreement, Section 3.1 (Appendix E to DEIR/DEIS Appendix M, page 3).)

USBR-43

*The comment states that the City, not the developer, would need to work with Reclamation and Natomas to get approval for the assignment.*

The comment is correct. This understanding is reflected in the first two paragraphs on page 2-81 of the DEIR/DEIS.

USBR-44

*The comment suggests that water supplies used to service the other areas in Folsom are not accounted in the DEIR/DEIS analysis and should be evaluated under NEPA.*

See response to comment USBR-39. The EIR/EIS would support the City's application to the Sacramento County Local Agency Formation Commission (LAFCo) to annex the SPA and that LAFCo is a responsible agency for the current project. (DEIR/DEIS, pages 1-12 to 1-13.) The project does not propose to use "Project" water assigned by NCMWC to service other areas of Folsom or to construct new water conveyance facilities other than those analyzed in the DEIR/DEIS.

USBR-45

*The comment suggests that a section and page reference for mitigation measures associated with water supply facilities should be identified.*

Mitigation measures proposed specifically for one or more of the Off-site Water Facility Alternatives are distinguishable by a "B" in the mitigation number (e.g., 3B.1-2). The section number in each mitigation measure is denoted by the first three characters of the mitigation measures (e.g., Mitigation Measure 3B.1-2 applies to Section 3B.1, "Aesthetics – Water"). All mitigation measures proposed by the City are summarized in the DEIR/DEIS Executive Summary, Table ES-1, starting on page ES-10.

USBR-46

*The comment asks who would be responsible to mitigate for impacts associated with the water supply facilities.*

The City's Utilities Department would be the entity with the primary responsibility for implementing and enforcing mitigation measures prescribed for the Off-site Water Facility Alternatives.

USBR-47

*The comment asks if the rescheduling of the base supply into the summer months would necessitate a change in existing irrigation patterns. The comment then suggests that the biological effects of the water supply are not analyzed as a result of a limited project footprint.*

The comment incorrectly suggests that an assignment of Base Supply is proposed. Under the NCMWC-SFP agreement, "Project" water would be assigned. (NCMWC-SFP agreement, Sections 1.3 and 3.1 [Appendix E to DEIR/DEIS Appendix M1, pages 2-3].) In addition, as discussed in the Wagner & Bonsignore report, even an assignment of 10,000 AFY would not affect the availability of water to serve demands within NCMWC. (DEIR/DEIS Appendix M2, pages 16-27.) The NCMWC-SFP agreement suggests the possibility that NCMWC would seek to change the timing of the delivery of its Base Supply, but that agreement also indicates that the issue (described in Milestone A of that agreement) was resolved by the time that NCMWC and SFP signed that agreement. (NCMWC-SFP agreement, Sections 1.6, 1.7, and 8.2 [Appendix E to DEIR/DEIS Appendix M1, pages 2, 5, and 17].) Any rescheduling of Base Supply that might have been contemplated is therefore not an issue for the DEIR/DEIS. To the extent that NCMWC might make a future request to reschedule Base Supply, Reclamation would need to determine, at that time, what type of review under NEPA would be required to address NCMWC's specific request.

As discussed in response to comment USBR-24 above, the DEIR/DEIS analyzes the impacts to the portions of the CVP system that could be affected by the project. That analysis contains extensive analysis of the project's potential impacts within NCMWC's service area, which is Zone 1 of the DEIR/DEIS's "Water" study area. That analysis is based in part on Wagner & Bonsignore's analysis of any possible impacts on NCMWC's irrigation capacity that an assignment of up to 10,000 AFY would cause (see DEIR/DEIS Appendix M2).

USBR-48

*The comment states that because the project would be operated as an integrated system, the water supply portion of the biological effects analysis must consider the impacts of the diversion (both the rescheduling of project supply as M&I and seasonal diversion pattern change) as well as the scheduling of the base supply in the critical months of July and August.*

As provided in response to comment USBR-29 above, the project does not propose any rescheduling of NCMWC's Base Supply. In addition, as discussed in response to comment USBR-35 above, the NCMWC-SFP agreement treats the Base Supply rescheduling issue as resolved. Further, based on the findings of the Wagner and Bonsignore report in Appendix M2 of the DEIR/DEIS, other water sources within NCMWC would be available to compensate for the assigned "Project" water, thereby eliminating the need to reschedule a portion of NCMWC's Base Supply into the months of July and August.

To ensure an adequate evaluation of the potential effects to fisheries within the Sacramento River as a result of the assignment, the DEIR/DEIS incorporates by reference the EIR/EIS prepared for the Freeport Regional Water Project. As provided on page 3B.3-35 of the DEIR/DEIS, the Freeport Project EIR/EIS provides extensive detail regarding the terrestrial biological and fishery resources present within Zones 2 and 3 of the "Water" Study Area. This includes consideration of potentially occurring fish species and associated life stages relative to the magnitude, timing, frequency, and duration of operations at Freeport. This consideration includes construction of the diversion facilities and water supply operations. Species habitat attributes potentially affected by water supply operations and assessed in the Freeport Project EIR/EIS include spawning habitat area, rearing habitat area, migration habitat conditions, water temperature, food, and entrainment in diversions. Given that the assignment involves no increase in the permitted capacity for the Freeport Project diversion from that evaluated in the EIR/EIS, these issues are not revisited in the DEIR/DEIS prepared for this project.

Beyond considering the use of existing Freeport Project facilities, Impacts 3B.3-2 and 3B.3-6 in the DEIR/DEIS provide additional discussion of the potential effects to fisheries based on the change in flow within the Sacramento River as a result of the assignment. These effects are qualitatively discussed and are based on the changes in flow as provided in Table 3B.9-3 of the DEIR/DEIS. As discussed, the proposed change in the point of diversion and change in CVP delivery schedule are relatively minor effects when compared to overall flows in the Sacramento River system, including total Delta inflow and outflow, and Delta CVP and State Water Project (SWP) exports.

Further, consideration is also provided for potential impacts on special status fish species from increased discharges of ammonia from SRCSD's WWTP based on the change in return flows following the assignment. As provided on page 3B.3-51 of the DEIR/DEIS, given the various existing stressors that characterize existing river conditions combined with the fact that the Off-site Water Facility Alternatives would involve only minor hydrologic changes and essentially a trading in the type of nitrogen-based inputs to the

system, potential impacts to fisheries in relation to cumulative sources of existing nitrogen loadings were considered less than significant.

Given the DEIR/DEIS' careful consideration of the direct and indirect impacts to fisheries as a result of the assignment, issues related to changes in the pattern and seasonal use of the assigned CVP are considered adequately covered and no additional analysis is warranted.

USBR-49 *The comments suggests that the DEIR/DEIS should provide an analysis of how the assignment's changes in pattern and seasonal water use would impact fish species because of the reoperation of the CVP (systemwide from Shasta Reservoir into the Delta).*

See response to comment USBR-48.

USBR-50 *The comment states that the land-use changes that would result in NCMWC's service area because of the assignment have not been fully analyzed.*

See responses to comments USBR-16 and USBR-29. In addition, the Wagner & Bonsignore report as provided in Appendix M2 to the DEIR/DEIS, satisfies the requirements of Section 1.7 "Milestone A" of the referenced agreement between NCWMC and SFP, and is intended to confirm the adequacy of NCMWC's critical month water supplies with the proposed assignment.

USBR-51 *The comment states that the Agreement between the land developer SFP and NCMWC (provided in Appendix M1 of the DEIR/DEIS) concludes the surface water needs would need to be analyzed to determine if future NCMWC service area needs would be met.*

See response to comment USBR-50.

USBR-52 *The comment states the DEIR/DEIS seems to conclude natural communities would be affected only by substantial changes in water levels or diversion of flow and that impacts resulting from changes in water temperature and seasonal flow fluctuations have not been addressed.*

The comment references DEIR/DEIS Impact 3B.3-5, "Loss of Sensitive Natural Communities" (not already covered under other impacts), and takes the discussion out of context. The discussion provided on DEIR/DEIS pages 3B.3-55 through 3B.3-56 focuses on physical impacts within Zone 4 of the "Water" Study Area and changes in water levels and flow within the Sacramento River as a result of the assignment and the corresponding effects to sensitive natural communities or habitats. Issues related to water temperature are addressed in the Freeport Project EIR/EIS, which is incorporated by reference into the DEIR/DEIS. Effects of the assignment on seasonal flow are discussed and analyzed in Impact 3B.9-4 of the DEIR/DEIS.

USBR-53 *The comment states that return flows need to be analyzed (i.e., those that would normally get into the American River to help meet downstream requirements as per NCMWC's unused contract irrigation supply) and asks how these are being factored in.*

See response to comment USBR-8.

- USBR-54                    *The comment states that the DEIR/DEIS seems to suggest the return flows would continue down the Sacramento River and into the Cosumnes River.*
- See response to comment USBR-9.
- USBR-55                    *The comment states that the DEIR/DEIS provide no discussion regarding the resource management agency consultation and coordination phase of this project, in particular, a consultation on the impacts of the Off-site Water Facility Alternatives on listed species because of the changes in delivery pattern/season/place of use under the assignment.*
- See response to comment USBR-4. Based on the assumptions described in response to comment USBR-1, the DEIR/DEIS analyzes all foreseeable environmental issues associated with the proposed assignment and therefore provides a technical basis for any required ESA analysis. Finally, the DEIR/DEIS analysis demonstrates that the assignment, as described in response to comment USBR-1, would not affect any listed species. (DEIR/DEIS pages 3B.3-34, 3B.3-50 to 3B.3-51, 3B.3-55 to 3B.3-56, 3B.3-61, 3B.9-19 to 3B.9-21, and 3B.9-28 to 3B.9-30.)
- USBR-56                    *The comment states that the DEIR/DEIS contains no analysis to support ESA Section 7 compliance for the assignment.*
- See responses to comments USBR-1, USBR-4, and USBR-55.
- USBR-57                    *The comment states that the Groundwater Basin Option described on page 3A.18-23 does not appear to be a viable alternative to the Natomas assignment given the contaminant levels within the surrounding areas.*
- As the DEIR/DEIS explains, the groundwater supply option is included to fulfill CEQA’s requirement that, where the primary water supply is not secure, an EIR must describe the possible impacts of other water supply options. (See DEIR/DEIS pages 3A.18-23.) This CEQA requirement derives from state case law. NEPA does not require such an analysis. The groundwater supply option therefore is not relevant for NEPA purposes and, in particular, is not a NEPA alternative. In addition, CEQA does not require that the options to the primary water supply be secure, but only that the EIR disclose and discuss them. (*Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* [2007] 40 Cal.4th 412, 432.) In addition, the DEIR/DEIS determined that this option has a high level of short-term certainty, pending operation of the Freeport Project’s operation. While further contaminant analysis would be necessary to determine what drinking-water treatment would be necessary, groundwater from eastern portions of the Central Subbasin is already used as a source of supply and the existing level of information is sufficient for the City to conduct the water-supply option analysis required only by CEQA.
- USBR-58                    *The comment states that data may be incomplete to make any conclusions regarding groundwater quality impacts because water quality data are limited, as stated on page 3A.09-6 in the DEIR/DEIS.*
- See response to comment USBR-57.

USBR-59

*The comment refers to seasonal perched groundwater that may be present in the fractures, whose quantity typically would vary throughout the project site. The comment states that this seems to suggest groundwater over a semi-confining layer and an unsaturated condition below the layers, but that this may not be the case for fractured bedrock.*

This information stated in DEIR/DEIS page 3A.9-5 is as follows, “Groundwater volumes typically vary locally throughout the SPA. Seasonal perched groundwater may be present in the fractures of the weathered bedrock found beneath the SPA at varying times of the year, as evidenced by the presence of vernal pools regarding the fractured bedrock aquifer.” This data was provided by Youngdahl Consulting Group, Ltd., certified geotechnical engineers, in its geotechnical report for the project site (2003), and attached as Appendix F to the DEIR/DEIS. The commenter states: “This seems to suggest groundwater over a semi-confining layer and an unsaturated condition below the layers. This may not be the case for fractured bedrock.” It is unclear as to what disagreement the commenter has with the opinion provided by the geotechnical engineer, (presented in the Affected Environment of Section 3A.9.1 of the DEIR/DEIS), or how it would affect the impact conclusions presented in Section 3A.9.3 of the DEIR/DEIS.

USBR-60

*The comment states that for the designated beneficial use that is listed as “irrigation,” it should be labeled “agriculture.” The comment states that the Central Valley Regional Water Quality Control Board (CVRWQCB) is adding or may have added the “commercial” (COMM) beneficial use for these water bodies.*

The DEIR/DEIS page 3A.9-6 lists agricultural supply under the first bullet point of designated beneficial uses. Irrigation is a subcategory under agriculture that is listed as a beneficial use for the American River (between Folsom Dam and the Sacramento River). The addition of the commercial beneficial use for the water bodies relevant to the project, as suggested by the commenter, was not able to be confirmed by the City based on the most recent Basin Plan (revised September 2009) available on the CVRWQCB website ([www.swrcb.ca.gov/centralvalley/water\\_issues/basin\\_plans/sacsjr.pdf](http://www.swrcb.ca.gov/centralvalley/water_issues/basin_plans/sacsjr.pdf)).

USBR-61 through  
USBR-62

*The comments state that the groundwater underlying Area 40 is contaminated with volatile and semi-volatile organic compounds, and although Section 3A.9-5 discussed groundwater hydrology in the SPA, no mention was made as to how potential changes in flows through Alder Creek because of development could affect the underlying groundwater under this stream channel and the subsequent movement or remediation of the contaminated groundwater.*

See response to comment USBR-5. As provided in that response, Alder Creek is approximately 1 mile north of Area 40. Further, Area 40 is located in an area tributary to Buffalo Creek and, therefore, the potential for a sub-surface connection between Alder Creek and Area 40 is unlikely.

USBR-63

*The comment references possible water quality impacts and asks that since the SPA is located in an area known to contain asbestos, whether any concerns exist with asbestos getting into the waterways for the short term, during construction.*

As stated in DEIR/DEIS Sections 3A.1 “Air Quality” and 3A.7 “Geology, Soils, Minerals, and Paleontological Resources,” soils containing naturally occurring asbestos have the potential to be present in the SPA. Because naturally occurring earth materials are subject to weathering and erosion, some background levels of asbestos and metals are likely present at all times in the streams that flow across soils containing naturally

occurring asbestos. Material disturbed during construction or subsequently weathered would settle out in sediments in creek beds and some would temporarily be contained in the water column. Asbestos fibers may be carried long distance by water currents before settling, but asbestos fibers do not bind to soils and do not migrate into groundwater through soils (USEPA 2010).

Any elevated concentrations of asbestos or metals in water would be expected to be short-term in duration during construction. In general, health concerns related to asbestos and metals in drinking water are related to chronic exposure over extended periods of time. Asbestos exposure in drinking water is not known to cause any human health problems with short-term exposure and asbestos is not expected to accumulate in aquatic life (USEPA 2010).

The measures included in DEIR/DEIS Mitigation Measure 3A.2-5 (“Implement a Site Investigation to Determine the Presence of NOA and, if necessary, Prepare and Implement an Asbestos Dust Control Plan”) would also serve to minimize the transport of asbestos fibers into waterways during construction. Additionally, the implementation of Mitigation Measures 3A.2-1a and 3A.9-1 in the DEIR/DEIS would address the principal sources of sediment that could otherwise be mobilized during construction through wind and/or water erosion thereby minimizing the potential for discharges of asbestos into local waterways, including Alder Creek.

USBR-64

*The comment suggests that for water quality terms, the units for organic pesticides should be noted as “ng/L.”*

The comment is correct that DEIR/DEIS Table 3A.9-1 (page 3A.9-14) incorrectly abbreviates nanograms per liter as Ng/l instead of as ng/l in the body of the table. However, this abbreviation is correctly represented in the notes at the bottom of the table. The comment is noted.

USBR-65

*The comment states that the final sentence on page 3A.9-20 of the DEIR/DEIS mentions an impoundment on Alder Creek that may be considered under the Division of Safety of Dams jurisdiction but does not offer any additional information about the impoundment—size, location, purpose, etc. The comment suggest that if this is a feature of the project, it should be fully analyzed.*

As stated on DEIR/DEIS page 3A.9-1, the impoundments on the project site consist of several irrigation/cattle water ponds. There are no impoundments located on Alder Creek. Rather, as stated on DEIR/DEIS page 3A.9-20, one of the impoundments is located on a tributary to Alder Creek. The potential impact from flooding related this impoundment is evaluated in DEIR/DEIS Impact 3A.9-4, and mitigation is recommended on page 3A.9-44.

USBR-66

*The comment notes that detention basins are effective at removing many water quality contaminants associated with stormwater flows if they are maintained and a long-term strategy is in place to keep them operating efficiently. The comment suggests that under the bullet on page 3A.9-38 of the DEIR/DEIS, "Source control program to control water quality ...," a commitment should be added to ensure the long-term sustainability of these activities through a permanent funding source.*

As described in the DEIR/DEIS on page 3A.9-39 in the explanation of Mitigation Measure 3A.9-3, “A pond management component for the proposed basins that shall include management and maintenance requirements for the design features and Best

Management Practices (BMPs), and responsible parties for maintenance and funding” is included as a requirement for the BMP and water quality maintenance plan. In addition, as part of DEIR/DEIS Mitigation Measure 3A.9-2 (page 3A.9-29), final drainage plans must include a description of the proposed maintenance program for the on-site drainage system. Therefore, long-term maintenance requirements for the proposed detention basins and drainage system are already included in the DEIR/DEIS.

The project would also be subject to the Sacramento County and City of Folsom Phase I NPDES MS4 Permit which includes monitoring requirements specified in the monitoring and reporting program (MRP) portion of the NPDES permit. The *Stormwater Quality Design Manual* for Sacramento and South Placer Regions, which is currently the guiding technical design document for development and major redevelopment in the unincorporated County of Sacramento and City of Folsom, describes that maintenance provisions are required for all treatment control measures, as mandated by the NPDES MS4 Permit. The local permitting agencies therefore are required to ensure a maintenance plan is in place through the execution of a maintenance agreement, covenant, or permit with the property owner. The agreements generally include provisions for the permitting agency to recover costs for maintenance in the event that the property owner fails to fulfill their obligations and they also require reconstruction or replacement of the feature when it fails to function properly (Sacramento Stormwater Quality Partnership [SSQP] 2007:3-8). In addition, the City of Folsom requires a standard maintenance agreement to ensure long term maintenance of stormwater quality treatment facilities (SSQP 2009:7-8).

USBR-67 through  
USBR-68

*The comments state that a statement in the table on page 3B.17-2 is unclear as to whether groundwater pumping would increase in dry years, and if it did increase, the comments state that mitigation would be required to ensure that impacts remained less than significant.*

The DEIR/DEIS evaluates the effects of the project to groundwater on both the North and Central Sacramento County Groundwater Basins. Increased groundwater pumping within NCMWC’s service area would not occur based on the combination of supplies available to NCMWC in relation to anticipated cropping patterns. This consideration and supporting discussion are provided in the first paragraph of page 2-82 of the DEIR/DEIS and the third paragraph of page 3B.17-13.

