



**DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO, CALIFORNIA 95814-2922**

RECORD OF DECISION

AUG 12 2011

ACTION ID: SPK-2007-02159

APPLICANT: Multiple

PROJECT NAME: Folsom South of U.S. Highway 50 Specific Plan Project

I have reviewed and evaluated, in light of the overall public interest, the documents and factors concerning the permit application for the proposed action, as well as the stated views of interested agencies and the public. In doing so, I have considered the possible consequences of the proposed action in accordance with regulations published in 33 Code of Federal Regulations (CFR) Parts 320 through 332 and 40 CFR Part 230.

As described in the Environmental Impact Report/Environmental Impact Statement (EIR/EIS), prepared jointly by the City of Folsom (City) under the California Environmental Quality Act (CEQA) and the U.S. Army Corps of Engineers, Sacramento District (Corps) under the National Environmental Policy Act (NEPA), the proposed action is to construct a mixed-use development consisting of: 1,473.9 acres of residential units at various densities; 59.1 acres of a mixed-use district; 451.7 acres of commercial and industrial uses, including a regional shopping center; public/quasi-public uses; 179.3 acres of elementary, middle and high schools; 121.7 acres of community and neighborhood parks; stormwater detention basins; 1,053.1 acres of open-space and open-space preserves; and 171.6 acres of circulation improvements with landscaping. In addition, the proposed project includes the construction of several off-site infrastructure facilities, including: intersection expansions to allow access to and from U.S. Highway 50; an overpass of U.S. Highway 5; two roadway connections and sewer pipelines from the proposed project area into El Dorado Hills; a sewer force main connection to the existing City system; a detention basin, and; on-site and off-site water supply pipelines and facilities. Collectively referred to as the Folsom South of U.S. Highway Specific Plan Area (SPA), the SPA involves on-site development on eight separate parcels, of which permit application have been received for six parcels and the proposed on-site and off-site infrastructure. The permit applications that have been received are for the following properties: Prairie City Road Business Park, Folsom 560/Hillsborough, Folsom Heights, Folsom South, Folsom 138, and Carpenter Ranch. In addition, the City has submitted a permit application for the on-site and off-site infrastructure, including all roads and utility lines.

As part of the off-site water supply/alignment for the SPA, the City is proposing off-site water facilities that would involve the permanent assignment of the contractual entitlements to Central Valley Project (CVP) contract entitlement waters, totaling not more than 8,000 acre-feet per year (AFY) from the Natomas Central Mutual Water Company (NCMWC), divert the water supply from the existing Sacramento River diversion and convey the water to the SPA. In addition, the proposed water supply would involve the City purchasing dedicated capacity within the Freeport Regional Water Project from Sacramento County Water Agency (SCWA), which would serve as the point of diversion (POD) on the Sacramento River and partial conveyance pathway for not more than 6,000 AFY purchased from NCMWC. The City would then construct new water supply conveyance infrastructure from the bifurcation point to the SPA within an approximately 200-foot corridor.

The proposed land-use alternative involves the discharge of dredged or fill material into 39.5 acres of waters of the United States. In addition, the proposed off-site water supply alignment is anticipated to result in impacts to approximately 6.8 acres of waters of the U.S. As such a Department of the Army permit under the Regulatory Program is required for the proposed action.

I. Background

In 2001, the Sacramento Local Agency Formation Commission (LAFCo) designated the undeveloped land south of U.S. Highway 50 between Prairie City Road, White Rock Road, and the El Dorado County line as part of the City’s sphere of influence (SOI). The City entered into a Memorandum of Understanding with Sacramento County prior to the approval of the SPA application by Sacramento LAFCo. In 2004, the City’s Measure W (City Ordinance No. 1022) passed with support from 69% of the City voters, which resulted in an amendment to the City Charter to require the Folsom City Council to take actions prior to LAFCo approval of annexation. Two of the major components of Measure W are to identify and secure a source of water supply for the SPA without reducing the existing water supply currently serving users to the north of U.S. 50, and maintain at least 30% of the SPA as natural open space to preserve oak woodlands and sensitive habitat areas.

Complete applications for a Department of the Army permit under Section 404 of the Clean Water Act were received on November 20, 2008, and December 8, 2008, for the following projects within the SPA:

Project	DA File Number	Date Received	Applicant
Folsom Heights	SPK-2008-00331	11/20/2008	Hospitality Consultants
Prairie City Road Business Park	SPK-2006-00538	11/20/2008	Easton Development Company, LLC
Folsom 560/Hillsborough	SPK-2006-00561	11/20/2008	Easton Development Company, LLC
Folsom South	SPK-2006-00035	11/20/2008	MJM Properties, LLC.
Folsom 138	SPK-2008-00326	11/20/2008	Folsom White Rock Investors, LLC.
Carpenter Ranch	SPK-2006-00984	11/20/2008	FPA Land Development
On-site and off-site infrastructure	SPK-2007-02159	12/8/2008	City of Folsom

Permit applications have not been submitted to the Corps for the Javanifard and Zhargami project (SPK-2007-01072) or the Prairie City Road Business Park (SPK-2003-00372).

In December 2007, the Corps determined that preparation of an EIS was necessary for the proposed project. It was determined that the City, as the lead agency responsible for compliance with the CEQA, and the Corps, as the lead Federal agency responsible for ensuring compliance with NEPA, would prepare a joint EIR/EIS. Scoping for the EIS began on September 12, 2008 with publication of a Notice of Intent to Prepare an EIS in the Federal Register (Federal Register Vol. 73, No. 178, 52966). The Corps issued a public notice for scoping on September 12, 2008. A public scoping meeting was held with the City of Folsom on September 25, 2008 at the Folsom Public Library. The U.S. Bureau of Reclamation agreed to be a cooperating agency on May 28, 2010.

In July 2010, a Draft EIR/EIS (DEIR/DEIS) was issued by the Corps and the City. A Notice of Availability was published in the Federal Register on July 2, 2010 (Federal Register, Vol. 75, No. 127, 38500). A public notice for the DEIS was issued on July 9, 2010. A public meeting was held with the City of Folsom on August 2, 2010 at the Folsom Community Center. During the DEIS public review period, 79 comment letters were received.

