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

DEC 19 2013

Theodore A. Brown
Headquarters
U.S. Army Corps of Engineers
CECW-P (SA)
7701 Telegraph Road
Alexandria, Virginia 22315-3860

Subject: Sutter Basin Pilot Feasibility Report Final Environmental Impact Statement (EIS), Butte and Sutter Counties, California [CEQ #20130352]

Dear Mr. Brown:

The U.S. Environmental Protection Agency (EPA) has reviewed the above referenced document. Our review and comments are provided pursuant to the National Environmental Policy Act (NEPA), the Council on Environmental Quality's NEPA Implementation Regulations at 40 CFR 1500 - 1508, and our review authority under Section 309 of the Clean Air Act.

EPA appreciates that information has been added to the Final EIS in response to our comments on the Supplemental Draft EIS. We note that the Final EIS includes the Clean Water Act Section 404(b)(1) alternatives analysis, which identifies Alternative SB-8 (the locally preferred plan) as the least environmentally damaging practicable alternative. We recommend that, in the future, the U.S. Army Corps of Engineers include the 404(b)(1) alternatives analyses in draft EISs so that agencies and the public have a more meaningful opportunity to evaluate impacts and provide relevant and timely feedback to inform these analyses and the Corps' decisions.

In our comments on the Supplemental Draft EIS, we commented that the Sutter Basin Pilot Feasibility Report Mitigation and Monitoring Plan (MMP) did not identify specific restoration measures, success criteria, or monitoring commitments for 3.099 acres of waters of the U.S. that would be temporarily affected by the project, and recommended that the Final EIS and MMP include this information to ensure successful restoration of these resources. We were unable to find this information in either the Final EIS or the MMP, and recommend that the Corps ensure that this information is included in the MMP.

The Corps Regulatory Program Uniform Performance Standards for Compensatory Mitigation Requirements (Version 8/9/2012, SPD QMS 12505.1) requires that permittees ensure equal or greater than 80 percent survivorship for vegetation and monitor annually until a minimum of two years of success post-irrigation. The MMP (Appendix D5, p.5-4) states that irrigation will be required for plant establishment and survival and should be applied with the goal that plants will become self sufficient by the end of the third growing season. Elsewhere, however, the MMP (p.

4-1) states that a minimum survival rate of at least 80% must be maintained throughout the first two years of the monitoring period, rather than monitoring annually until a minimum of two years of success *post-irrigation*. Given that successful plant establishment may require irrigation for several years, we recommend that the success criteria in the Sutter Basin MMP be revised to require, for a minimum of two years of success post-irrigation, at least 80 percent vegetation survivorship and annual monitoring.

We appreciate the opportunity to review this Final EIS. Please send a copy of the Record of Decision to this office (mailcode CED-2) when it is signed. If you have any questions, please call me at (415) 972-3521 or contact Jeanne Geselbracht, our lead NEPA reviewer for this project, at geselbracht.jeanne@epa.gov or (415) 972-3853.

Sincerely,

Kathleen Martyn Goforth, Manager
Environmental Review Office

cc: Brad Johnson, U.S. Army Corps of Engineers, Sacramento
Mike Inamine, Sutter Butte Flood Control Agency