Impacts to the Central Sacramento Groundwater are discussed and evaluated in Impacts 3B.17-2 and 3B.17-3 of the DEIR/DEIS. As provided, the impacts to the Central Groundwater Basin are mainly centered around SCWA’s reduced surface water diversion and conveyance capacity within the Freeport Project. These impacts were determined to be less than significant in the short term. However, and as provided on page 4-43, the City concluded that the impacts to groundwater resources in the Central Basin in the longer term were cumulatively considerable.

USBR-69

*The comment states that the Federal project purpose, as considered by USACE (to construct a large-scale, mixed-use development with associated infrastructure within eastern Sacramento County) can be achieved without the assignment of CVP water, yet the water supply alternatives described in Section 2 do not appear to include any alternative water sources.*

As discussed in responses to comments USBR-10 and USBR-11, the City considered numerous possible water-supply alternatives, but determined that the NCMWC

assignment is the most feasible one that would satisfy the project's objectives at this time. (DEIR/DEIS, pages 2-97 to 2-103.) In addition, as required by CEQA, the DEIR/DEIS also considered the most likely three water supply options other than the Off-Site Water Facility Alternatives, but those options have long-term reliability issues, are currently uncertain in their amounts, or involve other CVP supplies. (DEIR/DEIS, pages 3A.18-37, 3A.18-38, 3A.18-40, and 3A.18-46.)

The City has added additional detail to the conclusions provided for each of the water supply options considered in Section 3A.18 of the DEIR/DEIS to elaborate on the reasons why these water supply options were not considered as alternatives under NEPA. See Chapter 5.0, "Errata" of this FEIR/FEIS.

Because the proposed assignment would not result in work in navigable waters or the discharge of dredged or fill material into waters of the U.S., this proposed activity is not within the USACE's scope of analysis. Therefore, if Reclamation (as the Federal agency with authority over the assignment) determines that additional water supply alternatives need to be analyzed and that a supplemental NEPA document is necessary, the USACE anticipates that Reclamation would be the lead Federal agency.

USBR-70

*The comment states that Section 2.15 (mentioned in Section 2.6 of the DEIR/DEIS) is not found in the document.*

The comment is correct. The correct section reference in the DEIR/DEIS is Section 2.8 "Water" Alternatives Considered and Eliminated From Further Consideration. The section number has been corrected as shown in Chapter 5, "Errata" of this FEIR/FEIS.

USBR-71 through  
USBR-72

*The comments state that under the proposed action, approximately 37% of NCMWC's "Project" water would no longer be permanently available for use within their service area and that this would appear to be a significant amount from the standpoint of surface water availability for use in NCMWC's service area. The comments ask for an explanation as to how the assignment would affect NCMWC.*

As discussed in the Wagner & Bonsignore report, efficiencies within NCMWC's drainage system combined with changes in land use patterns within NCMWC indicate that even an assignment of 10,000 AFY would not substantially affect irrigation within NCMWC. (DEIR/DEIS, Appendix M2, pages ES-1 to ES-3, and ES-21 to ES-27.) The DEIR/DEIS analyzes the impacts of the assignment in the NCMWC service area throughout the Chapter 3 "B" sections. See also responses to comments USBR-16 and USBR-17.

USBR-73

*The comment states that the DEIR/DEIS was difficult to read because of its organization, such as having the water discussion scattered in several locations throughout the document.*

The DEIR/DEIS is logically laid out in both the Table of Contents and Chapter 1, "Introduction." Section 1.8 of the DEIR/DEIS should be referenced for an organizational summary of the document. In addition, explanations regarding the document organization are provided in the following DEIR/DEIS sections: Executive Summary (page ES-7), Chapter 1 "Introduction" (pages 1-3, 1-10, 1-11, 1-16, and 1-17), Chapter 2 "Alternatives" (pages 2-1, 2-2, 2-5, 2-80, and 2-104), and Section 3.1 "Approach to Environmental Analysis" (page 3-2).

USBR-74

*The comment states that the additional alternatives or water supply options are contained in the land or “A” section of the DEIR/DEIS, near the end of Volume 3. The comment suggests that because these options are considered reasonable alternatives to the assignment (as described in section 3A.18), they would have been better located in the appropriate alternatives section of the document and should have been carried forward for analysis.*

See Master Response 20 – Formulation of Off-site Water Facility Alternatives and Water Supply Options. The comment misinterprets the purpose of the water supply options discussed in Section 3A.18, “Water Supply.” As the DEIR/DEIS explains, those options are included because CEQA uniquely requires the discussion of other possible water supplies where the primary water supply is not entirely secure. (DEIR/DEIS, page 3A.18-23.) Those options are placed in the “Land” section because CEQA requires that all impacts of a land use project be analyzed, including the potential impacts of water supplies that might be implemented if the primary water supply option cannot be implemented. (See *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* [2007] 40 Cal.4th 412, 432.)

USBR-75

*The comment states that no indication is stated that compliance with NHPA Section 106 sufficient for the assignment was considered.*

See response to comment USBR-3.

USBR-76

*The comment states Reclamation’s preference to avoid adding more water to the drainage over-chutes that cross Folsom South Canal as they are currently at their design capacity.*

DEIR/DEIS Mitigation Measure 3B.9-3 (page 3B.9-26) would be required to maintain peak runoff from the water treatment plant (WTP) to pre-construction conditions whether it is constructed at the White Rock Road or Folsom Boulevard location. To ensure that the City’s drainage plan for the WTP addresses this concern, an additional performance standard has been added to Mitigation Measure 3B.9-3a as shown in Chapter 5, “Errata” of this FEIR/FEIS.

As described in responses to comments USBR-5 and USBR-7 above, the “Land” portion of the project would conform to applicable state and local regulations regarding surface water runoff and would limit peak discharges to levels existing before development (pre-project levels) through the use of detention basins and LID control measures. Any flow increase caused by project development would be eliminated through the use of stormwater detention facilities, which would be sized to maintain peak storm flows not to exceed the level existing before development. Modeling results presented in the DEIR/DEIS in Table 3A.9-3 (page 3A.9-35) indicate that with the detention basins as proposed, peak flows under development conditions would remain at or below existing conditions for the 100-year and 10-year storm events and would therefore not add more water to drainage over chutes that cross the Folsom South Canal as compared to existing conditions.

USBR-77

*The comment states that any pipelines crossing the Folsom South Canal would need to go above the canal rather than under it because boring under the canal could cause earth movement that could damage the structural integrity of the canal lining.*

The City and USACE note Reclamation’s preference for an above-ground pipeline conveyance crossing for the Folsom South Canal as opposed to a bored crossing.

Additionally, the City understands that Reclamation would require that the crossing occur at an existing feature (e.g., a bridge) as opposed to the construction of a new feature, such as a pipe bridge crossing.

USBR-78

*The comment states Reclamation's recommendation to not use Douglas Bridge as a crossing point for pipelines because it already houses several utilities and space is restricted.*

The City and USACE note Reclamation's recommendation to not use the Douglas Road Bridge for a pipeline crossing due to the presence of existing utilities.

USBR-79

*The comment states that Section 3B.15-1 in the DEIR/DEIS does not address construction of the 6-lane International Drive in Zone 4.*

The additional roadway improvement project cited by the commenter is proposed just east of the central portion of Zone 4 of the "Water" Study Area. The City expects that this roadway project would remain outside the construction area for this project and, therefore, would not affect or be affected by this project's implementation

USBR-80

*The comment asks why the City would need the additional assignment water because, according to the State Urban Water Management Plan, all future population totals through 2025 are assumed to remain at 2010 levels.*

The SPA's demands were not included in the City's 2005 urban water management plan because the land use concept was not fully developed. (DEIR/DEIS, Appendix M1, page 1.) In addition, as discussed above, Measure W requires that the SPA's water demands not affect water supplies to the existing City. (See response to comment USBR-10.) Furthermore, as also discussed above, the mandates of the 2009 conservation legislation do not indicate that the City would be able to conserve sufficient water to serve the SPA when the SPA's demands occur. (See response to comment USBR-12.) Finally, as the DEIR/DEIS discusses, the potential yield of conservation measures is not sufficiently certain to support relying on that yield at this time. (DEIR/DEIS, pages 3A18-41 and 3A.18-43.)

USBR-81

*The comment states that additional growth could also be served by the 20% savings from SB 7 (20% reduction by 2020).*

See response to comment USBR-80.

USBR-82

*The comment asks whether the assigned water would continue to be stored in Shasta Reservoir.*

The City presumes that the assigned water would continue to be stored within Shasta Reservoir, with no change from existing contract terms.

USBR-83

*The comment states that it may be simpler to take the historical January/February metered water data and assume that is the indoor water use, then subtract that from the summer average to obtain the outdoor water use.*

There are many ways to calculate water demands. The City chose the demand calculation in this instance because the City is in the process of implementing a metering program and many of these connections do not have adequate data on which to base a demand calculation.

USBR-84

*The comment asks how the 3,920 square feet (landscape area) was determined in the WSA because a landscape area of 40% (each unit) for a parcel size of 10,890 square feet would be 4,356 square feet.*

The comment refers to the discussion of water demands in the existing City on page 10 of the WSA in Appendix M1 of the DEIR/DEIS. To develop an average residential indoor unit demand factor for use in projecting demand in the SPA, the average residential outdoor unit demand for the existing City was estimated and subtracted from the average total residential unit demand from the City's 2003-2008 residential meter study. To estimate the portion of the residential unit demand attributable to outdoor demand for that discussion, the landscaped area for each parcel was calculated. (DEIR/DEIS, Appendix M1, pages 9-11.) Starting with the statement that the meter data from the 2003-2008 study reflects a residential demand for units with a density of four units per acre, the square footage of each parcel was calculated by reducing the gross acreage attributable to each parcel (i.e., 10,980 square feet [sf]) by 10% to account for roads and rights of way). (DEIR/DEIS, Appendix M1, pages 9-11.) The resulting square footage for each of the four parcels in a 1-acre area (i.e., 9,801 sf) is considered the buildable area for each parcel to which a landscaped area percentage may be applied to estimate total landscaped area per parcel. The buildable area (9,801 sf) was multiplied by 40% to arrive at the landscaped area in Table 2-1 of the WSA, which is 3,920 sf. (DEIR/DEIS, Appendix M1, pages 9-11.)

USBR-85

*The comment suggests that the discussion of indoor water use should remain in a "per unit" context as opposed to being converted to gpcd.*

Because the number of persons per unit in both the single and multi-family land use categories in the SPA is estimated to be different than the single-family average in the existing City of Folsom service area, the indoor unit demand was converted into gallons per capita day. Specifically, dividing the projected population by the dwelling unit targets that are contained in the land use summary for the SPA (which appears as Appendix C in the WSA) results in a single-family unit population density of 2.92 persons per unit and a multifamily unit population density of 1.94 persons per unit (compared to 2.83 persons per unit for the existing City of Folsom service area, as contained in the 2005 UWMP). Thus, the existing gallons per capita day estimated in Section 2.1.1 of the WSA is a starting point for the calculation of the indoor residential demand component for the single and multi-family land use categories in the SPA. (DEIR/DEIS, Appendix M1, pages 9-11, and 20-21.) By converting the existing residential indoor unit demand estimate into gallons per capita day, the gallons per capita day estimate can be multiplied by the assumed persons per unit for each residential land-use category in the SPA as provided for in the Folsom Plan Area Specific Plan (FPASP). (DEIR/DEIS, Appendix M1, pages 20-21.) Also, discussing both methods enables comparisons to other regional purveyors, who vary in their presentation of demand factors.

USBR-86

*The comment recommends that the WSA shows the full effect of the 2010 California Green Building Standards Code (CALGreen) by showing a range of 10–20% savings; thereby bringing anticipated indoor use to 56 gpcd. The comment suggests that Table 2-4 could also reflect this range.*

The residential indoor demand calculations already include a conservation savings of 10% compared to the existing demand estimate to reflect potential lower demands resulting from the CAL Green requirements. (DEIR/DEIS, Appendix M1, pages 14-15.) Out of an abundance of caution to ensure that the water supply meets the demand in any given year, this reduction was limited to 10%. (DEIR/DEIS, Appendix M1, pages 14-15.)

Moreover, in calculating demand conservation savings under various laws including SBx7-7, the conservation savings across the entire service area, not just the single development, is the determining factor. (Water Code Sections 10608.12[b], 10608.20[b], 10608.28[a].) Furthermore, 55 gpcd as an indoor residential water use target is part of the methodology referenced in only one of four optional methods available to water purveyors. It is not a state mandate. See also responses to comments USBR-12 through USBR-14.

USBR-87

*The comment asks why the additional 5% is included in the dry-year total (Table 2-9 of the WSA) and why the City and the El Dorado Irrigation District would not encourage more conservation during dry years.*

See response to comment USBR-13. As presented in Section 2.4 of the WSA, the 5% increase in demand reflects the noticeable increase in demand for City water that occurs when there is less precipitation, which generally occurs in a drier year. (DEIR/DEIS, Appendix M1, page 30.) Customers often begin to irrigate residential and commercial landscaping earlier in the spring when there is less rain. (DEIR/DEIS, Appendix M1, page 30.) The annual outdoor demand factor of 3.73 acre-feet/year, which is based on application of the MWELo, is increased by 5% to conservatively quantify potential total water demand. (DEIR/DEIS, Appendix M1, pages 21-24, and 30.) Depending on circumstances, the City's water shortage contingency ordinances may be triggered, resulting in temporary reductions in this demand. However, for purposes of evaluating the availability of supply, the City did not apply a temporary conservation reduction on top of the demand increase in dry years.

The 5% factor is based on an evaluation of evapotranspiration data from a local weather station. (DEIR/DEIS, Appendix M1, page 30.) A comparison of high and low evapotranspiration values over the last 12 years indicates that the highest yearly value (representing the hottest year) is 5% higher than the average for the period of record. (DEIR/DEIS, Appendix M1, page 30.)

USBR-88

*The comment states that the WSA, dated 2010, contains assumptions on future landscape and indoor water use that are inconsistent with the current California MWELo and the 2020 urban water use baselines being developed as a result of the SBx7-7 process.*

See response to comment USBR-12.

USBR-89

*The comment suggests that the WSA should substantiate why a Reference Evapotranspiration (ETo) value of 53 inches was used because this value differs from the ETo for Fair Oaks, which is 50.5 inches (in the MWELo, Appendix A Reference Evapotranspiration Table).*

In calculating demand, using a single year ETo that exceeds the long-term average ETo is appropriate. ETo varies depending on year type; in order to ensure that the water supply meets demand in a maximum ETo year, 53 inches is the correct factor. (DEIR/DEIS, Appendix M1, page 10.) Furthermore, the location of the Fair Oaks station is geographically distinct from the SPA, and to account for potential climatological differences, including slightly higher and more exposed land surfaces and less tree canopy cover, the WSA retains the recent maximum ETo value out of an abundance of caution.

USBR-90

*The comment states that the WSA overestimates the outdoor water use and that the future landscape water use for residential and non-residential rate of 3.73 AF per acre should be adjusted to 3.1 AF per acre.*

Although the MWELo uses an ETo of 70%, the WSA uses an ETo of 85% to account for potential unforeseen issues after development and implementation of MWELo for the SPA. (See DEIR/DEIS, Appendix M1, pages 15-17, and 21-24.) This worst-case scenario for ETo is used out of an abundance of caution to ensure that the identified water supplies are able to meet identified demands in all year types in light of unpredictable human interaction after the development of preliminary landscape designs (e.g., removing the planned vegetation and replacing it with more water-intensive vegetation and gardens, as well as overwatering).

USBR-91

*The comment suggests that the WSA's indoor water use rate of 63 gpcd should be lowered to 55 gpcd to reflect the 2020 baseline, consistent with SBx7-7.*

See response to comment USBR-14. In addition, agencies have substantial discretion in developing technical analyses in their water supply assessments, provided that those analyses are not “arbitrary, capricious or entirely lacking in evidentiary support.” (*O.W.L. Foundation v. City of Rohnert Park* [2008] 168 Cal.App.4th 568, 593.) The City’s demand analysis in the water supply assessment is supported by the cited evidence of water demands within the existing City and other agencies and therefore is appropriate under the water supply assessment statutes. (DEIR/DEIS, Appendix M1, pages 9-29.)

USBR-92

*The comment states that Reclamation is currently evaluating all aspects of the proposed assignment from a contractual perspective.*

See responses to comments USBR-1 and USBR-15. As discussed in those responses, NCMWC’s settlement contract anticipates both assignments of water under that contract and shifts to M&I use, which may affect Reclamation’s exercise of its approval authority in considering the proposed assignment from NCMWC to the City. However, if Reclamation was to approve the proposed assignment, it could seek to do so under different conditions, including the consideration of shifts to M&I use (change in pattern and season of use), which could require additional environmental review and NEPA compliance.

USBR-93

*The comment states that Reclamation is considering its ability to change its contract with NCMWC and what the benefits this would provide to the CVP.*

See response to comment USBR-92.

USBR-94

*The comment states that Reclamation may consider rescheduling base supply out of the months April–October and is evaluating whether this would be allowed under the current contract.*

See response to comment USBR-1. The proposed assignment does not concern Base Supply, but rather “Project” water. (NCMWC-SFP agreement, Sections 1.3 and 3.1 [Appendix E to DEIR/DEIS Appendix M1, pages 2-3].) In addition, NCMWC’s settlement contract contemplates that NCMWC could assign “Project” water to third parties or apply “Project” water to M&I use. (NCMWC contract, Articles 3(e) and 7(a) [Appendix G to DEIR/DEIS Appendix M1 (NCMWC contract)].) “Project” water under NCMWC’s contract is currently scheduled for July-August delivery, so deliveries for M&I use as contemplated by the contract could involve reallocation to a M&I delivery

pattern. (NCMWC contract, Article 7(a) and Exhibit A.) NCMWC's contract therefore already contemplates reallocation of "Project" water, so Reclamation's exercise of its approval authority in considering the proposed assignment may be constrained because the proposed assignment is consistent with the terms of NCMWC's settlement contract. That contract states that Reclamation may not unreasonably withhold its consent to a proposed assignment of "Project" water. (NCMWC contract, Article 3[e].) Regarding scheduling of Base Supply, see response to comment USBR-47.

However, if Reclamation was to approve the proposed assignment, it could seek to do so under different conditions, including the consideration of water rescheduling provisions, which could require additional environmental review and NEPA compliance.

USBR-95

*The comment states that the during the last 10 years, NCMWC has only used 62% of its cumulative contract base supply water and only 37% of its cumulative contract "Project" water supply.*

See responses to comments USBR-1, USBR-17, and USBR-20. The assignment would trigger CVPIA Section 3405(a)(1)(M), which states that transfers between area of origin contractors like the City and NCMWC are deemed to satisfy CVPIA section 3405(a)(1)(A), which states that the amount of transfers would be based on historic use. The City is unclear on the commenter's suggested basis for treating the proposed assignment differently than how it would be treated as a transfer. However, if Reclamation was to approve the proposed assignment, it could seek to do so under different conditions, including the applicability related to historic use of water under the contract, which could require additional environmental review and NEPA compliance.