In May 2011 the Final EIR/EIS (FEIR/FEIS) was release by the Corps and the City of Folsom. A Notice of Availability was published in the Federal Register on May 26, 2011 (Federal Register, Vol. 76, no. 102, 30679). A public notice announcing the FEIS was issued May 26, 2011.

Because project-level information on on-site alternatives was not available for each project within the SPA at the time of publishing, the DEIR/DEIS was prepared at a program-level of analysis.

II. Project Purpose and Need

a. Purpose: To construct a large scale, mixed-use development, with associated infrastructure, within eastern Sacramento County.

b. Need: Sacramento County has been undergoing continuous growth, and increased housing needs have been identified within eastern Sacramento County. In addition, the City of Folsom is near build-out within its existing limits and believes that additional lands for its future growth would be required. In accordance with the planned growth in south-eastern Sacramento County, developers purchased property in the Folsom Sphere of Influence area, and the City of Folsom signed an MOU with the Sacramento LAFCo for future development of the proposed project area, to meet identified and expected housing demands.

III. Alternatives Considered: A reasonable range of alternatives were considered in the EIR/EIS for both land-use and water-supply. The land use alternatives involve on-site and off-site alternatives to the proposed project site and adjacent areas. The water supply alternatives consist of alternatives to the off-site water supply alignment. With the exception of the No Action alternatives, any of the land-use alternatives can be used with any of water-supply alternatives. The following alternatives were considered and carried forward in the analysis.

a. Land Use:

(1) Alternative 1 (No Action): Under the No Action Alternative, the project would not be developed and the existing agricultural land uses on-site would continue. This alternative would allow for the construction of up to 44 individual rural residences on 80-acre parcels zoned for agricultural uses. The site would likely continue to be utilized for dry land farming, primarily livestock grazing. Under this alternative, no fill would be placed into waters of the U.S.

(2) Alternative 2 (No Corps Permit): This alternative was designed to avoid the placement of dredged or fill material into waters of the U.S., while allowing for the development of a mixed-use, master-planned community. This alternative would provide a 50-foot buffer from all waters of the U.S. located on-site. This alternative would consist of developing a mixed-use, master-planned community on 3,584 acres, including: 1,000.7 acres of low and high density single family housing; 209.9 acres of low, medium and high density multi-family housing; 28.7 acres of mixed-use residential; 73.9 acres of industrial and office park; 316.5 acres of community, general and regional commercial development; 84.8 acres for parks; 159.6 acres of schools; 122.3 acres of on-site and off-site circulations improvements, and; 1,506 acres of open space. This alternative would not result in the discharge of fill material into waters of

the U.S. This alternative assumes that roadways can be bridged over waters of the U.S. and that utilities can be installed through directional drilling.

(3) Alternative 3 (Proposed Project): The Proposed Project Alternative, which is preferred by the project proponents, would consist of developing a mixed-use, master-planned community on 3,584 acres, including: 1,090.3 acres of low and high density single family housing; 383.6 acres of low, medium and high density multi-family housing; 59.1 acres of mixed-use residential; 89.2 acres of industrial and office park; 362.5 acres of community, general and regional commercial development, including the development of a regional mall; 121.7 acres of parks; 179.3 acres of schools, 171.6 acres of on-site and off-site circulation improvements, and 1,053.1 acres of open space and preserve.

This alternative would result in the placement of fill material into approximately 39.50 acres of waters of the U.S., including: 2.92 acres of vernal pools, 3.87 acres of seasonal wetland, 17.63 acres of seasonal wetland swale, 4.48 acres of freshwater seep, 0.07 acre of freshwater marsh, 1.17 acres of pond, 3.38 acres of stream channel, 4.47 acres of intermittent drainage channel, 1.43 acres of ditches, and 0.114 acre of willow scrub. In addition, the proposed project would also result in the fragmentation of approximately 0.29 acres of waters of the U.S.

Under this alternative, an approximately 1,053 acre preserve would be created, containing 44.14 acres of preserved waters of the U.S., including: 1.723 acres of vernal pools, 0.784 acres of seasonal wetlands, 7.847 acres of seasonal wetland swales, 6.325 acres of seeps, 0.142 acre of marsh, 13.809 acres of creek channel, 7.252 acres of intermittent drainage channel, 0.554 acres of ditches, and 5.708 acres of ponds.

(4) Alternative 4 (Resource Impact Minimization): This alternative was designed to avoid additional areas of biological resources, including waters of the U.S. This alternative would result in the construction of a mixed-use, master planned community on 3,502 acres: 996 acres of low and high density single family housing; 309.7 acres of low, medium and high density multi-family housing; 25.6 acres of mixed-use residential; 52.1 acres of industrial and office park; 287.4 acres of community, general and regional commercial development, including the development of a regional mall; 105.7 acres of parks; 146.7 acres of schools, 150.6 acres of on-site and off-site circulation improvements, and 1429 acres of open space and preserve.

This alternative would result in the placement of fill material into approximately 26.468 acres of waters of the U.S., including: 1.341 acres of vernal pools, 2.675 acres of seasonal wetlands, 13.355 acres of seasonal wetland swales, 1.609 acres of freshwater seep, 0.040 acre of freshwater marsh, 1.161 acres of pond, 2.213 acres of stream channel, 3.040 acres of intermittent drainage channel, 0.920 acres of ditches, and 0.114 acre of willow scrub.

Under this alternative, an approximately 1429 acre preserve would be created, containing 57.175 acres of preserved waters of the U.S., including: 3.301 acres of vernal pools, 1.982 acres of seasonal wetlands, 12.124 acres of seasonal wetland swales, 9.194 acres of seeps, 0.171 acre of marsh, 14.975 acres of creek channel, 8.677 acres of intermittent drainage channel, 1.039 acres of ditches, and 5.713 acres of ponds.

