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

November 24, 2008

John Suazo
U.S. Army Corps of Engineers
Sacramento District
Planning Division
1325 J Street
Sacramento, CA 95814

Subject: Final Environmental Impact Statement (FEIS) for the Feather River Levee Repair Project, Yuba County, California (CEQ #20080430)

Dear Mr. Suazo:

The U.S. Environmental Protection Agency (EPA) has reviewed the FEIS for the above project pursuant to the National Environmental Policy Act, Council on Environmental Quality 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 promulgated at 40 CFR 230 under Section 404(b)(1) of the Clean Water Act (CWA). Our detailed comments are enclosed.

EPA commends the efforts of the U.S. Army Corps of Engineers (Corps) and Three Rivers Levee Improvement Authority (applicant) to respond to all of our Draft EIS (DEIS) comments, dated August 25, 2008, related to water quality, waters of the U.S. (WOUS), and air quality control measures. We only have continuing detailed comments pertaining to water quality. We previously provided comments on both the Administrative DEIS and the DEIS for the Project and agree with the Corps that early and ongoing coordination between the Corps and EPA has been beneficial to the EIS development and review process. We also appreciate the Corps' assurance that our input will be considered in the selection of a project alternative and the granting of requested permissions by the project applicant.

Our DEIS comments suggested consideration of sustainable practices to prevent discharges of agricultural pollutants to the Feather River from ongoing agriculture in the floodway. We recognize efforts to coordinate with the Central Valley Regional Water Quality Control Board (Water Board) on enrolling in their Irrigated Lands Program but we continue to recommend that the applicant commit in the Record of Decision to working with floodway lease holders to implement sustainable agricultural practices as described at EPA's website for our National Strategy for Agriculture. We also look forward to reviewing the Best Management

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Practices Plan that will be submitted to the Water Board as a condition of their Clean Water Act Section 401 Water Quality Certification for the project.

The FEIS adequately addresses our DEIS comments on mitigation for impacts to WOUS. We note the addition of Table 3.6-4 that describes impacts to WOUS and specific mitigation that would result. We also appreciate the additional mitigation discussion in Section 3.6.3 and the commitment to fulfilling the mitigation measures described in the Environmental Impact Report, the FEIS, and the conceptual mitigation plan. Once implemented, project mitigation would actively restore 50-foot wide riparian corridors along both sides of the new floodplain drainage swale and restore approximately 20.1 acres of WOUS on the project site adjacent to the existing Messick Lake.

Thank you for the opportunity to review the FEIS. We appreciate having had the opportunity to coordinate with the Corps during the review process for this project. Please send a copy of the Record of Decision, when it is published, to us at the address above (Mail Code: CED-2). If you have any questions, please contact the lead reviewer for this project Paul Amato or me. Paul can be reached at 415-972-3847 or amato.paul@epa.gov; I can be reached at 415-972-3521 or goforth.kathleen@epa.gov.

Sincerely,

Kathleen M. Goforth, Manager
Environmental Review Office

Enclosures: EPA's Detailed Comments

cc:

Mr. Paul Brunner, Executive Director, TRLIA
Ms. Sandra Anderson, Feather River Air Quality Management District
Mr. Robert Solecki, Central Valley RWQCB
Mr. Brett Stevens, Senior Environmental Scientist, Central Valley RWQCB

Commit in the Record of Decision (ROD) to implementing measures that prevent the discharge of agricultural pollutants to the Feather River. EPA continues to suggest that the Three Rivers Levee Improvement Authority (applicant) and Corps commit to implementing sustainable agricultural practices in the floodway lands to reduce inputs of pollutants to the Feather River. The FEIS response to comments states that "because agricultural leases are already being advertised, there is not an opportunity at this time for TRLIA to actively promote sustainable agricultural practices on these properties." While current lease advertisements may not include conditions for sustainable agricultural practices, EPA respectfully disagrees that it is too late to promote these practices. We encourage the applicant and Corps to commit to ongoing work with floodway lease holders to promote practices that reduce the use of fertilizers and pesticides and protect water quality in the Feather River.

Commit in the ROD to developing a Best Management Practices Plan that reduces the use of fertilizers and pesticides in the floodway. We commend the applicant for intending to enroll in the Central Valley Regional Water Quality Control Board's (Water Board) Irrigated Lands Program, but we believe that additional measures should be taken to prevent the discharge of pollutants into the Feather River, a water body that is currently listed as impaired for a variety of agricultural pollutants. Generally speaking, the Irrigated Lands Program is a conditional waiver of waste discharge requirements for qualified participants who enroll either as individuals or as part of a coalition. While EPA supports the applicant's intent to enroll, such enrollment would not directly address EPA's recommendation to implement sustainable practices that reduce inputs of agricultural pollutants to the Feather River. However, the Water Board has informed EPA that Condition No. 14 of the October 10, 2008 CWA Section 401 Water Quality Certification for the project requires the applicant to submit a Best Management Practices Plan prior to removal of the existing levee "that addresses what practices will be utilized to prevent waste associated with agricultural operations from entering surface waters of the State." Water Board staff has offered to provide this plan to EPA for review and comment, and suggested EPA request the applicant send us a copy at the same time it is sent to the Water Board. We look forward to reviewing this plan once it is submitted, and are hopeful that it will include BMPs that reduce the use of fertilizers and pesticides on the floodway lands and prevent their discharge to the Feather River.

Recommendations:

Commit in the ROD to ongoing work with floodway lease holders to promote sustainable agricultural practices that minimize the use of fertilizers and pesticides on the floodway lands and reduce the discharge of agricultural pollutants. As mentioned in our DEIS comments, information on sustainable agriculture can be found at EPA's website for our National Strategy for Agriculture at http://www.epa.gov/agriculture/tsus.html#Sustainable%20Agriculture.

Commit in the ROD to the development of a BMP Plan that includes measures that minimize the use of fertilizers and pesticides on the floodway lands and prevent their discharge to the Feather River. We also request the applicant send a copy of the BMP

Plan to EPA (Attn: Paul Amato, Mail Code CED-2) at the same time it is sent to the Water Board for review.