USBR-96

*The comment states that the DEIR/DEIS does not recognize Reclamation might be making certain decisions regarding the proposed partial assignment of NCMWC's contract to the City of Folsom that would be different from those decisions the DEIR/DEIS refers to as "assumptions."*

See responses to comments USBR 1, USBR-2 USBR-10, USBR-20, USBR-94, and USBR-95. The City recognizes that Reclamation's approval of the proposed assignment is required and therefore has prepared the DEIR/DEIS to analyze the potential impacts of implementation of that assignment. As discussed in the above-referenced responses to comments, the DEIR/DEIS analysis is based on certain assumptions concerning the manner in which the proposed assignment would be implemented. As discussed in the above-referenced responses, the City believes that NCMWC's settlement contract and CVPIA may constrain Reclamation's exercise of its approval authority in relation to the proposed assignment. In addition, as discussed in responses to comments USBR-10, USBR-32, USBR-33, and USBR-69, the City examined multiple water supply options and determined that, at this time, the proposed assignment is the option that can satisfy the project objectives.

Because the proposed assignment would not result in work in navigable waters or the discharge of dredged or fill material into water of the U.S., this proposed activity is not within the USACE's scope of analysis. Therefore, if Reclamation (as the Federal agency with authority over the assignment) determines that additional water supply alternatives need to be analyzed and that a supplemental EA/FONSI or EIS is necessary for compliance with NEPA, the USACE anticipates that Reclamation would be the lead Federal agency.

- USBR-97 *The comment states that the DEIR/DEIS does not analyze the environmental impacts of each of the possible alternative decisions that Reclamation is currently considering for the assignment.*
- See response to comment USBR-96.
- USBR-98 *The comment state that the DEIR/DEIS identifies the following discretionary Reclamation decisions as "assumptions": 1) Reclamation will approve NCMWC's partial assignment to the City of Folsom of its entitlement under its existing Sacramento River water right settlement contract to annually divert in July and August up to 8,000 acre-feet of "Project" water in most years and 6,000 acre-feet of "Project" water in critical years; 2) Reclamation will agree to make the assigned "Project" water available to the City of Folsom on a year-round M&I pattern rather than making it available only in July and August; 3) Reclamation may be able to make the assigned "Project" water available to the City of Folsom subject to the same shortage provisions that are included in Reclamation's CVP water right settlement contracts rather than the shortage provisions that are included in Reclamation's CVP water service contracts (i.e., that Reclamation could make the full supply of the assigned "Project" water available in all but critical years, as that term is defined in the NCMWC contract and to reduce that supply of "Project" water in critical years by no more than 25%).*
- See response to comment USBR-96.
- USBR-99 *By characterizing Reclamation's decisions as "assumptions" and not analyzing the environmental impacts of each of them and their respective alternatives, the DEIR/DEIS is to be insufficient for Reclamation to use for alternative decision making.*
- See response to comment USBR-96.
- USBR-100 *The comment states that authorizations from Reclamation would be required for the "Water" project to cover the pumping at the new point of diversion on the Freeport Project easement across the FSC, and assignment of NCMWC-CVP settlement contract water to Folsom.*
- The comment is correct that, under NCMWC's settlement contract, Reclamation's authorization is necessary for the proposed assignment and the diversion of the assigned water at the Freeport diversion. As previously discussed, NCWMC's contract contemplates such an assignment to serve areas outside of NCMWC. (See responses to comments USBR-1 and USBR-20.) The comment also is correct that an easement from Reclamation would be necessary to cross the Folsom South Canal, unless such a crossing is already authorized by an existing easement. These approval requirements are noted on page 1-14 of the DEIR/DEIS. The City has updated page 1-14 of the DEIR/DEIS (as shown in Chapter 5, "Errata" of this FEIR/FEIS) to also reflect the need for Reclamation's approval for the addition of the Freeport Project as an additional point of diversion under NCMWC's settlement contract.
- USBR-101 *The comment suggests that the DEIR/DEIS concedes to the fact that the assignment of the settlement contract water would need to be approved by Reclamation and questions how mitigation requirements in the Agreement between NCMWC and SFP are being met.*
- The LAFCo resolution applied the following as a mitigation measure for LAFCo's approval of the expansion of the City's sphere of influence to include the SPA: "Prior to permitting annexation of any portion of the Folsom SOI [SPA] territory, LAFCo shall

require the City of Folsom to identify and secure sufficient water supplies to serve existing customers, future customers within the existing service area, and all proposed uses with the SOI territory [SPA] subject to the annexation proposal.” (See City Resolution No. LAFC 1193, Attachment A, page 2-12.) The City is addressing this LAFCo mitigation measure via the proposed assignment from NCMWC. Before the City can secure that assignment, it must complete environmental review under CEQA and it is addressing that requirement via this EIR/EIS. Reclamation’s approval also is necessary to implement the assignment. The City therefore is appropriately addressing the LAFCo mitigation measure. The City’s Utilities Department would be the primary implementing entity for all of the DEIR/DEIS mitigation measures for the Off-Site Water Facility Alternatives.

USBR-102 *The comment states that currently, base supply cannot be taken out of April–October delivery pattern and rescheduled in another period (contract terms and conditions).*

See responses to comment USBR-47.

USBR-103 *The comment states that the City, not the developer, would need to work with Reclamation and NCMWC to get approval for the assignment.*

The comment is correct. The issue raised in this comment is noted on pages 1-14 and 2-80 through 2-81 of the DEIR/DEIS. Additionally, the City has had several meetings with Reclamation to discuss the proposed assignment and what approvals would be required from Reclamation.

USBR-104 *The comment states that the assignment would not be an entitlement and that the assignment from NCMWC would need to be approved by Reclamation.*

This portion of the DEIR/DEIS only establishes the criteria for evaluating the water supply impacts resulting from development of the SPA and does not declare the proposed assignment from NCMWC to the City to be an “entitlement.” Section 1.6.3 of the DEIR/DEIS identifies Reclamation’s approval authority for the assignment. The City understands that the assignment is not an entitlement, but is subject to the terms of NCMWC’s settlement contract. Nonetheless, as discussed above in responses to comments USBR-1 and USBR-20, that contract contemplates that NCMWC, with Reclamation’s approval, could assign “Project” water to areas outside of NCMWC and shift “Project” water use to M&I use. That contract prohibits Reclamation from unreasonably withholding its consent to assignments and shifts to M&I use. (Appendix G to DEIR/DEIS Appendix M1, Articles 3[e] and 7[a].) Table 3B.9-3 of the DEIR/DEIS also discusses the proposed change in timing and pattern from NCMWC’s deliveries.

USBR-105 *The comment states that the assignment as proposed would represent an expanded entitlement (i.e., change of season and rescheduling of base supply into the critical months) and, therefore, the assignment would represent a significant action for which the impacts have not been adequately analyzed.*

See responses to comments USBR-1, USBR-20, and USBR-24. The Off-site Water Facility Alternatives would connect with the Freeport Project and the City proposes no increase in the permitted capacity for the Freeport Project. As a result, the effects of Freeport operations are covered in the corresponding Freeport EIR/EIS, which is incorporated by reference into the DEIR/DEIS for this project. The changes in the timing and pattern of NCMWC’s deliveries are provided in Table 3B.9-3 of the DEIR/DEIS. However, if Reclamation was to approve the proposed assignment, it could seek to do so

under different conditions, including the consideration of water rescheduling provisions, which could require additional environmental review and NEPA compliance.

USBR-106

*The comment states that one consideration in the DEIR/DEIS may be determining the certainty that storage in Shasta could be provided over the time period necessary.*

See response to comment USBR-1. As provided in Table 3B.9-1 of the DEIR/DEIS (page 3B.9-2), Shasta Reservoir's storage capacity is 4.55 MAF. Table 3B.9-3 of the DEIR/DEIS (page 3B.9-29) provides the changes in CVP use as a result of the assignment. As discussed on page 3B.9-30 of the DEIR/DEIS, in comparing these effects to total storage capacity with CVP reservoirs, including Shasta Reservoir, the changes were considered negligible and concluded to be less than significant. Additionally, as shown in Chapter 5, "Errata" of this FEIR/FEIS, Table 3B.9-3 of the DEIR/DEIS has been updated to provide additional detail in terms of changes in monthly storage.

According to the Shasta Lake Water Resources Investigation prepared in June 2004, average storage within Shasta Reservoir is 3.29 MAF and is at its lowest at 2.78 MAF in October. Based on the change in the delivery schedule for the assigned CVP water, the change in average monthly storage within Shasta Reservoir would be less than 0.03% in all months except July and August, which would experience net increases in storage. The change in the delivery schedule would add 2,440 AF to storage beyond August when compared to existing conditions, which in turn would contribute to cold pool storage through November. Further, increased deliveries in the winter months would occur when inflows to Shasta are at their highest, thereby creating additional storage capacity. For these reasons, impacts of the assignment of Shasta storage are considered less than significant.

Issues relating to the provision of storage within Shasta over the longer term and in the context of global climate change are discussed in Impact 3B.4-2 of the DEIR/DEIS on pages 3.B4-8 through 3B.4-9.

USBR-107

*The comment notes that the agreement between SFP and NCMWC is for 1-year increments, not to exceed 5 years and, therefore, no long-term commitment exists for water reliability.*

The NCMWC-SFP agreement only extends the time to complete an agreement for the permanent assignment in 1-year increments. (See response to comment USBR-42.) The 20-year period referred to in the WSA relates to need for the City to demonstrate sufficient water supplies for the project during normal, dry, and multiple dry years. Given that the assignment would be permanent, the WSA concludes that it would be sufficient based on current contract provisions.

USBR-108

*The comment states that it is uncertain whether the assignment could go forward without addressing the cumulative impacts of implementing the two OCAP BOs.*

As discussed above (see response to comment USBR-24), the City would divert water assigned by NCMWC within the Freeport Project's existing capacity. (See DEIR/DEIS, page 1-17.) As also discussed in responses to comments USBR-23, USBR-24, USBR-28, and USBR-34, the DEIR/DEIS incorporates the Freeport Project's EIR/EIS and, therefore, the project would not be incrementally adding to the diversion capacity on the Sacramento River. Finally, as discussed in responses to comments USBR-1, USBR-24, USBR-92, and USBR-106, the project involves the assignment of "Project" water under NCMWC's settlement contract and would involve negligible, if any, impacts on CVP

operations upstream of NCMWC's diversion. However, if Reclamation was to approve the proposed assignment, it could seek to do so under different conditions, including analyses of different CVP operations related to changing operational assumptions, including the implementation of BO RPAs.

USBR-109

*The comment suggests that the DEIR/DEIS should consider the quantity of "Project" water available under contract in relation to amount of base supply.*

See responses to comments USBR-1 and USBR-96. In addition, the comment incorrectly suggests that the proposed assignment involves Base Supply, when it actually involves "Project" water that NCMWC is authorized to assign under its settlement contract. (See responses to comments USBR-47 and USBR-94.) Nothing in Article 9 of that contract affects the fact that Articles 3(e) and 23 of the contract authorize the proposed assignment with Reclamation's approval, which may not be unreasonably withheld.

USBR-110

*The comment asks how the stated NCMWC purpose aligns itself with what is being proposed under the assignment: change in place of use (outside the Sacramento Valley), purpose of use, and season of use.*

See response to comment USBR-1. In addition, nothing in Article 6 of NCMWC's settlement contract affects the fact that Articles 3(e) and 23 of the contract authorize the proposed assignment with Reclamation's approval, which may not be unreasonably withheld. Furthermore, Article 7(a) of the contract specifically contemplates shifts of "Project" water to M&I uses, which could require a revised season of use. (See response to comment USBR-94.) In addition, as discussed in response to comment USBR-20, congressional policy declared in CVPIA favors transfers of water among CVP contractors in the areas of origin; NCMWC and the City meet this definition. No rational basis has been identified for treating the proposed assignment differently from a transfer.

USBR-111

*The comment asks whether the assignment would be through March 31, 2024 (when NCMWC's contract expires).*

The assignment is for at least the full term of NCMWC's current settlement contract, which term extends to March 31, 2045, with possible further renewals. (NCMWC settlement contract, Article 2[a] [Appendix G to DEIR/DEIS Appendix M1].)

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# United States Department of the Interior



FISH AND WILDLIFE SERVICE  
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In reply refer to:  
81420-2009-TA-0075-2

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**RECEIVED**  
SEP 09 2010  
**REGULATORY DIVISION**  
**USACE, SACRAMENTO**

**SEP 08 2010**

Subject: Comments on the Draft Environmental Impact Report/Environmental Impact Statement for the Folsom South of U.S. Highway 50 Specific Plan Project

Dear Ms. Gibson:

This responds to the Notice of Availability of the Draft Environmental Impact Report /Environmental Impact Statement (DEIR/DEIS) and request for comments for the Folsom South of U.S. Highway 50 (Hwy 50) Specific Plan Project (proposed project) in Sacramento County, California. The proposed project objective is to construct a mixed-use, master-planned community in an approximately 3,500-acre area in eastern Sacramento County to the south of Hwy 50, north of White Rock Road, west of the Sacramento/El Dorado county line, and east of Prairie City Road (the development site). The U.S. Fish and Wildlife Service (Service) is providing comments under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act).

1

The proposed project includes two components: (1) commercial and residential development of the project site, and (2) the infrastructure to transport, treat, and store water from the Sacramento River to the project site. In addition, the permanent assignment to the City of Folsom (City) of Central Valley Project (CVP) water of not more than 8,000 acre feet per year (AFY) from the Natomas Central Mutual Water Company (NCMWC) is proposed to provide water to serve the development site. Currently, this water is delivered to NCMWC's service area (the Natomas Basin) mostly during July and August to correspond with irrigation (agricultural) patterns; under the proposed project, the water would be delivered year-round to the project site for municipal and industrial uses. The City proposes to purchase dedicated capacity from the Sacramento County Water Agency at the existing Freeport Regional Water Project diversion facility. Water would then be pumped through an existing conveyance pipeline to the bifurcation point; at that point, new conveyance facilities will be built as part of this proposed project to convey water to the development site.

2



**Potential impacts on federally-listed species**

The Service believes the proposed project may affect the following federally-listed species:

- endangered vernal pool tadpole shrimp (*Lepidurus packardii*);
- threatened vernal pool fairy shrimp (*Branchinecta lynchi*);
- threatened California tiger salamander (*Ambystoma tigrinum*);
- endangered Sacramento orcutt grass (*Orcuttia viscida*);
- endangered slender orcutt grass (*Orcuttia tenuis*);
- threatened California red-legged frog (*Rana aurora draytonii*);
- threatened valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*);
- threatened giant garter snake (*Thamnophis gigas*; GGS)

The DEIR/DEIS acknowledges that vernal pool fairy shrimp and vernal pool tadpole shrimp are likely to occur on the development site because of occurrences in the vicinity, and that the Conservancy fairy shrimp, Sacramento orcutt grass, slender orcutt grass and valley elderberry longhorn beetle could occur on the development site and the off-site water infrastructure areas. The DEIR/DEIS asserts that the California tiger salamander, California red-legged frog, and the giant garter snake are unlikely to occur and be affected by the proposed project. The Service agrees that the vernal pool fairy shrimp and vernal pool tadpole shrimp are likely to occupy the site, and possibly the off-site infrastructure improvement areas, and be affected by the proposed project. The full effects analysis and proposed conservation strategy for all of the species addressed in the DEIR/DEIS have not been evaluated by the Service to determine their consistency with requirements pursuant to the Act. Such evaluation would occur during informal or formal consultation pursuant to section 7 of the Act. At that time, the Service would use information provided by the U.S. Army Corps of Engineers (Corps) and information otherwise available to the Service to determine the extent of effects to federally-listed species. The Service looks forward to working with the Corps on a conservation strategy to address impacts to federally-listed species, and invites the Corps to initiate discussions with the Service on this project to ascertain the level of consultation necessary.

***Giant garter snake***

The City has negotiated a water entitlement purchase from NCMWC to provide a water supply source for the proposed project. This water purchase/reassignment requires approval by the Bureau of Reclamation (Reclamation); Reclamation is listed as a cooperating agency for this DEIR/DEIS. It appears that the transfer of water entitlements to the City would result in reduced surface water availability for irrigating agricultural lands (primarily rice fields) in the Natomas Basin. As described in our October 28, 2008, letter, the Service is concerned about the recent trend of fallowing rice fields in the Natomas Basin, and the effect this has on the giant garter snake. Fallowing rice fields may affect snakes, because rice adjacent to ditches and canals may serve as vital nursery habitat for young giant garter snakes and as “way stations” for snakes as they make their way through systems of ditches and canals. Females will often give birth in rice

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fields and the newly born snakes will feed on the small prey items that are prevalent in rice fields, but are rare or absent from other permanent aquatic habitat types. | 22 cont.

The DEIR/DEIS cites a 2007 study by Wagner and Bonsignore as the basis for the conclusion that this water entitlement transfer would not affect current cropping patterns in NCMWC’s service area. The Service was not able to access this study from the Corps website. Therefore, the Service requests the opportunity in the future to review this study for relevancy for to the effects analysis. The Service recommends that the DEIR/DEIS and any future documents used to assess the effects to the giant garter snake include information to substantiate the following statement: | 23  
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“...even if rice production were to increase in the future, landowners within the NCMWC would have sufficient surface water supplies to service the land available for planting in most years and no supplemental groundwater during normal conditions would be required.” | 26

To accomplish this, the Service recommends that the DEIR/DEIS outline how much land is available in NCMWC’s service area for rice field planting and correlate that with the water supplies under NCMWC’s current water entitlement and their entitlement under the proposed reassignment (with no supplemental groundwater). | 27  
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**Potential Impacts on the Natomas Basin Habitat Conservation Plan** | 30

As outlined above, the permanent reassignment from NCMWC to the City may result in reduced water availability to maintain agriculture; this action may negatively affect implementation of the Natomas Basin Habitat Conservation Plan (NBHCP; City of Sacramento *et al.* 2003). The DEIR/DEIS contains the following statement: | 31

“...changes within NCMWC’s service area as a result of the Off-site Water Facilities would not result in substantial changes to existing irrigation patterns, which changes could otherwise result in adverse effects to giant garter snake within the Natomas Basin...Based on these findings, the Off-site Water Facilities would not conflict with objectives and policies of the NBHCP.” | 32

Upon permitting the NBHCP, the Service assumed that the amount of available habitat (including rice fields) for the giant garter snake would remain generally consistent over the 50-year permit term with baseline conditions as outlined in the NBHCP at the time of permit issuance in 2003. This assumption includes the caveat that if additional development occurs in the Natomas Basin outside of the NBHCP permit areas, that that development would require additional consultation or amendment of the NBHCP. Although permanent fallowing of rice agriculture is not development per se, the effect of this action is similar in that it results in less habitat available to support the essential behavioral patterns for the giant garter snake. | 33  
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As noted in the DEIR/DEIS, the amount of habitat, primarily in the form of irrigated rice fields, has been reduced substantially in recent years due to fallowing. The DEIR/DEIS asserts that the proposed water reassignment would not adversely affect current cropping patterns in NCMWC's service area; however, "current cropping patterns" refers to habitat conditions in 2007. The DEIR/DEIS should base the analysis of the effect on the implementation of the NBHCP on the baseline conditions outlined in the NBHCP, not on year 2007 conditions. The Service believes that reduced surface water availability for irrigation may, in essence, result in permanent fallowing of rice habitat in NCMWC's service area. The Service recommends that these effects be incorporated into the DEIR/DEIS, and that the Corps and/or Reclamation initiate consultation on these effects to the giant garter snake.