(5) Alternative 5 (Centralized Development Alternative): This alternative was designed to preserve approximately 75% of the eastern portion of the SPA, which lies within the Sierra Nevada foothills. This alternative would result in the construction of a mixed-use, master planned community on 3,502 acres, including: 686.8 acres of low and high density single family housing; 426.5 acres of low, medium and high density multi-family housing; 36.1 acres of mixed-use residential; 112.8 acres of industrial and office park; 335.6 acres of community, general and regional commercial development,

including the development of a regional mall; 113.5 acres of parks; 178.2 acres of schools, 148.9 acres of on-site and off-site circulation improvements, and 1464.4 acres of open space and preserve.

This alternative would result in the placement of fill material into approximately 37.052 acres of waters of the U.S., including: 3.132 acres of vernal pools, 3.328 acres of seasonal wetland, 17.776 acres of seasonal wetland swale, 2.573 acres of freshwater seep, 0.054 acre of freshwater marsh, 1.161 acres of pond, 3.342 acres of stream channel, 4.242 acres of intermittent drainage channel, 1.330 acres of ditches, and 0.114 acre of willow scrub. In addition, the proposed project would also result in the fragmentation of approximately 0.29 acres of waters of the U.S.

Under this alternative, an approximately 1464.4 acre preserve would be created, containing 46.591 acres of preserved waters of the U.S., including: 1.510 acres of vernal pools, 1.329 acres of seasonal wetlands, 7.703 acres of seasonal wetland swales, 8.230 acres of seeps, 0.157 acre of marsh, 13.846 acres of creek channel, 7.475 acres of intermittent drainage channel, 0.629 acres of ditches, and 5.713 acres of ponds.

(6) Alternative 6 (Reduced Hillside Alternative): This alternative was designed to reduce the developed area on the eastern portion of the SPA, which lies within the Sierra Nevada foothills. This alternative would result in the construction of a mixed-use, master planned community on 3,502 acres, including: 701.7 acres of low and high density single family housing; 734.9 acres of low, medium and high density multi-family housing; 36.1 acres of mixed-use residential; 111.8 acres of industrial and office park; 359.1 acres of community, general and regional commercial development, including the development of a regional mall; 158.6 acres of parks; 188.3 acres of schools, 154.5 acres of on-site and off-site circulation improvements, and 1057.6 acres of open space and preserve.

This alternative would result in the placement of fill material into approximately 52.692 acres of waters of the U.S., including: 3.487 acres of vernal pools, 3.716 acres of seasonal wetland, 20.075 acres of seasonal wetland swale, 4.195 acres of freshwater seep, 0.054 acre of freshwater marsh, 1.586 acres of pond, 3.385 acres of stream channel, 4.632 acres of intermittent drainage channel, 1.449 acres of ditches, and 0.114 acre of willow scrub. In addition, the proposed project would also result in the fragmentation of approximately 0.29 acres of waters of the U.S.

Under this alternative, an approximately 1,057.6 acre preserve would be created, containing 40.951 acres of preserved waters of the U.S., including: 1.155 acres of vernal pools, 0.941 acres of seasonal wetlands, 5.404 acres of seasonal wetland swales, 6.608 acres of seeps, 0.157 acre of freshwater marsh, 13.802 acres of creek channel, 7.084 acres of intermittent drainage channel, 0.510 acres of ditches, and 5.289 acres of ponds.

b. Water Supply: All of the water supply alternatives were designed with the same source water and to integrate with the Freeport Project Facilities, neither of which would result in impacts to waters of the U.S. The water supply alternatives differ in the location of the water line alignment and in the location of the water treatment plant (WTP). With the exception of the No Action Alternative, any one of the water supply alternatives could be utilized with any one of the land use alternatives described in Section III(a) above.

Because the City has not yet made a decision on the exact proposed alignment for the water supply pipeline, 200 foot wide corridor along the right-of-way was utilized to determine the extent of waters of the U.S. that may be impacted. For each alternative, the left side or right side of the alignment are defined as the sides of the roadway when facing in the direction of the SPA.

(1) Water Supply Alternative 1 (No action): This alternative would occur only if the “Land Use” no action alternative were implemented. Under this alternative, the proposed project site would not be developed and water would continue to be supplied to the properties through on-site wells.

(2) Water Supply Alternative 2 (No Corps Permit): Under this alternative, the water conveyance pipeline would be installed to avoid all direct fill of waters of the U.S. through alignment modifications or directional drilling of the water pipeline. In addition, all staging areas and the location of the proposed water treatment plant would be located at least 50-feet from all waters of the U.S.

(3) Water Supply Alternative 3 (Proposed Off-Site Water Facility Alternative – Gerber/Grant Line Road Alignment and On-site WTP): This alternative is the preferred alternative by the project proponent, and would involve the construction of a new 30-inch, raw-water conveyance pipeline that would connect with the pump station located in an area just north-east of the bifurcation point. The raw-water pipeline would then extend north-east approximately 16.5 miles to the SPA, within a 200-foot wide corridor. Near the bifurcation point, at the intersection of Vineyard and Gerber Roads, the applicant would construct a 10-mgd (million gallons per day) capacity, raw water pump station to create the necessary operating pressure within the conveyance pipeline. The water pipeline would extend within road right-of-ways, along Gerber Road, Grantline Road, and White Rock Road.

In addition, the on-site WTP would be constructed within the SPA, on the western side of the Folsom South site, south of the Javanifard and Zhargami property and north of the Country Day School property. Depending on the side of the alignment the proposed water line is placed, this alternative would result in impacts to 5.7 (left side of the alignment) or 6.8 (right side of the alignment) acres of waters of the U.S.

(4) Water Supply Alternative 4 (Off-Site Water Facility Alternative 1 – Raw Water Conveyance, Gerber/Grant Line Road Alignment and White Rock WTP): This alternative is the same as Water Supply Alternative 3, although it would result in the construction of an off-site WTP along White Rock Road, as opposed to the on-site WTP under Water Supply Alternative 3. Depending on the side of the alignment the proposed water line is placed, this alternative would result in impacts to 6.6 (left side of the alignment) or 8.0 (right side of the alignment) acres of waters of the U.S.