***Potential Impacts on the South Sacramento Habitat Conservation Plan***

While not yet permitted, the South Sacramento Habitat Conservation Plan (SSHCP) is being designed to address the increasing demand for urban development, while establishing a conservation strategy designed to avoid, minimize, and mitigate for the loss or modification of wetlands, waters, and species habitat. The Service encourages the Corps to select a proposed project alternative which would not preclude the success of a future SSHCP.

We understand that the development area is not included in the current proposed planning area for the SSHCP. The DEIS states that the proposed project would not reduce the effectiveness of the proposed SSHCP conservation strategy because the off-site water infrastructure improvements are not included in the planning area. However, from our review of the most currently available information and maps, it appears that some of the proposed off-site water infrastructure improvement areas may be included in the SSHCP planning area. The DEIS also suggests that the proposed project does not conflict with the SSHCP because the SSHCP is not yet permitted. The Service recommends that the DEIS analyze the effects the proposed project may have on a permitted SSHCP based on the most currently available conservation strategy in the event the SSHCP is permitted prior to the proposed project implementation.

We are committed to working with the Corps and the City to ensure that this proposed project avoids and minimizes effects on federally-listed species and remains consistent with the conservation strategies and operating conservation programs of pending and existing habitat conservation plans. Please contact the acting Sacramento Valley Branch Chief at 916-414-6645 or myself at 916-414-6671 if you have any questions or concerns regarding this letter.

Sincerely,



Kenneth Sanchez  
Assistant Field Supervisor

Ms. Lisa Gibson

USFWS

cc:

Mr. Mike Finnegan, Bureau of Reclamation

Mr. Larry Combs, County of Sutter

Mr. Scot Mende, City of Sacramento

Ms. Leighann Moffitt, County of Sacramento

Mr. John Roberts, The Natomas Basin Conservancy

Mr. Jeff Drongesen, Mr. Todd Gardner, Mr. Patrick Moeszinger, California Department of Fish and Game

Mr. Don Lockhart, Sacramento Local Area Formation Commission

Mr. Dee Swearingen, Natomas Mutual Central Water Company

References cited

U.S. Fish and Wildlife Service. 2003. Final Natomas Basin Habitat Conservation Plan, Sacramento and Sutter Counties, California. Prepared by the City of Sacramento, Sutter County, and The Natomas Basin Conservancy in association with Reclamation District 1000 and Natomas Central Mutual Water Company.



USFWS-1

*The comment states that USFWS is responding to the Notice of Availability (NOA) of the DEIR/DEIS and provides comments under the authority of the Endangered Species Act.*

The comment does not raise specific questions or information regarding the adequacy of the environmental analysis provided in the DEIR/DEIS. The comment does not specify additional information needed or particular insufficiencies in the DEIR/DEIS. The comment is noted.

USFWS-2

*The comment restates various aspects of the project description.*

The comment does not raise specific questions or information regarding the adequacy of the environmental analysis provided in the DEIR/DEIS. The comment does not specify additional information needed or particular insufficiencies in the DEIR/DEIS. The comment is noted.

USFWS-3 through  
USFWS-15

*The comment states that, according to USFWS and as addressed in the DEIR/DEIS, the following Federally listed species could be affected:*

- ▶ *endangered vernal pool tadpole shrimp (Lepidurus packardi);*
- ▶ *threatened vernal pool fairy shrimp (Branchinecta lynchi);*
- ▶ *threatened California tiger salamander (Ambystoma tigrinum);*
- ▶ *endangered Sacramento orcutt grass (Orcuttia viscida);*
- ▶ *endangered slender orcutt grass (Orcuttia tenuis);*
- ▶ *threatened California red-legged frog (Rana aurora draytonii);*
- ▶ *threatened valley elderberry longhorn beetle (Desmocerus californicus dimorphus);*
- ▶ *threatened giant garter snake (Thamnophis gigas, GGS)*

*The comments further state that USFWS has not yet evaluated the full effects analysis and proposed conservation strategy addressed in the DEIR/DEIS. The comments also state that evaluation would occur during informal or formal consultation, pursuant to Section 7 of the ESA.*

The comment does not raise specific questions or information regarding the adequacy of the environmental analysis provided in the DEIR/DEIS. The comment does not specify additional information needed or particular insufficiencies in the DEIR/DEIS. The comment is noted.

USFWS-16

*The comment states that USFWS looks forward to working with USACE on a conservation strategy to address impacts to Federally-listed species, and invites USACE to initiate consultation with USFWS.*

On December 6, 2010, the USACE initiated consultation with the USFWS for potential impacts to vernal pool fairy shrimp, vernal pool tadpole shrimp, conservancy fairy shrimp, Valley elderberry longhorn beetle, Sacramento Orcutt grass, and Slender Orcutt grass, for compliance with Section 7 of the ESA.

USFWS-17

*The comment states that the City has negotiated a water entitlement purchase from NCMWC to provide a water supply source for the project.*

The comment does not raise specific questions or information regarding the adequacy of the environmental analysis provided in the DEIR/DEIS. The comment does not specify additional information needed or particular insufficiencies in the DEIR/DEIS. The comment is noted.

USFWS-18

*The comment states that the purchase/reassignment will require the approval Reclamation, and that Reclamation is listed as a cooperating agency in the DEIR/DEIS.*

Reclamation's approval authority is noted on page 1-13 in Chapter 1, "Introduction," of the DEIR/DEIS.

USFWS-19

*The comment states that the transfer of water entitlements to the City apparently would result in reduced surface water availability for irrigating agricultural lands (primarily rice fields) in the Natomas Basin.*

See Master Response 16 – Formulation of Baseline Conditions for Natomas Central Mutual Water Company's Service Area. As discussed on pages 3B.10-4 through 3B.10-5 of the DEIR/DEIS, the NCMWC service area (or Zone 1 of the "Water" Study Area) is experiencing a transition from irrigated agricultural uses to urban uses as a result of planned growth by the City of Sacramento, Sacramento County, and Sutter County. Table 3B.10-1 on page 3B.10-5 of the DEIR/DEIS documents this change as reflected by a nearly 4,500-acre reduction in agricultural land between 2004 and 2007. Based on a series of planned developments within the Natomas Basin, including but not limited to the Metro Air Park, Natomas Joint Vision, and Sutter Point Specific Plan, this pattern of development can reasonably be expected to continue in the future regardless of the project. These land use patterns were well established and in place before the issuance of the NOP for the project.

Furthermore, based on irrigation improvements within NCMWC's service area, such as the efficient use of return water, the assignment would not be expected to result in any further reductions in irrigated rice lands beyond the acreages present in 2007. Additionally, the irrigation efficiencies derived from these improvements would eliminate the need for any groundwater pumping, even during dry years, and would be sufficient to supply 2004 cropping patterns, should rice production rebound in the future.

USFWS-20 through  
USFWS-21

*The comments reference USFWS's October 28, 2008 letter, regarding the agency's concern about the trend of fallowing rice fields in the Natomas Basin and the effect this has on giant garter snake.*

See response to comment USFWS-19. The land use patterns responsible for the fallowing of rice field in the Natomas Basin are considered active and ongoing under the environmental baseline. Therefore, they would occur with or without implementation of the project. Furthermore, notwithstanding these ongoing changes in land use within the Natomas Basin, irrigation and drainage improvements within NCMWC's service area would continue to allow for increased agricultural production on fallowed lands even with the implementation of the "Project" water assignment.

USFWS-22 through  
USFWS-25

*The comments state the relevance of rice fields to giant garter snake habitat particularly for its young. The comments reference the citation in the DEIR/DEIS of a 2007 evaluation by Wagner and Bonsignore (prepared for NCMWC) as the basis for the conclusion that the water entitlement transfer would not impact current cropping patterns in the NCMWC's service area. The comments state the inability of USFWS to obtain a copy of the study and request a future opportunity to review the study for relevance to the effects analysis in the DEIR/DEIS.*

The Wagner and Bonsignore evaluation document was provided in Appendix M of the DEIR/DEIS, which was available on both the USACE and City websites. As shown in Chapter 5, "Errata" of the FEIS/FEIR, the Table of Contents has been revised to include a breakdown of the contents of Appendix M. See also Master Water Response 21 – Contents of Appendix M in the DEIR/DEIS.

USFWS-26

*The comment requests that the DEIR/DEIS include information to substantiate the following statement, "...even if rice production were to increase in the future, landowners within the NCMWC would have sufficient surface water supplies to service the land available for planting in most years and no supplemental groundwater during normal conditions would be required."*

This finding is based on the conclusions on pages 26 through 27 of the Wagner and Bonsignore evaluation (2007), which is included as Appendix M2 of the DEIR/DEIS.

USFWS-27 through  
USFWS-29

*The comments suggest that the DEIR/DEIS should outline how much land is available for rice planting in NCMWC's service area, correlating existing water supplies under NCMWC's current water entitlement and their entitlement anticipated under the project, with the water entitlement reassignment to the City (with no supplemental groundwater).*

The analysis requested in the comment is provided in the 2007 Wagner and Bonsignore evaluation, on pages 21 through 26 (see Appendix M2 of the DEIR/DEIS). Furthermore, as provided in Table 6 of the Wagner and Bonsignore evaluation, between 2004 and 2007 NCMWC experienced an over 4,500-acre net reduction in lands planted with rice. Based on data provided in Table 19 on page 26 of the evaluation, water supplies available to NCMWC under the project would continue to be sufficient to maintain 2004 and 2007 crop patterns, even in critically dry years and in the absence of supplemental groundwater pumping. Because a supply surplus would still remain for NCMWC's service area, the proposed assignment would not preclude an increase in rice planting in future years. Additional details are provided in Master Response 16 – Formulation of Baseline Conditions for Natomas Central Mutual Water Company's Service Area.

USFWS-30

*The comment introduces discussion regarding potential impacts on the City of Sacramento's 2003 Natomas Basin Habitat Conservation Plan (NBHCP). The comment states that the permanent reassignment of water entitlements from NCMWC to the City may result in reduced water availability to maintain agriculture.*

See responses to comments USFWS-27 through USFWS-29.

USFWS-31

*The comment states that the permanent reassignment of water entitlements may negatively affect [continued] implementation of the 2003 NBHCP.*

See responses to comments USFWS-27 through USFWS-29 and USFWS-33.

USFWS-32 *The comment references the statement in the DEIR/DEIS that “...changes within NCMWC’s service area as a result of the Off-site Water Facilities would not result in substantial changes to existing irrigation patterns, which changes could otherwise result in adverse effects to giant garter snake within the Natomas Basin....Based on these findings, the Off-site Water Facilities would not conflict with objectives and policies of the NBHCP.”*

See response to comment USFWS-33.

USFWS-33 *The comment states that in permitting the NBHCP in 2003, USFWS assumed that the amount of available habitat (including rice fields) for giant garter snake would remain generally constant over the 50-year permit term with baseline conditions as outlined in the plan.*

The USACE and the City understand the concerns raised by the comment in relation to assumptions contained in the NBHCP. However, as discussed in responses to comments USFWS-27 through USFWS-29, from 2004 through 2007 the NCMWC service area experienced a net reduction in rice acreage of over 6,000 acres. This condition is reflected in the baseline for the evaluation of potential impacts within NCMWC’s service area, with or without the project. The proposed reassignment of water would not have an effect on whether the amount of available habitat for giant garter snake would increase or decrease, because the Wagner and Bonsignore report (DEIR/DEIS Appendix M2) indicates the assignment would not result in water supply reductions that would result in reduced crop acreage. See also Master Response 16 – Formulation of Baseline Conditions for Natomas Central Mutual Water Company’s Service Area..

USFWS-34 *The comment references a caveat in the NBHCP that if additional development occurs in the Natomas Basin outside the NBHCP permit areas, that development would require additional consultation or amendment to the NBHCP.*

The USACE and the City have noted the NBHCP’s requirements for development within the Natomas Basin, outside the NBHCP permit areas. Based on the proposed actions associated with the project that are taken in the context of existing land use within the NCMWC service area as of 2007, these requirements cited by the commenter would not be applicable and no impact would occur.

USFWS-35 *The comment states that although permanent fallowing of rice agriculture is not development per se, the effect of this action would be similar in that it would result in less habitat available to support the essential behavioral patterns of giant garter snake.*

As discussed in responses to comments USFWS-26 and USFWS-27 through USFWS-29, a reduction in land areas planted in rice within the NCMWC service area is reflected in the baseline condition for the project. Furthermore, reflecting the findings of the 2007 Wagner and Bonsignore evaluation (included in Appendix M2 of the DEIR/DEIS) and as summarized on pages 3B.3-37 and 3B.3-57 of the DEIR/DEIS, NCMWC would be able to maintain sufficient water supplies to accommodate 2004 crop patterns in the future even with the proposed assignment.

USFWS-36 through  
USFWS-38

*The comments restate the discussion in the DEIR/DEIS that the amount of habitat, primarily in the form of irrigated rice fields, has been reduced substantially in recent years because of fallowing. The comments reference the assertion in the DEIR/DEIS that the proposed water reassignment would not adversely affect current crop patterns in NCMWC's service area, but that "current" refers to habitat conditions in 2007.*

The commenter restates text that is contained in Section 3B.3, "Biological Resources," of the DEIR/DEIS; the comments are noted.

USFWS-39

*The comment suggests that the DEIR/DEIS should base the analysis of the impact of the project on baseline conditions that are assumed in the NBHCP, not on the 2007 conditions [presented in the Wagner and Bonsignore evaluation in Appendix M2 of the DEIR/DEIS].*

The application of the 2003 NBHCP baseline conditions for the evaluation of potential impacts to giant garter snake in the DEIR/DEIS would be inappropriate for three reasons. First and as discussed in response to comment USFWS-33, the NBHCP baseline does not accurately reflect the habitat conditions (or crop patterns) present in the NCMWC service area at the time of the release of the NOP for this project. The CEQA Guidelines state that the baseline for assessing impacts attributable to a project is normally the conditions at the time the NOP is published (California Code of Regulations [CCR] Title 14 Section 15125). Second, 2003 baseline conditions would fail to consider the water supply conditions (e.g., improved efficiency in return flows) that made the project feasible for the NCMWC service area in 2007. Third, the comment inappropriately places emphasis on characterizing the baseline condition in terms of physical land use changes within the NCMWC service area as opposed to the context of changes in water supply allocations as reflected in the DEIR/DEIS. Additionally, the physical land use changes referenced by the commenter were analyzed in the reviews under CEQA and NEPA that have been conducted for the major projects affecting giant garter snake habitat (e.g., Sutter Point Specific Plan EIR, certified on June 30, 2009).

For the project, the main consideration relevant to the giant garter snake would be whether enough water would remain in the NCMWC service area to maintain viable habitat conditions along existing channels and ponds, which provide permanent year-round habitat, as opposed to rice fields, which generally only provide summer habitat. As discussed on pages 2-80 through 2-81 in the DEIR/DEIS, the project only would purchase CVP water supplies and the discussion does not stipulate any corresponding land use changes that would be necessary to support the project. As provided in Tables 18 and 19 of the 2007 Wagner and Bonsignore evaluation (in Appendix M2 of the DEIR/DEIS), other existing water sources (excluding groundwater) would be available to compensate for the project-used CVP supplies. As a result, the environmental baseline applied in the DEIR/DEIS is considered appropriate for assessing the impacts of the project in the context of the changes in water use within NCMWC's service area and any corresponding affects to giant garter snake.

USFWS-40 through  
USFWS-41

*The comments state USFWS' belief that reduced surface water availability for irrigation might result in permanent fallowing of rice habitat in NCMWC's service area.*

See Master Response 16 – Formulation of Baseline Conditions for Natomas Central Mutual Water Company's Service Area. The project would not result in permanent fallowing of rice habitat within the Natomas Basin. As discussed in the conclusions of the

2007 Wagner and Bonsignore evaluation, contained in Appendix M2 and summarized on pages 3B.3-37 and 3B.3-51 of the DEIR/DEIS, even with the project, NCMWC would continue to have sufficient water supplies to maintain both 2004 and 2007 crop patterns. The comment fails to note that other influences (e.g., new development, crop demands, etc.) within the Natomas Basin are responsible for the conversion of rice acreage to other uses and were active before the NOP for this project was prepared and circulated. Therefore, connecting potential changes in crop patterns to the project is inaccurate. Rather, the changes in crop patterns combined with NCMWC's investment in irrigation efficiencies within its service area make the project feasible without the need for any permanent fallowing of agricultural lands.

USFWS-42 through  
USFWS-43

*The comments state USFWS' recommendation to incorporate the effects (discussed in the foregoing comments) into the DEIR/DEIS, and suggests that USACE and/or Reclamation initiate consultations on these effects to the giant garter snake.*

See response to comment USBR-4. If an ESA consultation concerning the proposed assignment is necessary, Reclamation would consult with USFWS.

USFWS-44 through  
USFWS-46

*The comments state that although the development area is not within the current proposed planning area for the South Sacramento Habitat Conservation Plan (SSHCP), USFWS encourages USACE to select a project alternative that does not preclude the success of the proposed SSHCP, which is aimed at establishing a conservation strategy designed to avoid, minimize, and mitigate for the loss or modification of wetlands, waters, and species habitat.*

None of the project land alternatives would affect the successful implementation of the draft SSHCP because the SPA is not within the SSHCP's proposed planning area. Conservation commitments for the SSHCP have not been secured at this point and the locations of SSHCP habitat preserves have not been established; thus, it is not currently possible for the project to design habitat conservation areas to complement SSHCP preserves. The current draft information available on the SSHCP website does not identify any conservation planning areas within or adjacent to the SPA. Ensuring that the conservation lands in the SPA would complement the conservation lands outlined in the SSHCP would be difficult until a plan was finalized and adopted, or until a draft plan is provided. Nevertheless, it is anticipated that the habitat preservation and wildlife corridor elements that are part of the project's open space design would complement the conservation goals set forth by an adopted SSHCP, or at least would not conflict with those goals.

USFWS-47

*The comment references the DEIR/DEIS conclusion that the project would not reduce the effectiveness of the proposed SSHCP conservation strategy, and states that that conclusion was apparently reached because the off-site water infrastructure improvements are not included in the SSHCP planning area.*

Section 3B.3, "Biological Resources," page 3B.3-32 of the DEIR/DEIS states that Zone 4 of the "Water" Study Area overlaps portions of, and therefore portions are included in, the SSHCP planning area. Furthermore, as discussed under Impact 3B.3-7 on page 3B.3-62 of the DEIR/DEIS, if the SSHCP was finalized and adopted before commencement of mitigation developed for the Off-site Water Facility Alternatives, USACE and the City would have the option of participating in the SSHCP for covered species.

USFWS-48 *The comment states that, from review of the most currently available information and maps, a portion of the “Water” Study Area (e.g., Zone 4) might overlap with the SSHCP planning area.*

This relationship is identified on page 3B.3-32 in Section 3B.3, “Biological Resources,” of the DEIR/DEIS.

USFWS-49 *The comment references the DEIR/DEIS’ suggestion that the project does not conflict with the SSHCP because the SSHCP is not yet permitted.*

The current draft of the SSHCP (2010) does not include the SPA, but as discussed in response to comment USFWS-48, Zone 4 of the “Water” Study Area does overlap with areas included within the SSHCP planning area. Because of the linear nature of the Off-site Water Facility Alternatives, their relatively small footprint, and close proximity to existing or planned roadways, the conclusion that the project would be unlikely to conflict with the conservation objectives of the SSHCP is reasonable. Additionally, if the SSHCP was adopted and permitted before construction of the preferred Off-site Water Facility Alternative, the City would continue to have the option of participating in the SSHCP planning area.

USFWS-50 through  
USFWS-51

*The comment suggests that the DEIR/DEIS should analyze the effects the project may have on the yet-to-be-permitted SSHCP, based on the most currently available conservation strategy in the event the SSHCP is permitted before the Folsom project is implemented.*

The DEIR/DEIS analyzes the potential effects of the Off-site Water Facility Alternatives on listed species; these species are covered under the SSHCP (see Impact 3B.3-2 and 3B.3-3 on pages 3B.3-46 through 3B.3-53 in Section 3B.3, “Biological Resources,” of the DEIR/DEIS). Furthermore, as discussed in the second paragraph on page 3B.3-62 of the DEIR/DEIS, USACE and the City would have the option of participating in the SSHCP, if the SSHCP was permitted before construction of the preferred Off-site Water Facility Alternative. Project consistency with the SSHCP is not required under CEQA because the SSHCP has not been adopted (see DEIR/DEIS Section 3A.3 “Biological Resources,” pages 3A.3-93 and 3A.3-94).

USFWS-52 *The comment states that USFWS is committed to working with USACE and the City to ensure that the proposed project avoids and minimizes effects on Federally listed species and remains consistent with conservation strategies and pending and existing habitat conservation plans. The comment also provides contact information.*

The comment does not raise specific questions or information regarding the adequacy of the environmental analysis provided in the DEIR/DEIS. The comment does not specify additional information needed or particular insufficiencies in the DEIR/DEIS. The comment is noted.

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

SEP 17 2010

Lisa Gibson  
 US Army Corps of Engineers  
 Sacramento District  
 Regulatory Branch  
 1325 J Street, Room 1480  
 Sacramento, CA 95814-2922

Subject: Draft Environmental Impact Statement for Folsom South of U.S. 50 Specific Plan Project, Sacramento County, California [CEQ # 20100254]

Dear Ms. Gibson:

The U.S. Environmental Protection Agency (EPA) has reviewed the Draft Environmental Impact Statement (DEIS) for Folsom South of U.S. 50 Specific Plan Project (Project), Sacramento County, California. Our comments are provided pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act. These comments were also prepared under the authority of, and in accordance with, the provisions of the Federal Guidelines (Guidelines) promulgated at 40 CFR 230 under Section 404(b)(1) of the Clean Water Act (CWA). We appreciate the EPA-specific, informal extension of the comment deadline date from September 10, 2010 to September 17, 2010, granted by you on September 2, 2010.

EPA appreciates the efforts of the U.S. Army Corps of Engineers (Corps), City of Folsom (Folsom) and the project applicant, South Folsom Property Owners Group, in coordinating with EPA prior to the review of the Project DEIS. The DEIS for the Project provides a robust analysis of the potential impacts of the Project alternatives. Notable features include: a Proposed Project design that incorporates smart growth and low impact development principles, mitigation measures that include a site-specific screening analysis and/or Health Risk Assessment to determine the cumulative adverse air toxics effects on sensitive receptors, and a detailed "Summary of Impacts and Mitigation Measures" that clearly identifies the mitigation measures, who is responsible for implementation, timing of implementation, and enforcement responsibilities.

While we applaud the above design features and mitigation commitments, we believe the Proposed Project has the potential to contribute to significant cumulative environmental degradation that could be prevented with additional design modifications or the selection of other less damaging practicable alternatives. For example, the No U.S. Army Corps of Engineers Permit (No USACE Permit) and Resource Impact Minimization Alternatives, described in the DEIS, offer significantly reduced adverse environmental impacts, and could be redesigned to meet Sacramento Area Council of Governments (SACOG) density and smart growth goals.

Commendable design features and quality of the DEIS notwithstanding, we have rated the Proposed Project and DEIS as Environmental Objections – Insufficient Information (EO-2) (see enclosed EPA Rating Definitions), based on significant impacts to aquatic and ecologically important resources, the potential inability to achieve “no net loss of wetland functions and values,” a flawed Section 404(b)(1) On-Site Alternatives Analysis, significant air quality impacts, and lack of a demonstrated need for the proposed level of development. Because of the above, EPA is not able to determine whether the Proposed Project is the least environmentally damaging practicable alternative, consistent with the Guidelines. Furthermore, the Proposed Project would contribute to the exceedance of National Ambient Air Quality Standards. Proceeding with the Project, as proposed, would set a precedent for future actions that, collectively, could result in significant environmental impacts.

To address our objections, we recommend the Final EIS: 1) validate the need for the proposed level of development with appropriate data; 2) develop and analyze alternatives that maximize the avoidance and minimization of adverse impacts to sensitive resources while also meeting Sacramento Area Council of Government Blueprint density and smart growth goals; 3) demonstrate the feasibility of achieving “no net loss of functions and values” of wetlands, waters of the U.S., and other sensitive resources; 4) include a revised Section 404(b)(1) On-Site Alternatives Analysis that identifies the least environmentally damaging practicable alternative; and 5) provide a General Conformity Analysis, and if applicable, a draft General Conformity determination. Our detailed comments are enclosed.

EPA appreciates the opportunity to provide input on this Specific Plan Project. We are available to discuss all recommendations provided. When the Final EIS is released for public review, please send one hard copy and two CD to the address above (Mail Code: CED-2). If you have any questions, please contact me at 415-972-3843, or contact Laura Fujii, the lead reviewer for this project. Laura can be reached at 415-972-3852 or fujii.laura@epa.gov.

Sincerely,



Enrique Manzanilla, Director  
Communities and Ecosystems Division  
Mail Code CED-1

Enclosures: Summary of EPA Rating Definitions  
Detailed Comments

Cc: Gail Furness de Pardo, City of Folsom Community  
Michael R. Finnegan, Bureau of Reclamation  
Mr. Kenneth Sanchez, U.S. Fish and Wildlife Service  
Mr. Dan Gifford, California Department of Fish and Game

**U.S. EPA DETAILED COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR FOLSOM SOUTH OF US 50 SPECIFIC PLAN PROJECT, SACRAMENTO COUNTY, CA, SEPTEMBER 17, 2010**

**Section 404(b)(1) of the Clean Water Act**

*Develop and analyze alternatives that maximize the avoidance and minimization of adverse impacts while meeting SACOG density and Smart Growth principles.* The Proposed Project would result in direct impacts to 39,499 acres of waters of the U.S. (WUS), including 24.42 acres of vernal pools, seasonal wetlands, and seasonal wetland swales. The DEIS states that the total cumulative loss of WUS in Sacramento County and El Dorado County, including past and expected losses, is 381,039 acres out of 909,96 acres.<sup>1</sup> EPA has long expressed its concern over the significant direct, indirect, and cumulative loss of aquatic resources in the Sacramento County region. Cumulative impacts to vernal pool grasslands and seasonal wetland habitats (the distinction between which are often blurred on both technical and regulatory grounds) have been exceedingly large. The loss of these habitats has led to habitat fragmentation and the loss of connectivity. The Proposed Project would also result in the loss of 444 acres of blue oak woodland, another rapidly declining ecologically important habitat. | 34  
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California has suffered between 80-90% loss of vernal pools, with a loss of over 137,000 acres of vernal pool habitat by 2005, as compared to habitat that existed in the baseline period of 1976-1995. Sacramento County is proposing the cumulative development and loss of nearly 2000 acres of WUS, including as much as 1200 acres of vernal pools and swales.<sup>2</sup> As noted in the DEIS, the U.S. Army Corps of Engineers (Corps) cannot issue a Section 404 Permit to the Proposed Project if a practicable alternative is identified that would have less adverse impacts on the aquatic ecosystem and no other significant adverse environmental consequences (p. 2-5). | 43  
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The No U.S. Army Corps of Engineers Permit (No USACE Permit) and Resource Impact Minimization Alternatives avoid many impacts to waters of the U.S., blue oak woodlands, air quality, and cultural resources. However, the DEIS states these alternatives are inconsistent with SACOG's Blueprint Scenario because they do not propose the density of development envisioned by the Blueprint (p. 4-66). The DEIS does not provide an explanation describing why these less damaging alternatives could not be designed to be more consistent with the SACOG Blueprint Scenario density goals. | 47  
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***Recommendations:***

We recommend the final environmental impact statement (FEIS) include the analysis of alternatives that both avoid and minimize adverse impacts to sensitive resources while also meeting Sacramento Area Council of Government (SACOG) Blueprint Scenario density and smart growth goals. For instance, we recommend further refinement of the No U.S. Army Corps of Engineers Permit (No USACE Permit) and Resource Impact Minimization Alternatives to meet SACOG density and smart growth goals. | 51  
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<sup>1</sup> Table 4-5: Wetlands and Other Waters at Specific Projects in the Vicinity of the Folsom South of Highway 50 Specific Plan, p. 4-30.

<sup>2</sup> Summary Report "Loss of Central Valley Vernal Pools; Land Conversion, Mitigation Requirements, and Preserve Effectiveness" by Placer Land Trust, 2009 [www.placerlandtrust.org](http://www.placerlandtrust.org)

**Revise the Section 404(b)(1) On-Site Alternatives Analysis and identify the LEDPA.** EPA does not concur with the conclusions of Appendix L: 404(b)(1) On-Site Alternatives Analysis, largely on the basis that the cost analysis is flawed. This Alternatives Analysis compares costs of identified alternatives to the cost of implementing the Proposed Project. Costs and other criteria should be used to determine the practicability of the alternatives and their ability to achieve the basic project purpose. The project purpose, as considered by the Corps, is to construct a large scale, mixed-use development, with associated infrastructure, within eastern Sacramento County (p. 1-7). We note that the Corps has not identified the least environmentally damaging practicable alternative (LEDPA).

**Recommendations:**

Include in the FEIS a revised Section 404(b)(1) On-Site Alternatives Analysis that properly applies criteria to determine the practicability of the alternatives and their ability to achieve the basic project purpose. The Section 404(b)(1) On-Site Alternatives Analysis should identify the LEDPA.

**Verify the ability to fully mitigate the loss of habitat functions and values of the LEDPA.** The 2008 Compensatory Mitigation Rule requires 404 Permit applicants to identify where and how they will mitigate for adverse impacts prior to issuance of the 404 Permit, with a hierarchy of preference starting with mitigation banks or in-lieu fee programs, progressing to permittee-responsible mitigation. The DEIS does not identify proposed mitigation sites nor provide a draft mitigation and monitoring plan. Thus, EPA is unable to determine compliance with the 2008 Compensatory Mitigation Rule. Considering the rapid rate of development in Sacramento County and the limited amount of undeveloped, uncommitted land that supports existing wetlands that could be preserved or that is suitable for compensatory aquatic habitat creation, it may not be possible to fully mitigate the loss of habitat functions and values of the Folsom South US 50 Specific Plan Area (SPA) (p. 4-32).

**Recommendations:**

We recommend the FEIS identify proposed mitigation sites and, if feasible, provide a draft mitigation and monitoring plan. This information would assist the Corps and EPA in determining compliance with the 2008 Compensatory Mitigation Rule. The FEIS should verify the ability to fully mitigate the loss of habitat functions and values.

**Consider the Off-Site Water Alternative 2B as the preferred water infrastructure alignment.** The construction of a large scale, mixed-use development in the Folsom South of US 50 Specific Plan Area (SPA) will require the construction and operation of new water and wastewater conveyance and treatment facilities. The DEIS evaluates eleven alternatives, consisting of various combinations of raw water or treated water conveyance, road route alignments, and water treatment plant (WTP) sites. The Off-Site Water Alternative 2B would reduce air quality, noise, wetland, and land use impacts by integrating with existing water treatment facilities, minimizing the conveyance alignment distance, and maximizing use of horizontal directional drilling construction methods where the pipeline route intersects WUS (p. 2-107).

**Recommendation:**

We recommend the Corps and project proponents consider selection of the Off-Site Water Alternative 2B, the identified environmentally superior alternative for the "water " portion of the project (p. 2-107), as the preferred water infrastructure alignment., | 79

**Air Quality**

***Aggressively implement emission reduction measures and include a General Conformity analysis and, if applicable, a draft General Conformity determination.*** Sacramento County is in nonattainment for ozone and particulate matter (PM), both fine PM and respirable PM (PM2.5 and PM10), with the Sacramento Valley Air Basin ranking among the worst in the nation for ozone. Emissions are dominated by area-wide sources, primarily because of development. Even with proposed mitigation, the construction, operation, and mobile-source emissions from the development of the SPA would exceed Sacramento Metropolitan Air Quality Management District-recommended thresholds and contribute to the exceedance of the National Ambient Air Quality Standards (NAAQS)(p. 3A.2-44). The Proposed Project would significantly increase peak-hour use, daily traffic volumes, and the demand for single-occupant automobile travel on roadways and intersections, resulting in a significant reduction in level of service and the need for major improvements. | 80 & 81  
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The DEIS correctly points out that EPA’s General Conformity program addresses emissions from federal projects and actions, in order to protect areas that EPA has designated as not meeting federal air standards. A federal agency first looks at whether its preferred alternative would result in direct and indirect emissions that are over the de minimis threshold for the program. If project emissions are above de minimis, the federal agency prepares a determination that describes in detail the manner in which the project conforms to the applicable state implementation plan (SIP) for the area. The DEIS states that General Conformity will be addressed in the Record of Decision (ROD) (p. 3A.2-11). While this is allowed under regulation and law, project emissions could be above the de minimis threshold, requiring a General Conformity determination. Addressing General Conformity requirements now may lead to project design modifications, emission offsets, and additional mitigation measures that significantly reduce emissions. | 94  
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| 99 & 100  
| 101

**Recommendations:**

We urge project proponents to aggressively implement emission reduction measures such as reliance on accessible transit and higher density development on more centralized, smaller parcels close to existing employment centers and infrastructure. We recommend working with transportation planners to fund and implement transit, roadway, and intersection improvement projects that will reduce adverse impacts to air quality. The FEIS should include a General Conformity Analysis, and, if applicable, a General Conformity Determination. If a determination is required, the results of that determination, in the form of emission reductions, should be integrated into the project design. | 102  
| 103  
| 102 cont.  
| 104 & 105  
| 106  
| 107 & 108  
| 109

***Aggressively implement all feasible GHG reduction measures.*** The Proposed Project would generate temporary, short-term construction-related and long-term operational greenhouse gas emissions. These emissions would contribute to a substantial and unavoidable cumulative impact despite proposed mitigation measures. | 110 & 111  
| 112  
| 113

***Recommendation:***

We urge retention and aggressive implementation of all proposed mitigation measures, including those currently required under Assembly Bill 32, the California Global Warming solutions Act of 2006 (AB 32), regardless of the outcome regarding final implementation of AB 32. | 114  
| 115  
| 116

***Correct Sacramento Metro's PM2.5 designation in Table 3A.2-1.*** Table 3A.2-1, "Summary of Ambient Air Quality Standards and Attainment Designations," contains an error regarding the Sacramento Metro area's status with respect to fine particulate matter (PM2.5) NAAQS. The table indicates that the Sacramento Metro area is unclassifiable/attainment ("U/A" in the table). This designation is not correct. | 117  
| 118  
| 119

***Recommendation:***

Correct Table 3A.2-1 to state that the Sacramento Metro area was designated nonattainment for the 2006 PM2.5 NAAQS in December 2009. This designation is codified at 40 Code of Federal Register Part 81.305. | 120  
| 121  
| 122

**Need for Proposed Level of Development**

***Validate the need for the proposed level of development.*** The region surrounding the SPA is under rapid development, as demonstrated by the many nearby developments and Master Planned Communities described in the DEIS (4.1 Cumulative Impacts). There appears to be ongoing public debate regarding growth projections, level of development, and housing unit needs for Sacramento County.<sup>3</sup> The DEIS does not demonstrate the need for the proposed level of development, especially in light of already planned growth in the surrounding region. | 123 & 124  
| 125  
| 126 & 127  
| 128 & 129  
| 130

***Recommendations:***

The FEIS should validate the need for the proposed level of development with appropriate data. For instance, provide current data regarding the demand for housing and commercial/industrial space in this area. The FEIS should include a detailed explanation of why a development of this size, composition, and location is needed. If feasible, provide a more detailed description of the phasing of the Proposed Project, including the criteria that will be used to determine the need for subsequent stages. | 131  
| 132  
| 133  
| 134  
| 135

**Water Supply**

***Provide a more robust evaluation of the long-term reliability of the proposed water supply source.*** It is estimated that the Proposed Project annual water demand would be 3,648 acre-feet (af) for residential use and 1,898 af for nonresidential use, for a total of 5,546 af (p. 2-79). The proposed water source would be an agriculture-to-urban water transfer of no more than 8,000 acre-feet-per-year (afy) of Bureau of Reclamation Central Valley Project (CVP) contract entitlement from the Natomas Central Mutual Water Company (NCMWC), located in the | 136  
| 137  
| 138

<sup>3</sup> The Sacramento Bee, "Sacramento County may open 20,000 acres to development," Tuesday, July 27, 2010

Natomas Basin north of the City of Sacramento. The City of Folsom is an existing CVP contractor within the American River Unit. Upon annexation, the SPA would be within the CVP water rights place of use for the City (p. 2-80). A 2007 study, cited in the DEIS, indicates that, based on NCMWC cropping patterns, NCMWC has sufficient surface water supplies to transfer up to 8,000 afy without adverse effects to NCMWC, nor the risk of groundwater pumping by NCMWC as a result of the water transfer(p. 2-82). The NCMWC CVP contract supply originates from the Shasta/Trinity River Division of the CVP (p. 2-80). EPA is concerned with the long-term reliability of the proposed NCMWC water supply source, in light of efforts to reduce diversions from the Trinity River, increase Sacramento River flows for anadromous fish and the San Francisco-San Joaquin River Bay Delta (Bay Delta), increasing upstream demands, and climate change.

***Recommendations:***

We recommend the FEIS contain a more robust evaluation of the long-term reliability of the proposed water supply source. For instance, provide additional information on potential implications of full implementation of the Trinity River Restoration Program, more stringent Bay Delta downstream flow requirements, the likelihood of increased upstream demands, and climate change risks.

**Area 40 Aerojet Superfund Site**

Area 40, which is part of the Island Operating Unit of the Aerojet Superfund site, is located in the SPA, a short distance east of Prairie City Road. This site is undergoing investigation and remediation under the direction of EPA, the Central Valley Regional Water Quality Control Board, and the California Department of Toxic Substances Control. The Proposed Project would designate Area 40 as open space and parkland. Land identified for the proposed off-site detention basin is also located on the Aerojet Superfund site in the Eastern Operating Unit (p. 3A.8-23).

***Correct references regarding Area 40 “RI/FS”.*** The discussion of Area 40 references a 2007 document as an “RI/FS” and attaches a copy in Appendix G1. The referenced document is, in fact, a work plan for field sampling to support the preparation of a Remedial Investigation/Feasibility Study (RI/FS) report for the Island Operable Unit (IOU), including Area 40 (p. 3A.8-3).