(5) Water Supply Alternative 5 (Off-site Water Facility Alternative 1A – Raw Water Conveyance – Gerber/Grant Line Road Alignment Variation and White Rock WTP): This alternative is the same as Water Supply Alternative 4, although it would involve a slight variation to the alignment of the conveyance pipeline. Under this alternative, instead of the alignment curving north-west along Grant Line Road to the intersection with White Rock Road, the alignment would curve north-east along a property line boundary and re-intersect with the Water Supply Alternative 4 alignment within the White Rock Road right-of-way. Depending on the side of the alignment the proposed water line is placed, this alternative would result in impacts to 6.9 (left side of the alignment) or 8.3 (right side of the alignment) acres of waters of the U.S.

(6) Water Supply Alternative 6 (Off-site Water Facility Alternative 2 – Treated Water Conveyance – Douglas Road Alignment and Vineyard SWTP): Under this alternative, the applicant would purchase water that has already been treated at the Vineyard WTP, located on Florin Road. Therefore, the construction of a separate WTP would not be required. This alternative would result in the construction of a water alignment east, along Florin Road, north along Eagles Nest Road, and east along Douglas Road, to intersect at Grant Line Road. The remaining alignment, from the intersection of Douglas Road and Grant Line Road, would follow the same alignment as Water Supply Alternative 3. Depending on the side of the alignment the proposed water line is placed, this alternative would result in impacts to 11.9 (left side of the alignment) or 13.5 (right side of the alignment) acres of waters of the U.S.

(7) Water Supply Alternative 7 (Off-site Water Facility Alternative 2A – Treated Water Conveyance – Excelsior Road Alignment Variation and Vineyard SWTP): This alternative is the same as Water Supply Alternative 6, with a variation in the conveyance route for the water alignment. Instead of the alignment going east along Florin Road to Eagles Nest Road, this alignment would deviate and be installed north along Excelsior Road, to the intersection of Douglas Road. The remaining alignment would be the same as Water Supply Alternative 6. Depending on the side of the alignment the proposed water line is placed, this alternative would result in impacts to 10.1 (left side of the alignment) or 12.6 (right side of the alignment) acres of waters of the U.S.

(8) Water Supply Alternative 8 (Off-site Water Facility Alternative 2B – Treated Water Conveyance – North Douglas Tanks Variation and Vineyard SWTP): This alternative is a shortened variation of Water Supply Alternative 6. This alternative would connect to the North Douglas Water Tanks, located north of Douglas Road and west of Grant Line Road. The North Douglas Water Tanks were constructed by the Sacramento County Water Agency to serve areas within the Sunrise Douglas Community Plan area. The water line would then extend south along Ivan Way to Douglas Road. The alignment would then follow the same route as Water Supply Alternative 6. This alternative would reduce the length of the water pipeline by approximately 6 miles. Depending on the side of the alignment the proposed water line is placed, this alternative would result in impacts to 2.70 (left side of the alignment) or 1.8 (right side of the alignment) acres of waters of the U.S.

(9) Water Supply Alternative 9 (Off-site Water Facility Alternative 3 Treated Water Conveyance – North Douglas Tanks Variation and Vineyard SWTP): This alternative would result in the construction of a raw-water conveyance pipeline from the bifurcation point to a WTP located on White Rock Road, south of the intersection of White Rock and Prairie City Roads. This alignment would follow the same alignment as Water Supply Alternative 6. Depending on the side of the alignment the proposed water line is placed, this alternative would result in impacts to 13.1 (left side of the alignment) or 14.78 (right side of the alignment) acres of waters of the U.S.

(10) Water Supply Alternative 10 (Off-site Water Facility Alternative 3A – Raw Water Conveyance – Excelsior Road Alignment Variation and White Rock WTP): This alternative is the same as Water Supply Alternative 2, with the exception of a variation in the water conveyance alignment. This alternative would follow the same alignment as Water Supply Alternative 7, along Excelsior Road, and connect to a WTP located on White Rock Road. Depending on the side of the alignment the proposed water line is placed, this alternative would result in impacts to 11.2 (left side of the alignment) or 13.75 (right side of the alignment) acres of waters of the U.S.

(11) Water Supply Alternative 11 (Off-site Water Facility Alternative 4 – Raw Water Conveyance – Easton Valley Parkway Alignment and Folsom Boulevard WTP): This alternative would entail the construction of a raw water conveyance pipeline from the bifurcation pump station north to a new WTP located south of Folsom Boulevard and east of Sunrise Boulevard. The pipeline would follow the same alignment as Water Supply Alternative 9 north to Douglas Road and travel east. Along Douglas Road, the alignment would deviate from Water Supply Alternative 9 and transition back to the north at Sunrise Boulevard. From Sunrise Boulevard, the alignment extends north along the western boundary of the Rio del Oro Specific Plan Area to White Rock Road, where the alignment would travel east for a short distance to the southwestern corner of the Aerojet Property. Depending on the side of the alignment the proposed water line is placed, this alternative would result in impacts to 10.2 (left side of the alignment) or 11.7 (right side of the alignment) acres of waters of the U.S.

(12) Water Supply Alternative 12 (Off-site Water Facility Alternative 4A – Raw Water Conveyance – Easton Valley Parkway Alignment Variation and Folsom Boulevard WTP): This alternative would include a minor variation to the raw-water pipeline route described for water supply alternative 11. This alternative would deviate at the intersection of Florin and Excelsior Roads and travel north along Excelsior Road and Mather Boulevard. At the intersection with Douglas Road, this alignment would travel back to the east and follow the same alignment as Water Supply Alternative 11. Depending on the side of the alignment the proposed water line is placed, this alternative would result in impacts to 8.0 (left side of the alignment) or 10.5 (right side of the alignment) acres of waters of the U.S.

c. Environmentally Preferred Alternative:

(1) Land-Use: The environmentally preferred land-use alternative under NEPA is Land-Use Alternative 4, the Resource Impact Minimization alternative. Although this alternative would result in significant impacts to waters of the U.S., this alternative is the environmentally preferred alternative because it would result in 13 acres fewer impacts waters of the U.S. than the proposed project. In addition, compared with all alternatives evaluated within the EIR/EIS, Alternative 4 would result in fewer impacts to air quality and cultural resources.