***Recommendation:***

The FEIS should clarify that the referenced document is not the RI/FS report for the IOU because this document is in preparation and has not yet been submitted to EPA in final form. While the work plan does summarize soil and groundwater data collected prior to the date of its preparation in 2007, substantial additional sampling data have been generated during the field implementation of the sampling work plan. These data will be presented and analyzed in the forthcoming RI/FS for the IOU and should be consulted prior to planning future uses within Area 40. Cleanup levels for Area 40 will not be set until EPA signs a Record of Decision for the IOU.

***Correct text describing the content of EPA's Record of Decision for the Island Operating Unit.***

The text of the DEIS reads "Before any portion of the Aerojet Superfund Site can be made available for new uses, EPA must issue a record of decision (ROD) or similar certification indicating that remedial actions have been completed, and that no unacceptable risks would be posed to human health or the environment" (3A.8-3). This statement is not correct.

***Recommendation:***

The FEIS should clarify that EPA's ROD for the IOU will document EPA's selection of an alternative to clean up this portion of the Aerojet Superfund site to be protective of human health and the environment for the anticipated future uses of the site. Following the ROD, the remedial design process develops the technical and construction aspects of the remedy, which is then implemented during the remedial action phase. It is possible that portions of Area 40 may not be available for some uses (especially sensitive uses such as residential development) until the completion of cleanup. The range of cleanup time frames varies and is very site-specific. For instance, cleanup of soils may take only a matter of months to implement, while groundwater restoration remedies (such as pumping and treating extracted groundwater) may take years or decades.

Questions regarding the investigation and remediation of Area 40 may be directed to: Gary J. Riley, P.E., Environmental Engineer, Superfund Project Manager/Superfund Reuse Coordinator, US EPA Region 9, 415-972-3003 or riley.gary@epa.gov.

**Sustainable Development**

***Aggressively implement smart growth principles.*** EPA acknowledges the advantages of annexation of the SPA in order to provide the City of Folsom the ability to ensure that development on adjacent land within its sphere of influence is consistent with City's General Plan and SACOG Blueprint and Smart Growth Principles. We commend the commitment to smart growth and low impact development principles.

***Recommendations:***

We continue to strongly encourage the aggressive implementation of Smart Growth, Green Building, and Leadership in Energy and Environmental Design (LEED) principles as a means to minimize project impacts and create a healthier, more sustainable community. Where feasible, we encourage infill of existing urbanized parcels prior to the development of current open space, because infill reduces the need for new infrastructure, helps revitalize existing developed areas, and reduces development pressure of open space.

USEPA-1 through  
USEPA-4

*The comments state that the U.S. Environmental Protection Agency (EPA) appreciates the opportunity to comment on the DEIR/DEIS. The comments further states appreciation for early coordination with EPA, and that the DEIR/DEIS contains a robust analysis of the potential impacts of the project alternatives. The comments also state that the project has notable features including a project design that incorporates smart growth and low impact development principles.*

The comment does not raise specific questions or information regarding the adequacy of the environmental analysis provided in the DEIR/DEIS. The comment does not specify additional information needed or particular insufficiencies in the DEIR/DEIS. The comment is noted.

USEPA-5

*The comment notes that the project incorporates mitigation measures that include a site-specific screening analysis and/or Health Risk Assessment (HRA) to determine the cumulative adverse air toxics effects on sensitive receptors.*

The comment restates text that is contained within DEIR/DEIS Section 3A.-2, "Air Quality"; the comment is noted.

USEPA-6

*The comment states that the project includes a detailed "Summary of Impacts and Mitigation Measures" that clearly identifies the mitigation measures, who is responsible for implementation, timing of implementation, and enforcement responsibilities.*

The comment does not raise specific questions or information regarding the adequacy of the environmental analysis provided in the DEIR/DEIS. The comment does not specify additional information needed or particular insufficiencies in the DEIR/DEIS. The comment is noted.

USEPA-7

*The comment states that USEPA believes the project has the potential to contribute to significant cumulative environmental degradation.*

The City and USACE acknowledge that the project has the potential to contribute to significant individual and cumulative environmental impacts, as discussed in Section 4.1, "Cumulative Impacts" of the DEIR/DEIS. This specific comment is in regards to the EPA's Section 404(b)(1) Guidelines (404 Guidelines), which state that "no discharge of dredged or fill material shall be permitted which will cause or contribute to significant degradation of the waters of the United States." Any effects contributing to significant degradation are considered individually and cumulatively. The USACE has not yet made a determination on whether the proposed project or other alternative would result in significant degradation. Compliance with the 404 Guidelines would be determined within any supplemental NEPA documentation required and the ROD. See responses to comments USEPA-61 through USEPA-63 for additional information regarding compliance with the 404 Guidelines.

USEPA-8	<p><i>The comment states that the project’s potential contribution to significant cumulative environmental degradation could be prevented with additional design modifications or selection of other, less damaging alternatives.</i></p> <p>The DEIR/DEIS contains an analysis of five alternatives at an equal level of detail that would entail different designs and configurations of land uses at the project, three of which would also preserve more than 30% of the project’s open space. The DEIR/DEIS also evaluates a No Project Alternative in which the project site would not be annexed to the City of Folsom, would continue to be zoned as Ag-80, and would only allow construction of up to 44 rural residences under Sacramento County jurisdiction. There were several other additional alternatives that were considered and rejected, as discussed in Section 2.3.7, “Land Alternatives Considered and Eliminated from Further Consideration,” beginning on page 2-65. The City and USACE believe that the DEIR/DEIS analyzes a reasonable range of alternatives as required by both CEQA and NEPA; neither requires analysis of every possible alternative. See also responses to USEPA-61 through USEPA-63.</p>
USEPA-9 through USEPA-10	<p><i>The comments state that the No USACE Permit and Resource Impact Minimization Alternatives offer significantly reduced adverse impacts, and these two alternatives could be redesigned to meet the Sacramento Area Council of Governments’ (SACOG) density and smart growth goals.</i></p> <p>See responses to comments USEPA-8 and USEPA-61 through USEPA-63.</p>
USEPA-11	<p><i>The comment states that EPA has rated the project as “Environmental Objections – Insufficient Information (EO-2).”</i></p> <p>See responses to comments USEPA-61 through USEPA-63 for a description of USACE’s process for documenting the least environmentally damaging practicable alternative (LEDPA).</p>
USEPA-12 through USEPA-15	<p><i>The comment notes that the project and DEIR/DEIS were rated as Environmental Objections – Insufficient Information (EO-2, comment USEPA-11), because of a potential inability to achieve no net loss of wetlands, a “flawed” section 404(b)(1) alternatives analysis, significant air quality impacts, and “lack of a demonstrated need for the proposed level of development.”</i></p> <p>See responses to comments USEPA-61 through -63.</p>
USEPA-16	<p><i>The comment states that the DEIR/DEIS has a lack of demonstrated need for the proposed level of project development.</i></p> <p>See responses to comments USEPA-124 through USEPA-130.</p>
USEPA-17	<p><i>The comment states that EPA is unable to determine whether the project is the LEDPA.</i></p> <p>To receive a permit to fill waters within USACE jurisdiction, the project applicant must demonstrate that the selected alternative is the LEDPA. See responses to comments USACE-61 through USACE-63 for a description of USACE’s process for documenting the LEDPA.</p>

USEPA-18	<p><i>The comment states that the project would contribute to the exceedance of National Ambient Air Quality Standards.</i></p>
	<p>The comment restates text that is contained within DEIR/DEIS Section 3A.-2, “Air Quality”; the comment is noted.</p>
USEPA-19 through USEPA-20	<p><i>The comments state that the project could set a precedent for future actions, and that these future actions could collectively have significant environmental impacts.</i></p>
	<p>As discussed on page 1-9, the DEIR/DEIS is intended as a “first-tier” or program-level document. Subsequent actions within the Specific Plan would be assessed for their compliance and consistency with the DEIR/DEIS to determine whether further CEQA or NEPA analysis was required. Section 4.1, “Cumulative Impacts” of the DEIR/DEIS acknowledges that the project would contribute to a variety of significant cumulative impacts.</p>
USEPA-21	<p><i>The comment recommends that the FEIR/FEIS validates the need for the proposed level of development with appropriate data.</i></p>
	<p>See responses to comments USEPA-123 through USEPA-130.</p>
USEPA-22	<p><i>The comment recommends that the FEIR/FEIS develops and analyzes alternatives that maximize the avoidance and minimization of adverse impacts to sensitive resources while also meeting SACOG Blueprint density and smart growth goals.</i></p>
	<p>See responses to comments USEPA-8 and USEPA-61 through USEPA-63.</p>
USEPA-23 through USEPA-24	<p><i>The comments recommend that the FEIR/FEIS demonstrate the feasibility of achieving “no net loss of functions and values” of wetlands, waters of the U.S., and other sensitive resources.</i></p>
	<p>A draft wetland mitigation and monitoring proposal (MMP) was prepared by the project applicants and is appended to the FEIR/FEIS as Appendix Q. This draft MMP identifies a number of mitigation banks that appear to service the SPA. At this time, enough mitigation credits are available to fully cover the loss of wetland functions anticipated to result from project implementation; however, it is unknown whether sufficient mitigation credits would be available in the future for all phases of the SPA as the area builds out. Furthermore, the draft plan does not identify how or where mitigation for loss of seep, marsh, and other waters of the U.S. (totaling 15.02 acres) would be compensated. However, because USACE cannot issue a permit until the project applicants have developed a mitigation plan demonstrating that the loss of wetlands and other waters of the U.S. would be compensated in a manner that would result in no net loss of habitat functions and values, this is expected to eventually occur, and would occur before any physical changes that could affect wetlands would be allowed to occur.</p>
	<p>Mitigation Measure 3A.3-2b (page 3A.3-52 in Section 3A.3, “Biological Resources,” of the DEIR/DEIS) would require monitoring until performance standards were met and that corrective measures be applied if performance standards were not met. The MMP would need to demonstrate to USACE’s satisfaction how aquatic functions would be replaced and would need to account for the temporal loss of habitat, and contain an adequate margin of safety to reflect anticipated success.</p>

In addition to the preservation of 44.14 acres of waters of the U.S. within the SPA, the applicant's proposed mitigation plan is to purchase credits from an agency approved mitigation bank. Mitigation banks are not authorized to sell credits until they have met established performance standards and success criteria demonstrating that they are providing specified wetland functions and values. Because there are currently adequate mitigation credits available from approved mitigation banks to offset losses of functions and values resulting from the project and these banks must meet established criteria, it is expected that the no-net-loss of functions and values of wetlands and other waters standard could be achieved. However, a net loss of function up to the subbasin level could result, as discussed on page 3A.3-49 of the DEIR/DEIS.

USEPA-25 through  
USEPA-27

*The comment recommends that the FEIR/FEIS include a revised Section 404(b)(1) on-site alternatives analysis that identifies the LEDPA.*

See responses to comments USEPA-61 through -63.

USEPA-28 through  
USEPA-29

*The comment recommends that the FEIR/FEIS include a draft General Conformity determination, if applicable.*

The need for a generally conformity analysis would be determined by USACE at the time the ROD was prepared.

USEPA-30 through  
USEPA-31

*The comments state that detailed comments are enclosed in the comment letter, and that EPA is available to discuss all recommendations provided. .*

The comment references detailed comments, responded to individually in responses to comments USEPA-34 through USEPA-174.

USEPA-32

*The comment requests one hard copy and two CDs of the FEIR/FEIS.*

The USACE will provide one hard copy and two CDs of the FEIR/FEIS to EPA, as requested.

USEPA-33

*The comment provides contact information.*

The comment does not raise specific questions or information regarding the adequacy of the environmental analysis provided in the DEIR/DEIS. The comment does not specify additional information needed or particular insufficiencies in the DEIR/DEIS. The comment is noted.

USEPA-34

*The comment recommends the development and analysis of alternatives that maximize the avoidance and minimization of adverse impacts while meeting SACOG's density and smart growth principles.*

See responses to comments USEPA-8 and USEPA-61 through USEPA-63.

USEPA-35 through  
USEPA-41

*The comments state that EPA is concerned about the significant direct, indirect, and cumulative loss of aquatic resources in the Sacramento region, to which the project would be contributing. The comments state that these cumulative impacts have been exceedingly large and have resulted in habitat fragmentation and the loss of connectivity.*

The DEIR/DEIS acknowledges the cumulative regional loss of aquatic resources in Chapter 4, “Other Statutory Requirements” page 4-29 through -33.

USEPA-42

*The comment states that the Proposed Project Alternative would result in the loss of 444 acres of blue oak woodland, which is considered to be a rapidly declining ecologically important habitat.*

The Proposed Project Alternative would result in the loss of 243 acres of blue oak woodland habitat, as discussed on page 3A.3-87, Section 3A.3 “Biological Resources” of the DEIR/DEIS. The DEIR/DEIS includes mitigation measures to reduce impacts on this sensitive resource to the degree feasible. The discussion on page 3A.3-88 of the DEIR/DEIS concludes that impacts on blue oak woodland habitat would remain significant and unavoidable because the loss of individual oak trees and blue oak woodland acreage and function would be extensive and would contribute substantially to the regional loss of this resource.

USEPA-43 through  
USEPA-44

*The comments state that compared to the baseline period of 1976–1995, California has lost 80-90% of vernal pools. The comments also state that Sacramento County is proposing further loss of waters of the U.S., including up to 1,200 acres of vernal pools and swales.*

The DEIR/DEIS acknowledges the substantial cumulative loss of these resources in on page 4-32 in Chapter 4, “Other Statutory Requirements.”

USEPA-45 through  
USEPA-46

*The comments state that as noted on page 2-5 of the DEIS, USACE cannot issue a Section 404 permit for the Proposed Project Alternative if a practicable alternative was identified that would have less adverse impacts on the aquatic ecosystem and no other significant adverse environmental consequences.*

The commenter restates text that is contained in Chapter 2, “Alternatives” of the DEIR/DEIS; the comment is noted.

USEPA-47 through  
USEPA-50

*The comment states that the No USACE Permit and Resource Impact Minimization Alternatives avoid many impacts to waters of the U.S., blue oak woodlands, air quality, and cultural resources. However, the DEIR/DEIS states that the No USACE Permit and Resource Impact Minimization Alternatives are inconsistent with the SACOG Blueprint scenario because they do not propose the density of development envisioned by the Blueprint. The comments also state that the DEIR/DEIS does not provide an explanation describing why these less damaging alternatives could not be designed to be more consistent with the SACOG Blueprint scenario density goals.*

See responses to comments USEPA-8 and USEPA-61 through USEPA-63.

- USEPA-51 *The comment recommends that the FEIR/FEIS includes the analysis of alternatives that both avoid and minimize adverse impacts to sensitive resources while also meeting the SACOG Blueprint density and smart growth goals.*
- See responses to comments USEPA-8 and USEPA-61 through USEPA-63.
- USEPA-52 *The comment recommends further refinement of the No USACE Permit and Resource Impact Minimization Alternatives to meet the SACOG density and smart growth goals.*
- See responses to comments USEPA-8 and USEPA-61 through USEPA-63.
- USEPA-53 through  
USEPA-58 *The comment states that the USEPA does not agree with the conclusions reached in the draft 404(b)(1) analysis, because the USEPA believes that the cost analysis contained therein was “flawed” since it compared the costs of the alternatives to the cost of the proposed action.*
- See responses to comments USEPA-61 through USEPA-63.
- USEPA-59 *The comment states that USACE considers the project’s purpose to be to construct a large scale, mixed-use development with associated infrastructure within eastern Sacramento County.*
- The comment accurately restates the project purpose and need as described on page 1-7 of the DEIR/DEIS.
- USEPA-60 *The comment states that USACE has not identified the LEDPA.*
- See responses to comments USACE-61 through USACE-63.
- USEPA-61 *The comment suggests that the FEIR/FEIS should include a revised Section 404(b)(1) On-Site Alternatives Analysis.*
- The DEIR/DEIS is designed to integrate NEPA requirements for a reasonable range of alternatives with EPA’s 404 Guidelines requirements for all practicable alternatives. Because the proposed SPA involves eleven individual projects, including development on nine separate parcels with different property owners, on-site infrastructure, and off-site infrastructure, and because site-specific, project-level details were not available for each project within the SPA at the time a reasonable range of alternatives was selected for analysis under NEPA, the alternatives analyzed in the DEIR/DEIS are at a program level. In short, a reasonable range of alternatives was selected for the entire specific plan area, not for each of the eleven individual projects located within the SPA. Additional on-site, program-level alternatives for the entire SPA were determined by USACE to be not practicable and were considered but eliminated from further consideration, as described in Chapter 2, “Alternatives” of the DEIR/DEIS. The 404(b)(1) On-Site Alternative Analysis is included in Appendix L of the DEIR/DEIS has been submitted to EPA for specific review and comment.
- Project-level alternatives information, designed to show compliance with the 404 Guidelines, was developed by the project applicants for the following parcels (i.e., “projects” from a NEPA wetland permitting standpoint): Carpenter Ranch, Folsom South, and on-site infrastructure. This alternatives information is included and available for review in Appendix L of the FEIR/FEIS and has been submitted to EPA for review and

comment. For parcels located within the SPA for which alternatives information is not yet available, before completing a ROD and making a permit decision for these parcels, USACE will provide the alternatives information to EPA for review and comment. USACE will consider any comments received regarding alternatives to the proposed project, and will make a determination on compliance with the 404 Guidelines within the ROD and subsequent NEPA documents.

USEPA-62

*The comment suggests that the revised analysis (suggested in comment USEPA-61) should properly apply criteria to determine the practicability of the alternatives and their ability to achieve the basic project purpose.*

The DEIR/DEIS discusses four on-site alternatives for the SPA that were eliminated from further consideration: (1) Additional Avoidance Alternative, (2) Carpenter Ranch Avoidance Alternative, (3) Regional Commercial Avoidance Alternative, and (4) Western Residential Avoidance Alternative.

The first three of these alternatives all involved the preservation of an intermittent drainage and seasonal swale through the proposed regional mall on the Carpenter Ranch site. The primary basis for the elimination of these alternatives from further consideration was USACE's determination that the alternatives were not practicable because of logistics. Based on information received from the project applicants, including submittal of four letters from developers with experience and/or expertise in regional mall development, USACE determined that including a wetlands corridor that separated the northern and southern portions of the proposed regional mall site would make the construction of the mall infeasible. The USACE also determined that the required additional construction of parking garages, bridges, water quality detention basins, and the boring of utility crossings would make these alternatives not practicable because of cost.

The Western Residential Avoidance alternative would result in the additional preservation of 0.319 acres of human-made drainage ditch and intermittent drainage. Because this alternative would require the construction of additional bridges, the loss of several lots, the creation of an isolated portion of the development, and the requirement for a sanitary sewer pump station and force main, USACE determined that this alternative was not practicable because of cost and logistics.

The USACE is unclear about the additional criteria that EPA is requesting be included in the evaluation for compliance with the 404 Guidelines for the alternatives in the DEIR/DEIS and requests that EPA provide further clarification to allow more specific responses, as necessary.

As explained in response to comment USEPA-61, the DEIR/DEIS does not contain all of the alternatives that are being evaluated to ensure compliance with the 404 Guidelines, as the DEIR/DEIS is designed to provide a program-level analysis. Project-level alternatives information designed to show compliance with the 404 Guidelines was developed by the project applicants for the following parcels (i.e., "projects" from a NEPA wetland permitting standpoint): Carpenter Ranch, Folsom South, and on-site infrastructure. This alternatives information is included in Appendix L of the DEIR/DEIS and has been submitted to EPA for review and comment. For the parcels located within the SPA for which alternatives information is not yet available, before completing a ROD and making a permit decision for these parcels, USACE would provide the alternatives information to EPA for review and comment. USACE will consider any comments received regarding

alternatives to the proposed project, and will make a determination on compliance with the 404 Guidelines within the ROD and subsequent NEPA documents.

In accordance with the 404 Guidelines, USACE would not issue a permit for the discharge of dredged or fill material “if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have significant adverse environmental consequences.”

USEPA-63

*The comment suggests that the revised analysis (suggested in comment USEPA-61) should identify the LEDPA.*

As stated in response to comment USEPA-61, because site-specific, project-level details were not available at the time a reasonable range of alternatives was selected for evaluation, the DEIR/DEIS is intended to provide an analysis of all significant impacts for a reasonable range of alternatives at a program-level of analysis, evaluating the SPA as a whole. Because site-specific and project-level alternatives are not evaluated in the DEIR/DEIS and are not currently available for each parcel within the SPA, USACE has determined that selection of the LEDPA in the FEIR/FEIS is not appropriate. Following receipt of site-specific alternatives information, USACE would ensure that this information is submitted to EPA for review and comment. A final determination for the LEDPA for each parcel would be made within any supplemental NEPA documents prepared for these projects and the ROD.

USEPA-64

*The comment requests verification of the ability to fully mitigate loss of habitat functions and values of the LEDPA.*

As discussed in Chapter 2, “Introduction” page 1-2 and Section 3A-3 “Biological Resources” page 3A.3-24 of the DEIR/DEIS, the project applicants propose to create a 1,053-acre open-space preserve for the preservation of 44.19 acres of waters of the U.S., including Alder Creek, tributaries to Alder Creek, and adjacent wetlands. The Draft Operations and Maintenance Plan and Mitigation and Monitoring Plan are included in Appendix P and Q of the FEIR/FEIS. In addition, the project applicants propose to mitigate for impacts of the project through the purchase of credits at a USACE-approved mitigation bank, at a ratio of 1:1. Because of the lack of existing or proposed mitigation banks within the watershed that would be affected by the project, as discussed in Section 3A.3, “Biological Resources,” of the DEIR/DEIS, full compensation for impacts to waters of the U.S. for the project or any alternative are unlikely to occur within the watershed. Therefore, impacts of the project to waters of the U.S. within the watershed would be expected to remain significant and unavoidable under NEPA. However, the functions of the waters likely to be affected would be replaced at a mitigation bank that would have the project site within its service area.

In addition, any permit issued for the project or other alternative would require compliance with the 2008 Compensatory Mitigation Rule (33 CFR 332) and Executive Order 11990, Protection of Wetlands. The project applicants have provided information in Appendix Q of the DEIR/DEIS about existing mitigation banks and/or mitigation sites proposed to be used to compensate for unavoidable impacts to waters of the U.S. caused by the project. The USACE invites EPA and other interested parties to review the submitted information and provide comments or further suggestions on the proposed preservation plan and compensatory mitigation plan.

Due to the programmatic nature of the EIR/EIS, as discussed in responses to comments USEPA-61 and USEPA-62, a determination of the LEDPA would be made by USACE

within the ROD and supplemental NEPA documents. It is within these documents that a final determination would be made on the requirements for mitigation to compensate for unavoidable impacts to waters of the U.S. for the proposed project or other alternative.

USEPA-65 through  
USEPA-68

*The comments state that EPA is unable to determine compliance with the 2008 Compensatory Mitigation Rule because the DEIR/DEIS does not identify proposed mitigation sites or provide a draft mitigation and monitoring plan. The comments state that Section 404 permit applicants must identify where and how they will mitigate for adverse impacts before issuance of the Section 404 permit.*

The project applicants' biological consultant has prepared a draft wetland mitigation and monitoring proposal, provided as Appendix Q to this FEIR/FEIS. The project applicants propose to compensate for the unavoidable loss of wetlands and other waters through the purchase of credits at agency-approved mitigation banks. Table 2 in the draft MMP shows that currently 121 acres of vernal pool credits and 358 acres of seasonal wetland credits are available for purchase at agency-approved mitigation banks, authorized to sell credits to offset impacts in the SPA. This is over 10 times the number of compensatory credits needed to offset project impacts. According to the 2008 Compensatory Mitigation Rule, mitigation banks should be given preference over other types of mitigation because much of the risk and uncertainty regarding mitigation success is alleviated by the fact that mitigation bank wetlands must be established and demonstrating functionality before credits can be sold. This also alleviates temporal losses of wetland function while compensatory wetlands are being established. Mitigation banks also tend to be on larger, more ecologically valuable parcels and are subjected to more rigorous scientific study and planning and implementation procedures than typical permittee-responsible mitigation sites (33 CFR Section 332.3[b][2] and 40 CFR Section 230.93[b][2]) (USACE and EPA 2008).

USEPA-69 through  
USEPA-70

*The comments state that it may not be possible to fully mitigate the loss of habitat functions and values of the project because the rapid rate of development in Sacramento County has resulted in a limited amount of land where wetlands could be preserved or compensatory aquatic habitat created.*

At the time these responses were drafted, ample compensation credits appeared to be available at agency-approved mitigation banks authorized to sell credits in the SPA. See responses to comments USEPA-65–68. As stated on page 13 of the draft MMP, the project applicants would provide additional off-site compensatory mitigation, if necessary, at a permittee-responsible mitigation site approved by USACE and USFWS (if the mitigation also was for listed-species habitat). The permittee-responsible mitigation site and plan would be subject to the specifications outlined in Mitigation Measure 3A.3-1b in Section 3A.3 “Biological Resources” (pages 3A.3-37 through 3A.3-40) of the DEIR/DEIS. The site where permittee-responsible mitigation would be carried out is not identified at this time because all compensatory mitigation is anticipated to be accomplished through credit purchase at approved mitigation banks, and if that occurs, permittee-responsible mitigation would not be needed. In addition, 30% of the project site would be preserved as open space, which includes the Alder Creek corridor.

However, the discussion in Chapter 4, “Other Statutory Requirements,” on page 4-33 of the DEIR/DEIS concludes that even with implementation of all feasible mitigation and enforcement of USACE “no-net-loss” standard, the value of the region as it relates to the long-term viability of these resources would be substantially diminished. The “Land” and

“Water” portions of the project would result in a cumulatively considerable incremental contribution to significant cumulative biological resources impacts, including the loss and degradation of sensitive habitats, habitat for special-status wildlife, and habitat for special-status plants; and loss/ displacement of special-status wildlife.

On page 3A.3-50 of the DEIR/DEIS, the discussion further concludes that implementing the project likely would substantially diminish the water quality, hydrologic, and habitat functions of all wetlands remaining on-site and downstream in the project vicinity, and an overall loss of function could occur up to the subbasin watershed level. Therefore, direct and indirect impacts would remain significant and unavoidable.

USEPA-71 through  
USEPA-74

*The comments recommend that the City provides a draft mitigation and monitoring plan, and verifies the ability to fully mitigate the loss of habitat functions and values in the FEIR/FEIS, to assist USACE and EPA in determining compliance with the 2008 Compensatory Mitigation Rule.*

Agency-approved mitigation banks, authorized to sell credits in the SPA, are identified in Table 2 of the draft MMP, provided in Appendix Q of this FEIR/FEIS. One or more of these banks would be used, as needed, for purchasing compensatory mitigation credits to offset the loss of wetland acreage, functions, and values resulting from project implementation. The use of mitigation banks is the preferred method of compensation, according to the 2008 Compensatory Mitigation Rule.

A draft wetland MMP has been prepared and is appended to this FEIR/FEIS. See responses to comments USEPA-65–68.

USEPA-75

*The comment suggests that Off-site Water Facility Alternative 2B should be considered as the preferred water infrastructure alignment, for the reasons listed in comment USEPA-78.*

See response to comment USEPA-79.

USEPA-76

*The comment states that the construction of a large scale, mixed-use development would require the construction and operation of new water and wastewater conveyance and treatment facilities.*

Descriptions of the various alternatives for water and wastewater conveyance and treatment facilities are presented in Chapter 2, “Alternatives” of the DEIR/DEIS, and impacts from construction and operation of those facilities are evaluated in Section 3A.16 “Utilities and Service Systems,” Section 3A.18 “Water Supply,” and throughout Sections 3B.1 through 3B.17. The City notes that since the time of publication of the DEIR/DEIS, it has determined that the preferred location for the water treatment plant is on site (within the SPA), as discussed in Chapter 2, “Minor Modifications to the Project Description” of this FEIR/FEIS.

USEPA-77

*The comment states that the DEIR/DEIS evaluates eleven alternatives, consisting of various combinations of raw water or treated water conveyance, road route alignments, and water treatment plant sites.*

The comment is generally correct in terms of the Off-site Water Facility Alternatives considered in the DEIR/DEIS. The DEIR/DEIS also provides a separate evaluation for six land use alternatives within the SPA, including the No Project Alternative. As

discussed Chapter 2, “Alternatives,” in the third paragraph on page 2-80 of the DEIR/DEIS, any one the Off-site Water Facility Alternatives would be capable of providing a reliable, long-term water supply for any of the land use alternatives.

USEPA-78

*The comment states that Off-site Water Facility Alternative 2B, on page 2-107 of the DEIR/DEIS, would reduce air quality, noise, wetland, and land use impacts by integrating with existing water treatment facilities, minimizing the conveyance alignment distance and maximizing use of horizontal directional drilling construction methods where the pipeline route intersected waters of the U.S.*

The comment is noted.

USEPA-79

*The comment recommends that Off-site Water Facility Alternative 2B be selected as the preferred water infrastructure alignment, the identified environmentally superior alternative for the “water” portion of the project.*

Off-site Water Facility Alternative 2B is identified as the environmentally superior alternative in the DEIR/DEIS, but was not selected as the City’s preferred Off-site Water Facility Alternative for several reasons. The City has selected the Proposed Off-site Water Facility Alternative as described on pages 2-80 through 2-87 of the DEIR/DEIS as its “Preferred” Off-site Water Facility Alternative. The main reasons for the City’s position include the inclusion of the WTP within the SPA, thereby reducing the overall footprint of the Off-site Water Facilities; operational control over major water treatment processes, structural facilities, and maintenance activities; and a preference for conveyance of raw water through the conveyance pipeline to the SPA as opposed to treated water. In addition to the City’s reasoning for the selection its “Preferred” Off-site Water Facility Alternative, Off-site Water Facility Alternative 2B would likely not meet the project’s scheduling needs due to delays in the construction of SCWA’s North Service Area pipeline.

Although not identified as the Environmentally Superior Alternative in the DEIR/DEIS, the “Preferred” Off-site Water Facility Alternative shares many of the same attributes as the Environmentally Superior Alternative, including a reduced construction footprint due to the fact that it would integrate with existing and/or planned facilities.

USEPA-80 through  
USEPA-81

*The comment suggests that the project applicant(s) should aggressively implement emission reduction measures, adding the requirement of a General Conformity analysis and, if applicable, a draft General Conformity determination in the DEIR/DEIS.*

The DEIR/DEIS contains emission reduction mitigation measures; see Mitigation Measures 3A.2-1a through -1h, 3A.2-2, 3A.2-4a and -4b, and 3A.2-6 in Section 3A.2, “Air Quality.”

Page 3A.2-11 of the DEIR/DEIS states that general conformity with respect to the project would be determined within the ROD prepared by USACE.

USEPA-82 through  
USEPA-83

*The comment states that Sacramento County is in nonattainment for ozone and particulate matter, with Sacramento Valley Air Basin ranking among the worst in the nation for ozone.*

The comment restates information that is presented in DEIR/DEIS Section 3A.2.1, “Air Quality–Affected Environment.” Sacramento Metropolitan Air Quality Management District (SMAQMD) notes that Sacramento County does meet the Federal standard for particulate matter with a diameter of 10 microns or less (PM<sub>10</sub>) as stated in SMAQMD’s CEQA Guide, 2009, page 1-2, available at: <http://www.airquality.org/ceqa/cequguideupdate/Ch1IntroAQFINAL.pdf>.

USEPA-84 through  
USEPA-88

*The comment states that emissions are dominated by area-wide sources, primarily because of development, and that even with proposed mitigation, construction, operation, and mobile source emissions from development of the plan area would exceed SMAQMD-recommended thresholds and contribute to the exceedance of National Ambient Air Quality Standards.*

The comment restates text that is contained within DEIR/DEIS Section 3A.2, “Air Quality”; the comment is noted.

USEPA-89 through  
USEPA-93

*The comment states that the project would significantly increase peak-hour use, daily traffic volumes, and the demand for single-occupant automobile travel on roadways and intersections, resulting in a significant reduction in level of service (LOS) and the need for major improvements.*

The comment restates text that is contained within DEIR/DEIS Section 3.15-2, “Traffic and Transportation”; the comment is noted.

USEPA-94 through  
USEPA-96

*The comment states that the DEIR/DEIS correctly describes EPA's General Conformity program, which addresses emissions from Federal projects and actions, to protect areas that EPA has designated as not meeting Federal air standards. The comment states that, under the General Conformity program, a Federal agency first would look at whether the preferred alternative would result in direct and indirect emissions that would exceed the de minimis threshold for the program. The comment further states that if the project emissions were above de minimis, the Federal agency would prepare a determination which would describe the manner in which the project conformed to the applicable state implementation plan for the area.*

As stated on page 3A.2-11 of the DEIR/DEIS, general conformity with respect to the project would be determined within the ROD process.

USEPA-97 through  
USEPA-100

*The comment cites discussion in the DEIR/DEIS that states General Conformity would be addressed in the ROD. The comment further states that, although this would be allowed under regulation and law, project emissions could be above the de minimis threshold, requiring a General Conformity determination.*

The comment restates text that is contained within DEIR/DEIS Section 3A.-2, “Air Quality”; the comment is noted.

USEPA-101 through  
USEPA-103

*The comment states that addressing General Conformity now might lead to project design modifications, emission offsets, and additional mitigation measures that would significantly reduce emissions. The comment urges project proponents to aggressively implement emission reduction measures such as reliance on accessible transit and higher density development on more centralized, smaller parcels, close to existing employment centers and infrastructure.*

As stated on page 3A.2-11 of the DEIR/DEIS and noted in USEPA-97 to USEPA -100, General Conformity would be addressed in the ROD. As described in the Air Quality Monitoring Plan (AQMP) (attached to the DEIS as Appendix C2), the project includes numerous measures to reduce air emissions, including 3A.2-1a through 3A.2-1h, 3A.2-2, 3A.2-4a and 3A.2-4b, and 3A.2-6.

USEPA-104 through  
USEPA-106

*The comment (continued from USEPA-102 and USEPA-103) suggests working with transportation planners to fund and implement transit, roadway, and intersection improvement projects that would reduce adverse impacts to air quality.*

The proposed project and the other four action alternatives under consideration would be required to comply with the AQMP (attached to the DEIR/DEIS as Appendix C2), which identifies numerous measures to reduce air emissions through support and infrastructure for transit, bicycle, and pedestrian transportation. The measures required in the AQMP would include construction of bicycle and pedestrian infrastructure, mixing of uses, and transit improvements to reduce the number of internal and external trips related to the project that rely on single-occupant automobiles. Section 7.8.3 of the FPASP (Appendix N of the DEIR/DEIS) describes the proposed transit system plan, which includes connections to existing city transit routes, regional transit routes, and a Bus Rapid Transit corridor that would link the project to the Sacramento Regional Transit light rail system.

USEPA-107 through  
USEPA-108

*The comment suggests that the FEIR/FEIS should include a General Conformity analysis and, if applicable, a General Conformity determination.*

As stated on page 3A.2-11 of the DEIR/DEIS, general conformity with respect to the project would be determined within the ROD process.

USEPA-109 through  
USEPA-112

*The comment suggests that, if a determination was required, the results, in the form of emission reductions, should be integrated into the project design. The comment states that all feasible greenhouse gas (GHG) reduction measures should be aggressively implemented, and that the project would generate short-term construction-related and long term operational GHG emissions.*

The General Conformity analysis (and determination, if necessary), would be addressed in the ROD, and emission reductions would be integrated into the project design as required. The description of GHG emissions is noted. The DEIR/DEIS identifies feasible GHG reduction measures in Mitigation Measures 3A.2-1a (on page 3A.2-30), 3A.2-1b (on page 3A.2-32), 3A.2-2 (on page 3A.2-43), 3A.4-1 (on page 3A.4-14), 3A.4-2a (on page 3A.4-26), and 3A.4-2b (on page 3A.4-29).

USEPA-113

*The comment (continued from comments USEPA-109 through USEPA-112) states that these emissions would contribute to a substantial and unavoidable cumulative impact despite proposed mitigation measures.*

The comment restates text that is contained in DEIR/DEIS Section 3A.4, “Climate Change”; the comment is noted.

USEPA-114 through  
USEPA-116

*The comment suggests retention and aggressive implementation of all proposed mitigation measures including those currently required under Assembly Bill 32, the California Global Warming Solutions Act of 2006 (AB 32), regardless of the outcome regarding final implementation of AB 32.*

The party responsible for enforcing each mitigation measure is identified in the DEIR/DEIS immediately following the text of the mitigation measure, including those that would be imposed based on AB 32 requirements. AB 32 was designed to mitigate GHG emissions at the state level; reduction measures specified in the Scoping Plan are separate from those specified as mitigation measures in the DEIR/DEIS, and are subject to state oversight.

USEPA-117 through  
USEPA-119

*The comment states that SMAQMD’s particulate matter with a diameter of 2.5 microns or less (PM<sub>2.5</sub>) designation in Table 3A.2-1 of the DEIR/DEIS contains an error regarding the area’s status with respect to PM<sub>2.5</sub> NAAQS (the table indicates that the area is unclassifiable/attainment, or “U/A”, and the comment states that this designation is incorrect).*

As shown in Chapter 5, “Errata” of this FEIR/FEIS, the PM<sub>2.5</sub> designation of “nonattainment” has been revised as requested by the commenter.

USEPA-120 through  
USEPA-122

*The comment states that in Table 3A.2-1 of the DEIR/DEIS, the Sacramento area was designated nonattainment for the 2006 PM<sub>2.5</sub> NAAQS in December 2009, and this nonattainment designation is codified at 40 CFR 81.305.*

As shown in Chapter 5, “Errata” of this FEIR/FEIS the PM<sub>2.5</sub> designation of “nonattainment” has been revised as requested by the comment.

USEPA-123 through  
USEPA-130

*The comments request the validation for the proposed level of project development. The comments state that the region surrounding the SPA is undergoing rapid development and ongoing public debate exists about growth projections, level of development, and housing unit needs for Sacramento County. The comment further states that the DEIR/DEIS does not demonstrate the need for the proposed level of development in light of other, already planned growth in the surrounding region.*

As stated in Chapter 1, “Introduction” on page 1-6 of the DEIR/DEIS:

The Proposed Project Alternative has been formulated to achieve the purpose, objectives, and needs summarized below. State CEQA Guidelines CCR Section 15124(b) requires that the project description contain a clear statement of the project objectives, including the underlying purpose of the project. NEPA regulations (40 CFR 1502.13) require that an EIS contain a statement of the

purpose and need that “briefly specif[ies] the underlying purpose and need to which the agency is responding in proposing the alternatives, including the proposed action.” The statement of objectives is important under CEQA in helping the City (State lead agency under CEQA), and the statement of purpose and need is important under NEPA in helping USACE (Federal lead agency under NEPA), to develop a reasonable range of alternatives to the Proposed Project Alternative for evaluation in the EIR/EIS.