(2) Water Supply: The environmentally preferred water-supply alternative is Water Supply Alternative 8 (Off-site Water Facility Alternative 2B –Treated Water Conveyance – North Douglas Tanks Variation and Vineyard SWTP). Although this alternative may result in significant impacts to waters of the U.S. without mitigation, there would be between 3 and 5 acres fewer impacts to waters of the U.S. than the proposed alternative. In addition, with the implementation of Mitigation Measures 3B.3-1a, 3B.3-1b, 3B.3-1c and 3A.3-1a, as described in Chapters 3A.3 and 3B.3 of the Draft EIR/EIS, the impacts to waters of the U.S. would be reduced to a less-than-significant level. As compared to the other alternatives, because this alternative would result in integration with existing water treatment facilities (i.e. the Vineyard WTP) and would have a reduced conveyance alignment from the North Douglas Water Tanks, this alternative would minimize the air quality and noise impacts associated with the placement of a water treatment plant adjacent to areas planned for medium- and high-density residential housing.

Although Land-Use Alternative 4 and Water-Supply Alternative 8 are considered the environmentally preferred alternatives, these alternatives may not be the least environmentally damaging practicable alternatives under the EPA’s 404(b)(1) Guidelines. In accordance with 40 CFR 230.10§(a)(4), the practicability of Land-Use Alternative 4 and Water-Supply Alternative 8 will be evaluated at the project level in Environmental Assessments which tier from the EIR/EIS.

d. Alternatives Considered but Rejected:

(1) Land-use:

(a) Additional Avoidance Alternative: As compared to the proposed project alternative, this alternative would avoid an intermittent drainage and seasonal swale located on the Carpenter Ranch project site, within land proposed for Regional Commercial, General Commercial and Single Family High Density areas, on both side of Scott Road at Easton Valley Parkway. In addition, this alternative would avoid an artificial man-made ditch on the western portion of the Carpenter Ranch site, within land proposed for Single Family Residential south of Easton Valley Parkway and west of the electrical transmission easement. This alternative would reduce the acreage of impacted waters of the U.S., including wetlands, by 3.19 acres as compared to the proposed project. This alternative was determined to be not practicable and was removed from consideration because the applicant provided evidence from several regional mall developers that preservation of the waters within this corridor would make development of a regional mall infeasible.

(b) Carpenter Ranch Alternative: This alternative is similar to the Additional Avoidance Alternative, although it would not result in the avoidance of the artificial man-made ditch and would preserve a shorter portion of the intermittent drainage and seasonal swale located on the Carpenter Ranch project site. This alternative would reduce the acreage of impacted waters of the U.S. by 2.88 acres as compared to the proposed project. This alternative was determined to be not practicable and was removed from consideration because the applicant provided evidence from several regional mall developers that preservation of the waters within this corridor would make development of a regional mall infeasible.

(c) Regional Commercial Avoidance Alternative: This alternative is similar to the Additional Avoidance and Carpenter Ranch Alternative, although it would preserve a shorter portion of the intermittent drainage and seasonal swale than both of the other alternatives. This alternative would reduce the acreage of impacted waters of the U.S. by 2.50 acres as compared to the proposed project. This alternative was determined to be not practicable and was removed from consideration because the applicant provided evidence from several regional mall developers that preservation of the waters within this corridor would make development of a regional mall infeasible.

(d) Western Residential Avoidance Alternative: This alternative would avoid just the artificial man-made ditch described in the Additional Avoidance Alternative. This alternative would reduce the acreage of impacted waters of the U.S. by 0.31 acres as compared to the proposed project, and would reduce the developable area by 14.3 acres as compared to the proposed project. Due to the hilly terrain of the site, implementation of this alternative would result in the isolation of a portion of the development which would require the construction of a sanitary sewer pump station and force main, which would increase the costs of this alternative. In addition, this alternative would also require the construction of an additional street access to allow for a connection to Oak Avenue Parkway, which would impact additional oak woodland habitat. Because this alternative would only reduce impacts to waters of the U.S. by 0.31 acres while impacting a greater acreage of sensitive oak woodland habitat, this alternative was eliminated from consideration, as it would have other substantial adverse impacts on the environment.

(e) Off-site Alternatives: The majority of sites within south-eastern Sacramento County have already been proposed for large-scale developments. The sites within this area, which contain sufficient land for development of a similar size include: Rio del Oro, Sunrise Douglas, Cordova Hills, Arboretum, Excelsior Estates, Mather Specific Plan, Glenborough at Easton, Westborough, Suncreek, and the Ranch at Sunridge. For all of these sites, the Corps either has or is in the process of evaluating permit applications for development. One off-site alternative was found within south-eastern Sacramento County which is not already proposed for development. This alternative consists of 15 parcels comprising approximately 2,587 acres located southwest of the SPA and east of the City of Rancho Cordova, in unincorporated Sacramento County. The off-site alternative location is bordered on the west by Grant Line Road. The off-site alternative location is characterized primarily by vernal pool grassland habitat, consisting of vernal pool complexes, including swales. The highest density of vernal pool grasslands occur on the western portion of this site. The site also contains seasonal tributaries to Coyote Creek, Carson Creek and Deer Creek. Based on aerial interpretation, this site contains approximately 77.1 acres of waters of the U.S. Development similar to the proposed project would result in direct impacts to approximately 57 acres of the wetlands on this site. Even if the applicants for the proposed project could purchase this site from the 15 landowners, development would likely result in greater impacts to the proposed project. In addition, the majority of this site is located within the Mather Core Recovery Area, which has been designated by the U.S. Fish and Wildlife Service as important for the recovery of vernal pool crustaceans. As shown within the EIS and the Record of Decision for the Sunridge Properties Project (SPK-2009-00511), significant cumulative impacts have occurred to vernal pools within the Mather Core

Recovery Area. Because this site contains important vernal pool grassland and because development of this site would likely result in greater impacts to waters of the U.S. than the proposed project, this alternative site was eliminated from consideration.

(2) Water-Supply: All of the water-supply alternatives that were considered, but rejected from future analysis involved alternative sources for water supply than the proposed reassignment. These alternatives did not involve alternative alignments to supplying the water to the proposed SPA. Because the proposed source for water supply would involve purchasing allocated water from an existing water supply and would utilize an existing diversion within the Sacramento River, this water source does not require a permit from the Corps and is therefore outside of the Corps' Scope of Analysis. Because the U.S. Bureau of Reclamation (USBR) is the agency responsible for approving or denying the City of Folsom's request for the proposed water supply, the USBR is the agency responsible for ensuring compliance with NEPA for the water supply. Although the USBR was a cooperating agency on the subject EIR/EIS, the USBR did not provide other viable options for the water supply source to be evaluated to the same level of detail as the proposed water supply source. If additional alternatives need to be considered, the USBR, as the lead agency responsible for compliance with NEPA for the water supply source, would be the lead agency for the preparation of a supplemental EIS.

(a) New Sacramento River Diversion and Water Rights: This alternative water supply source would involve the construction of a new diversion on the Sacramento River and obtaining water rights. This alternative was eliminated as it would result in direct impacts to the Sacramento River, and the completion of an application process for securing new water rights within the Sacramento River would not guarantee a secured water supply within the necessary time frame.

(b) Diversion of Unappropriated American River Water: Another water source that was considered but rejected would involve a new water right permit and diversion of unappropriated water from the American River. This alternative would result in direct impacts to the American River, and would affect flows and water temperatures within the American River, resulting in adverse impacts to fish species, including the Federally listed Central Valley steelhead (*Oncorhynchus mykiss*), Central Valley spring-run Chinook salmon and Central Valley winter-run Chinook salmon (*Oncorhynchus tshawytscha*), and the green sturgeon (*Acipenser medirostris*). Because of these impacts, this alternative was eliminated from further analysis.

(c) Water Supply and Delivery from El Dorado Irrigation District: This alternative would involve obtaining water supply and delivery from the El Dorado Irrigation District. This alternative was eliminated from further consideration, as the projected demand for water from the El Dorado Irrigation district is greater than the available supply.

(d) Non-Potable Water Supplies: This alternative evaluated non-potable water supplies, including process water from Granite Construction Companies proposed Walltown Quarry, Groundwater Extraction and Treatment (GET) water from Aerojet, and recycled water from the Sacramento Regional County Sanitation Department. This alternative was rejected from further consideration as these alternative sources are not available, and the use of non-potable water would not address the need for a potable water supply for the proposed project.

(e) East Bay Municipal Utilities District's (EBMUD) Capacity within the Freeport Project: This alternative would involve using a portion of water allocated to EBMUD. This alternative was eliminated based on information contained in the Freeport Project EIR, which states that EBMUD's operations at Freeport require full use of its allocated capacity three out of every ten years, which would eliminate capacity for the City of Folsom during these three years. In addition, in preliminary negotiations, EBMUD informed the City of Folsom that any capacity allocated to the City of Folsom

within the Freeport Project must be replaced or augmented throughout the remainder of EBMUD's portion of the Freeport Project, which extends to the Mokelumne River, to ensure that EBMUD's service area is not adversely affected by a loss of conveyance capacity. Due to the level of improvements necessary to augment the capacity purchased by the City of Folsom, this alternative was determined to be cost prohibitive.

(f) Water Supply Exchange with Sacramento Municipal Utility District (SMUD):

This alternative would result in the purchase of up to 8,000 AFY of water from NCMWC and exchange this water supply with SMUD for up to 8,000 AFY of their allocated water from the American River. Due to the extent of negotiations that would be required for this alternative, it was eliminated from further consideration.

(g) Higher Central Valley Project Allocation from Natomas Central Mutual Water Company: This alternative is similar to the proposed water supply source, although it would involve the allocation of up to 15,000 AFY of water instead of the proposed 8,000 AFY of water. After completion of a water demand analysis for the SPA, the City determined that 8,000 AFY is sufficient to serve the SPA and the additional water is not necessary. Therefore this alternative was rejected from further consideration.

IV. Comments on the Final Environmental Impact Statement

a. U.S. Environmental Protection Agency: On June 27, 2011, the United States Environmental Protection Agency (USEPA) indicated that the FEIS should identify the Least Environmentally Damaging Practicable Alternative (LEDPA) and that the proposed project has the potential to contribute to significant environmental degradation. In addition, USEPA stated that they had been unaware that the Public Notice (PN) that was published with the NOA for the DEIS was the PN for the permit applications received for the seven individual projects within the SPA, which interfered with EPA's duties in the program pursuant to Section 404(q) of the Clean Water Act. EPA provided the following additional specific comments on the FEIS:

(1) EPA expressed concern that the applicants and the City of Folsom have not shown a need for the proposed project in light of changes in regional housing markets, and recommended that the Corps more thoroughly examine the basis for the City of Folsom's predictions regarding population growth and development needs.

(2) EPA expressed their belief that land-use Alternatives 2 and Alternative 4 provide significantly reduced adverse environmental impacts and recommended that these two alternatives be refined to meet the Sacramento Area Council of Governments (SACOG) density and smart growth goals, and that with these design modifications, the less damaging alternatives may prove to be practicable.

(3) EPA stated that project-level alternatives may be inconsistent with the programmatic nature of the EIS in that more avoidance and minimization may be necessary at the project level to make a finding that the proposed project is the LEDPA. In addition, EPA expressed concern that one the larger avoidance and minimization steps have been taken through the NEPA process, that the scope of change that could occur at the project level may be limited. EPA also continued to express the objection they raised with the DEIS, stating that the cost criteria used within the DEIS to eliminate some alternatives for the Carpenter Ranch site were inappropriate.