The purpose and need for the project, from the standpoint of USACE, is stated on page 1-7 of the DEIR/DEIS as follows:

The project purpose, as considered by USACE, is to construct a large scale, mixed-use development, with associated infrastructure, within eastern Sacramento County.

The purpose and need for the project, from the standpoint of the City of Folsom, is stated on page 1-7 of the DEIR/DEIS as follows:

The purpose of the Folsom South of Highway 50 Specific Plan project is to provide a mixed-use, master-planned community within an area south of U.S. 50 that would be annexed to the City of Folsom, and also to secure a reliable water supply consistent with the requirements of Measure W and objectives of the Water Forum Agreement and the necessary off-site conveyance infrastructure to facilitate the planned development of the SP. In accordance with local and regional plans, including the City’s General Plan and SACOG Blueprint and Smart Growth Principles, the project would expand the City’s current sphere of influence south of U.S. 50 in a manner that would foster orderly urban development and discourage leapfrog development and urban sprawl. The project would provide both jobs and housing and would generate a positive fiscal impact for the City.

Neither CEQA nor NEPA require that a lead agency justify the need for the project beyond the required discussion of the project purpose, need, and objectives; rather a lead agency is only required to specify the underlying purpose and need to which it is responding (40 CFR Section 1502.13). The City of Folsom has provided the following information regarding the need for the project.

The City of Folsom is planning for anticipated growth over the next 20-30 years because the City is near buildout within its existing limits. The City believes that additional lands for its future growth will be required. In 2001, the Sacramento LAFCo designated the undeveloped land south of U.S. 50 between Prairie City Road, White Rock Road, and the El Dorado County line as part of the City’s sphere of influence. The City entered into a Memorandum of Understanding (MOU) with Sacramento County before approval of the SPA application by Sacramento LAFCo. The intent of the MOU is to serve as a guide for sound regional long-range planning efforts relative to the annexation of the SPA. The MOU outlines a comprehensive planning process for the project site, including the participation of various stakeholders and the general public. It also addresses a number of issues including water supply, transportation, air quality, schools, and open space that were later incorporated into language used in the City’s Measure W (City Ordinance No. 1022) and subsequently in the City Charter. In November 2004, following a series of visioning workshops, Measure W, which was designed to obtain voter approval of proposed annexation and guide development with the Folsom South of U.S. 50 Specific Plan Area, passed with support from 69% of City voters. The MOU led to LAFCo

Resolution 1196, approving the City's sphere of influence amendment. See pages 1-3 through 1-6 of the DEIR/DEIS for additional details.

USEPA-131 through  
USEPA-133

*The comments suggest that the FEIR/FEIS should provide appropriate data to validate the need for the proposed level of development, including a detailed explanation of why a development of this size, composition, and location is needed and a more detailed description of the phasing of the project.*

See responses to comments USACE-123 through USACE-130.

USEPA-134 through  
USEPA-135

*The comments request that a more detailed description of project phasing be provided, including criteria that would be used to determine the need for subsequent stages.*

Additional detail on project phasing beyond what is shown in Chapter 2, "Alternatives," in Exhibit 2-12 on page 2-43 of the DEIR/DEIS is not available at this program level of analysis. See the discussion in Chapter 1, "Introduction," on pages 1-9 and -10 of the DEIR/DEIS regarding the intended uses of this EIR/EIS and future environmental review that may be required during subsequent project-level development phases.

USEPA-136

*The comment suggests that the DEIR/DEIS should provide a more robust evaluation of the long-term reliability of the project's water supply source.*

The Water Supply Assessment (WSA), included in Appendix M1 of the DEIR/DEIS, provides a robust evaluation of the long-term reliability of the project's water supply source, consistent with the requirements of SB 610. Furthermore, Section 3A.18, "Water Supply" of the DEIR/DEIS provides a detailed discussion of the project's water supply (see page 3A.18-12) and the reasonable likelihood of water supplies meeting project demands (see page 3A.18-13). As shown in Table 3A.18-7 on page 3A.18-13 of the DEIR/DEIS, adequate water supplies would be available to meet projected water demands, even in critically dry years. These findings, when considered in the context of Reclamation's renewal of NCMWC's settlement contract in 2005 for another 40 years, support the conclusion that over the long term, the project's water supply would be reliable. This conclusion is supported the water supply evaluation provided in Impact 3A.18-1 on pages 3A.18-10 through 3A.18-14 of the DEIR/DEIS as well as in the discussion of cumulative impacts on pages 4-40 through 4-43, under the headings of "Surface Water Flows" and "Groundwater Resources."

USEPA-137

*The comment states that the project's annual water demand would be 3,648 acre-feet (AF) for residential use and 1,898 AF for non-residential uses, for a total of 5,546 AF annually.*

This information regarding water demands is provided on page 2-79 of the DEIR/DEIS, the estimates are summarized in Table 2-13 on that page, and the water supply assessment is included in Appendix M1. As noted on page DEIR/DEIS page 2-75, the total was rounded to 5,600 AFY, to give a conservative estimate.

- USEPA-138 *The comment states that the proposed water source for the project would be an agricultural-to-urban water transfer of no more than 8,000 AFY of Reclamation CVP - contracted water from NCMWC.*
- The transfer in effect would be permanent for the duration of NCMWC's settlement contract.
- USEPA-139 through USEPA-140 *The comments state that the City of Folsom is an existing CVP contractor within the American River Unit. The comments further state that, on annexation, the SPA would be within the CVP water rights place of use for the City, as discussed on page 2-80 of the DEIR/DEIS.*
- The commenter restates text contained in Chapter 2, "Alternatives," of the DEIR/DEIS; the comments are noted.
- USEPA-141 *The comment reference a 2007 study which indicates that, based on cropping patterns, NCMWC would have sufficient water supplies to transfer up to 8,000 AFY, without adverse effects to NCMWC or the risk of supplemental groundwater pumping as a result of the water transfer, as discussed on page 2-82 of the DEIR/DEIS.*
- The comment is generally correct; however, it is important to note that irrigation efficiencies within NCMWC also contribute to this finding. This finding is based on the conclusions of the 2007 Wagner and Bonsignore evaluation, provided in Appendix M2 and summarized in Impact 3B.10-3 on page 3B.10-18 of the DEIR/DEIS.
- USEPA-142 *The comment states that NCMWC's CVP contract supply originates from the Shasta/Trinity River diversion of the CVP.*
- The comment is partly correct. NCMWC's CVP settlement contract supply originates from the Shasta diversion above Keswick Reservoir. Keswick Reservoir captures water that is diverted from the Trinity River through the Trinity River Division.
- USEPA-143 *The comment states that EPA is concerned with the long-term reliability of the project's water supply, in light of efforts to reduce diversions from the Trinity River, increase Sacramento River flows for anadromous fisheries and the San Francisco-San Joaquin River Bay Delta (Bay Delta), increasing upstream demands, and climate change.*
- The USACE and the City are aware of the multitude of issues that might or might not influence existing diversions along the Sacramento River over the continued long-term operation of the CVP. These direct and indirect influences are considered in the DEIR/DEIS's evaluation of water resources, in terms of changes in flow of the Sacramento River and Delta, CVP operational changes, and in the context of other cumulatively considerable water supply projects. This consideration includes both direct and indirect influences as a result of reduced diversions from the Trinity River, new flow requirements for anadromous fisheries and the Bay Delta, increasing upstream demands, and the effects of climate change.
- These influences were considered in the context of the project's use of the existing Freeport Project diversion and conveyance pipeline and reassignment of a portion of NCMWC's settlement contract "Project" water. The combination of these factors would translate into no net increase in diversion capacity along the Sacramento River system or no additional demand on the CVP system as a whole. As described in Chapter 1,

“Introduction” on page 1-17 of the DEIR/DEIS, the Freeport Project EIR/EIS is incorporated by reference into the DEIR/DEIS and is considered in Reclamation’s OCAP (2004 and 2008). For this reason, the combined impact of one or more of these factors on the project’s water supply is already considered in the Freeport Project EIR/EIS, Reclamation’s OCAP (2004 and 2008), and Reclamation’s EIS/EIR for the Long-Term Renewal of NCMWC’s settlement contract (2005). Any reductions in contracted supplies as a result of these combined influences would be too speculative for consideration in the DEIR/DEIS.

USEPA-144

*The comment recommends that the FEIR/FEIS contain a more robust evaluation of the long-term reliability of the project’s water supply source.*

See response to comment USEPA-136.

USEPA-145

*The comment recommends that the FEIR/FEIS provide additional information on the potential implications of full implementation of the Trinity River Restoration Program.*

Reduced diversions from the Trinity River to the CVP were considered in Reclamation’s OCAP and supporting Biological Assessment (BA) in the 2004 update. The OCAP (2004) incorporated implementation of the preferred alternative, as described in the ROD for the Trinity River Restoration Project EIS/EIR, which increased releases to the Trinity River and decreased average water exports to the CVP. Reclamation’s OCAP (2008) also incorporates these changes to CVP operations and, as discussed in Chapter 4, “Other Statutory Requirements” on page 4-20 of the DEIR/DEIS, is considered in the cumulative analysis for the project.

Full implementation of the Trinity River Restoration Program would result in reduced deliveries from the Trinity River, which would translate into reduced exports to the CVP of approximately 240,000 AFY (or 28%) on average and by 160,000 AFY (30%) during dry years. These reductions then result in corresponding reductions in Delta exports of 60,000 AFY (2%) over the long-term average and 90,000 acre feet (4%) during dry periods. (U.S. Department of the Interior 2000.)

Although implementation of the Trinity River Restoration Program could result in less water within the Sacramento River, as discussed on pages 4-40 and 4-41 of the DEIR/DEIS, the project’s contribution to additional reductions in river flow are considered minor and not cumulatively considerable. The project’s water supply (e.g., settlement contract water) was the subject of another, more-recently prepared EIS/EIR by Reclamation for the long-term renewal of NCMWC’s settlement contract in 2004. Reclamation adopted a ROD for the approval of NCMWC’s settlement contract in 2005, for a contract period of 40 years. Because assumed operations in Reclamation’s OCAP (2004 and 2008), including reoperation of the Trinity River diversion, were considered by Reclamation in the renewal of NCMWC’s settlement contract, reduced diversions from Trinity River are not expected to adversely affect the project’s water supply (USBR 2004). This determination is further supported by the fact that the project’s water supply would originate from the Upper Sacramento River and would be stored in the Shasta Reservoir, which are distinctly separate from the Trinity River diversion, which ties into the Sacramento River Division of the CVP further downstream at Keswick Reservoir.

USEPA-146

*The comment recommends that the FEIR/FEIS provide additional information on the potential implications of more stringent Bay Delta downstream flow requirements.*

New or modified flow requirements for the Sacramento River, Delta, and Delta fisheries are currently topics of debate and, during preparation of the DEIR/DEIS, no new standards were adopted. The DEIR/DEIS evaluates the project's changes to flows within the Sacramento River and Delta based on outflow requirements, set forth in Tables 3 and 4 in the 2006 Bay-Delta Plan and SWRCB's Decision 1641 (D-1641) (see Section 3B.9, "Hydrology and Water Quality," page 3B.9-12 of the DEIR/DEIS). These two basic standards consider specific numeric Delta outflow requirements and the position of X2, based on the water year, type, and season.

Any new flow requirements for anadromous fisheries and the Bay Delta continue to remain uncertain and, therefore, it would be inappropriate to apply such a standard in the DEIR/DEIS analysis until formal adoption by the SWRCB and other applicable resource agencies. Furthermore, how new flow requirements would impact existing CVP contract supplies and whether reductions in contracted amounts would be distributed uniformly or geographically is unclear. Additionally, because population trends for special status fish species within the Delta are tied to numerous physical parameters including ocean conditions, fish passage issues, suitability of available rearing habitat, and overall flow conditions for contributing waterways to the Delta, it would be speculative for the DEIR/DEIS to specify any net reductions in CVP contracted supplies. Furthermore, the project's water supply would be settlement contract water, which would receive higher priority in the overall CVP.

USEPA-147

*The comment recommends that the FEIR/FEIS provide additional information on the potential implications of increased upstream water demands.*

The USACE and the City acknowledge that increasing demands from upstream water users may place additional stress on the CVP and the Sacramento River. However, the comment does not acknowledge the priority of settlement contract water over that of other CVP water users, both north and south of the Delta. The facts that the water supply in question is associated with a settlement contract and serves the CVP's area of origin (Water Code Sections 11128, 11460, and 11463) indicate that these supplies would be the last to experience shortages. Based on current laws and contracting provisions and the duration of the contracted supplies (e.g., 40 years), effects from new or increased upstream demands on the project likely would be negligible.

USEPA-148

*The comment recommends that the FEIR/FEIS provide additional information on the potential implications of climate change.*

The effects of climate change on the CVP water supplies under consideration are evaluated in Section 3B.4, "Climate Change," Impact 3B.4-2 on pages 3B.4-8 and 3B.4-9 of the DEIR/DEIS. As discussed, the potential impacts of climate change on water supplies within California remain uncertain and, based on current information, it is not possible to accurately estimate the specific changes in water supplies that could occur over the duration of the proposed use. Nevertheless, Section 3B.4, "Climate Change" of the DEIR/DEIS describes the potential effects of climate change on waters of the U.S., as described in AB 32. However, given the modeling uncertainties that remain, the potential impacts of climate change to water supplies are considered too speculative for meaningful evaluation in the DEIR/DEIS.

USEPA-149 through  
USEPA-152

*The comments state that Area 40, a portion of the Aerojet superfund site undergoing investigation and remediation under direction of EPA, the Department of Toxic Substance Control (DTSC), and the CVRWQCB, is located on the SPA and would be designated as open space and parkland. The comments also state that land designated for an off-site detention basin is in the Eastern Operable Unit (OU) of the Aerojet Superfund site.*

The comments summarize text that is contained within DEIR/DEIS Section 3A.8, “Hazards and Hazardous Materials”; the comments are noted.

USEPA-153 through  
USEPA-156

*The comments state that references in the DEIR/DEIS to an RI/FS are incorrect; the document is in fact a field sampling plan to support the preparation of an RI/FS for the Island OU.*

As noted in response to comment CVRWQCB-2-34, text references are corrected in Chapter 5, “Errata” of this FEIR/FEIS to clarify that the document is an RI/FS sampling plan, not an EPA-approved RI/FS. See also response to comment CVRWQCB-2-34.

USEPA-157 through  
USEPA-160

*The comments state that although the 2007 RI/FS sampling plan summarizes previous soil and groundwater data, additional sampling has been completed since then. These additional data will be incorporated into an RI/FS for the Island OU and should be consulted before planning future uses of Area 40. The comment further states that cleanup levels for Area 40 will not be set until EPA signs a ROD for the Island OU.*

As stated on pages 3A.8-23 and 3A.8-26 of the DEIR/DEIS, Area 40 could not be released for reuse until the agencies (EPA, the DTSC and the Central Valley RWQCB) determined an acceptable future use for Area 40. The City understands the cleanup levels for Area 40 will not be set until EPA signs an ROD for the Island OU; this comment is noted.

USEPA-161 through  
USEPA-168

*The comments state that the summary of EPA’s ROD, provided in the DEIR/DEIS, is not correct. The comments further state that the ROD will document EPA’s selection of an alternative to clean up this portion of the Superfund site to be protective of human health and the environment for the anticipated future uses of the site. The comments state that the remedial design and remedial action phases both would follow EPA’s ROD and could take years or decades, depending on the alternative selected and the cleanup required. The comments also note that land might not be available for some uses until cleanup was completed.*

As shown in Chapter 5, “Errata,” of this FEIR/FEIS, the discussion of the ROD and the process by which land in Area 40 would be released for future uses has been revised. The revised text clarifies the content of the ROD and describes the approval process for future land uses.

USEPA-169

*The comment provides contact information for questions concerning the investigation and remediation of Area 40.*

The comment does not raise specific questions or information regarding the adequacy of the environmental analysis provided in the DEIR/DEIS. The comment does not specify

additional information needed or particular insufficiencies in the DEIR/DEIS. The comment is noted.

USEPA-170 through  
USEPA-171

*The comment states the Environmental Protection Agency's acknowledgement of the advantages of annexation of the SPA, to provide the City of Folsom with the ability to ensure that development on adjacent land within its sphere of influence would be consistent with the City's General Plan and with the SACOG's Blueprint and Smart Growth Principles, specifically to aggressively implement smart growth principles.*

The FPASP (Public Review Draft, June 2010, in Appendix N of the DEIR/DEIS) places high importance on sustainability and Smart Growth principles in its design. The objectives and policies of the FPASP support these six founding principles:

FPASP Principle 1: Comprehensively planned community; Create a well integrated, comprehensively planned community.

FPASP Principle 4: Transportation Options; Provide a public transportation system; complete streets with bike lanes, sidewalks, planting and transit stops and a complete network of Class I bike paths, sidewalks and pedestrian trails.

FPASP Principle 5: Compact Development: Provide compact walkable neighborhood development form with vibrant, pedestrian oriented centers and gathering places that are consistent with Smart Growth principles.

FPASP Principle 5: Sustainable Design: Make use of sustainable design practices intended to reduce GHG emissions, reduce water consumption and energy use and preserve valuable natural resources.

FPASP Principle 6: Sustainable Design: Make use of sustainable design practices intended to reduce GHG emissions, reduce water consumption and energy use, and preserve valuable natural resources.

USEPA-172

*The comment commends the project's commitment to smart growth and low impact development principles.*

The comment does not raise specific questions or information regarding the adequacy of the environmental analysis provided in the DEIR/DEIS. The comment does not specify additional information needed or particular insufficiencies in the DEIR/DEIS. The comment is noted.

USEPA-173

*The comment suggests aggressive implementation of Smart Growth, Green Building, and Leadership in Energy and Environmental Design principles to minimize project impacts and create a healthier, more sustainable community.*

The FPASP (FPASP Public Review Draft, June 2010, in Appendix N of the DEIR/DEIS) places high importance on sustainability and Smart Growth principles in its design. In addition to the planning principles noted in response to comment USEPA-170 and 171, Section 10.3, "Sustainable Design" beginning on page 10-27 of the FPASP, includes policies on implementing low impact development techniques, water efficiency and conservation, energy efficiency, building material conservation and resource efficiency, and reducing GHG emissions in future site planning and development within the plan area.

USEPA-174

*The comment suggests infill of existing urbanized parcels, where feasible, before development of existing open space because the infill would reduce the need for new infrastructure, help revitalize existing developed areas, and reduce development pressure of open space.*

The City notes that this comment does not pertain to the environmental analysis contained in the DEIR/DEIS and the City therefore has no obligation to respond to this comment (State CEQA Guidelines, CCR Section 15088[c]). Nevertheless, responses to specific comments are provided as follows. Infill growth is proposed within the City, and has been and is occurring on an ongoing basis. However, the City is near its buildout capacity within the existing city limits. The City does not believe that the limited amount of infill development that would be possible in the future would meet the market demand that is projected to occur over the next 20-30 years.