(4) EPA stated that, given the information provided in the FEIS, that it has not yet been demonstrated that additional avoidance and minimization is impracticable, and until the determination of the LEDPA is made, discussion of compensatory mitigation is preliminary. EPA further commented that

the FEIS was deficient in that it did not contain a discussion of the competing needs on mitigation bank credits in the region. EPA expressed the belief that the South Sacramento County Habitat Conservation Plan (SSHCP) would require as many, if not more, of the credits that are available at the approved mitigation banks in the area, EPA asserted that the statement within the FEIS that ample credits are available to compensate for the impacts of the proposed project, without taking into account additional future demand is not adequate. In addition, EPA commented that the proposed mitigation ratio of 1:1 is inadequate, citing studies that have found that there are few mitigation projects with constructed vernal pools that compare favorably to natural plant communities. Therefore, EPA stated that a compensatory mitigation ratio of greater than 1:1 needs to occur to realistically offset losses and meet the no-net-loss of functions threshold. EPA also asserted that several of the listed mitigation banks are located far from the project area and out of the immediate watershed, and many of the available credits are out-of-kind.

c. United States Department of Interior: On June 27, 2011, the United States Department of the Interior (DOI) commented on the FEIS. DOI stated that the Congressionally designated Pony Express and California National Historic Trails pass along the south side boundary of the project, White Rock Road, and although portions of these trails may have been destroyed by the construction of the road, features like ruts or swales are visible in aerial photos on both sides of White Rock Road that may be associated with either or both trails. DOI requested that an archaeological survey be done for the project by a survey team including a historical archaeologist trained and experienced in recognizing the often subtle remains of historic trails. In addition, DOI also stated that if trail remnants or associated resources are found and are likely to be directly or indirectly affected, then avoidance would be their preferred mitigation measures, and that visual effects to the trail settings would have to be evaluated, given that the project area now appears to be largely undeveloped.

b. Ms. Debra Meir: On June 23, 2011, Ms. Debra Meir commented to the FEIS, informing the Corps that the City Council of Folsom approved the EIR documents without reading them, and did not consider any of the project alternatives listed in the EIR/EIS. Ms. Meir stated that for the City of Folsom to approve the documents without reading them is not acceptable, and that the proposed project is not wanted by the citizens of Folsom. Ms. Meir requested that the request for 404 permits be denied.

V. Consideration of Applicable Laws and Policies

a. National Environmental Policy Act (NEPA): The EIR/EIS was completed to evaluate programmatically a reasonable range of land-use and water-supply alternatives and the cumulative impacts associated with nine projects in the Folsom South of U.S. Highway 50 Specific Plan Area. The Corps followed the NEPA process, including noticing and timeline requirements, to produce a document that discloses to the public the probable impacts of the Proposed Action, taking into account mitigation. The EIS will be utilized to prepare supplemental EAs for the permit applications received on 6 of the parcels and the on-site and off-site infrastructure. In addition, the EIR/EIS will be used in the future to prepare supplemental EAs or supplemental EISs for the remaining two parcels, when applications are received.

b. Section 401 of the Clean Water Act Section 401 of the CWA: The applicants for the seven applications under consideration have applied for a Section 401 Water Quality Certification. The Central Valley Regional Water Quality Control Board has not yet made a decision on whether to issue Water Quality Certifications for these projects. Receipt of a Section 401 Certification will be required prior to completion of the supplemental EAs for the seven projects and prior to making a final permit decision.

c. Endangered Species Act of 1973: On December 6, 2010, we initiated consultation with the United States Fish and Wildlife Service (USFWS) for potential impacts of the proposed project on the Federally-listed vernal pool fairy shrimp (*Branchinecta lynchi*), vernal pool tadpole shrimp (*Lepidurus*

packardi), conservancy fairy shrimp (*Branchinecta conservatio*), Valley elderberry longhorn beetle (*Oncorhyncus mykiss*), Sacramento Orcutt grass (*Orcuttia viscida*), and Slender Orcutt grass (*Orcuttia tenuis*). The consultation with the USFWS has not been completed. Compliance with the Endangered Species Act will be required prior to completion of the supplemental EAs for the seven projects under consideration and prior to making a final permit decision.

d. Fish and Wildlife Coordination Act: The Corps has worked with the USFWS on the proposed project, including meetings to obtain input. During EIS preparation, the Corps requested USFWS be a cooperating agency. Although it declined, the USFWS reviewed the draft of the EIR/EIS and provided comments.

e. Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act): The proposed project is in compliance with the Magnuson-Stevens Act. The proposed project and other land-use and water-supply alternatives would not result in any impacts to essential fish habitat.

f. Section 106 of the National Historic Preservation Act: The Corps has consulted with the State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP). Through consultation with the SHPO, a Programmatic Agreement (PA) between the Corps and the California Office of Historic Preservation was prepared and was executed on July 6, 2011. Per the PA, individual compliance with Section 106 of the NHPA will be required prior to the completion of the supplemental EAs for the seven projects currently under consideration and prior to making a final permit decision.

g. Section 176(C) of the Clean Air Act (CAA) General Conformity Rule Review: The proposed action has been analyzed for conformity applicability pursuant to regulations implementing Section 176(c) of the Clean Air Act. The Corps has determined that direct emissions from the proposed activities that require a DA permit will not exceed de minimis levels of a criteria pollutant or its precursors and are exempted by 40 CFR 93.153. Any later indirect emissions are generally not within the Corps' continuing program responsibility and generally cannot be practicably controlled by the Corps. For these reasons, a conformity determination is not required for this action.

h. Executive Order 11998: Floodplain Management: The area along Alder Creek which flows through the SPA has been identified by the California Department of Water Resources as lying within a 100-year floodplain. The proposed project and other alternatives would result in construction of a mixed-use development outside of this floodplain. The proposed project would have a minimum 75-foot preserve from Alder Creek. Development within the SPA could increase runoff within Alder Creek, due to the increase in impervious surfaces. As explained in Section 3A.9 of the DEIR/DEIS, these impacts would be reduced to less-than-significant, provided Mitigation Measure 3A.9-2 is implemented. Additional project-specific compliance with Executive Order 11998 will be done within the supplemental EAs for the seven projects currently under evaluation, and prior to making a final permit decision.

i. Executive Order 11990: Protection of Wetlands: A project-level decision will be made for compliance with the §404(b)(1) Guidelines, and Executive Order 11990 within the Supplemental EA for the seven projects currently under evaluation, prior to making a prior permit decision.

j. Executive Order 13175: Consultation with Indian Tribes, Alaska Natives, and Native Hawaiians: During the development of the PA, the Corps has consulted with the two tribes that may have an interest in the area, the Shingle Springs Band of Miwok Indians, and the United Auburn Indian Community. Both of these tribes have agreed to be concurring parties on the PA, and, per the PA, will be consulted during the development of any Memoranda of Agreements (MOAs) required for individual compliance with Section 106 of the NHPA. This consultation would occur prior to the completion of the

supplemental EAs for the seven project currently under consideration and prior to making a final permit decision.

k. Environmental Justice (Title VI of the Civil Rights Act and Executive Order 12898):

No low-income or minority populations are identified within or adjacent to the SPA or within or adjacent to any of the proposed water-supply alternatives. The proposed action is not expected to negatively impact any community, and therefore is not expected to cause disproportionately high and adverse impacts to minority or low-income communities.

VI. Consideration of Mitigation Measures

The EIR/EIS included a number of mitigation measures to reduce or offset impacts that fall outside of the Corps responsibility and generally cannot be practicably controlled by the Corps, like traffic, air quality, and noise. Many of the mitigation measures are requirements of the local land use agency (City of Folsom) and were addressed in the EIR/EIS for compliance with the CEQA and would be approved through grading and construction permits by the City of Folsom. As such, these mitigation measures are enforced by the City of Folsom and not the Corps.

The Corps requires mitigation measures to reduce or offset impacts to waters of the U.S. as special conditions of each DA permit issued. These special conditions will be developed and refined during the preparation of supplemental decision documents prepared for each of the individual permit applications pending and received in the future for projects within the SPA. These special conditions will take into account mitigation measures 3A.3-1a, 3A.3-1b, 3B.3-1a, 3B.3-1b and 3B.3-1c, as described in Chapters 3A.3 and 3B.3 of the DEIR/DEIS, and would also include additional conditions that avoid, minimize and compensate for impacts to waters of the U.S. and those that ensure compliance with Section 7 of the Endangered Species Act and Section 106 of the National Historic Preservation Act.

VII: Compliance with 404(b)(1) Guidelines

The EIR/EIS analyzed a reasonable range of alternatives for the Proposed Action under NEPA. In accordance with 40 C.F.R. §230.10(a)(4), compliance with the EPAs 404(b)(1) Guidelines will be demonstrated for the seven pending permit applications within the supplemental EAs prepared for each project. The EAs will tier from the EIR/EIS and address additional on-site alternatives. Additional mitigation, including avoidance and minimization, may be required at the project level to achieve compliance with the guidelines.

In addition, compliance with the 404(b)(1) Guidelines will be demonstrated within supplemental EAs or supplemental EISs for future applications for projects within the SPA.

VIII. Public Interest Review

The Proposed Action does not appear to be contrary to the public interest. A more detailed review of public interest factors will be conducted for each of the seven pending permit applications and will be documents in the EAs prepared for each project.

IX. Findings

a. The evaluation of the proposed action and alternatives was done in accordance with all applicable laws, executive orders, regulations, and agency regulations. The EIR/EIS and supporting documents are adequate and contain sufficient information upon which reasoned permit decisions can be made.

b. For the Folsom Heights, Prairie City Road Business Park, Folsom 560/Hillsborough, Folsom South, Folsom 138, Carpenter Ranch and City of Folsom On-Site and Off-Site Infrastructure Projects, the Corps will prepare supplemental EAs that tier from the EIR/EIS. A supplemental EA will only be prepared following receipt of a complete DA permit application and issuance of a public notice.

c. For the Javanifard and Zhargami and Sacramento Country Day School Projects, the Corps will prepare site-specific NEPA documents. A NEPA document will only be prepared following receipt of a complete DA permit application and issuance of a public notice. The NEPA document may be either a supplemental EA or EIS, depending on the nature of the proposed project, length of time that has elapsed since issuance of the EIS/EIR, and/or changes to the affected environment.

d. The Corps will make a permit decision for each project only after determining compliance with the 404(b)(1) guidelines, as well as Section 7 of the Endangered Species Act, Section 106 of the National Historic Preservation Act, and Section 401 of the Clean Water Act.

e. In light of Land-Use Alternative 4, the identified Environmentally Preferred Land-Use Alternative, the Corps will evaluate the practicability under the 404(b)(1) Guidelines of avoiding additional waters of the U.S. on each of the seven sites with pending permit applications. Because they contain waters of the U.S. that are adjacent to Alder Creek, the primary focus of the evaluation will be on the Prairie City Road Business Park, Carpenter Ranch, Folsom South, and Folsom 560/Hillsborough sites.

f. If it is determined that the identified Environmentally Preferred Water-Supply Alternative, Water-Supply Alternative 8, is not practicable within the Section 404(b)(1) alternatives analysis that will be prepared for the City of Folsom On-site and Off-site infrastructure permit application, the selected alternative will include the implementation of Mitigation Measures 3B.3-1a, 3B.3-1b, 3B.3-1c and 3A.3-1a, as described in Chapters 3A.3 and 3B.3 of the DEIR/DEIS, to ensure that the impacts are less-than-significant.

11 Aug 2011
Date

For [Signature] LTC
William J. Leady, P.E.
Colonel, U.S. Army
District Commander