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

August 25, 2008

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

Subject: Draft Environmental Impact Statement (DEIS) for the Feather River Levee Repair Project, Yuba County, California (CEQ #20080263)

Dear Mr. Suazo:

The U.S. Environmental Protection Agency (EPA) has reviewed 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 provided detailed comments dated April 1, 2008, on the Administrative Draft Environmental Impact Statement (ADEIS) for the project, followed by additional feedback to the U.S. Army Corps of Engineers (Corps) and your consultants. We appreciate the Corps and Three Rivers Levee Improvement Authority (TRLIA) addressing several of our comments within the DEIS. In particular, we appreciate the expanded water quality and induced growth analyses. EPA agrees with the Applicant's Preferred Alternative (Proposed Project) that would construct a setback levee and remove the existing, failing levee to meet the project purpose of correcting identified levee deficiencies and improving flood protection in the Reclamation District 784 area of Yuba County. We recognize the Proposed Project benefits described in the DEIS, including improved regional flood protection and expanded riparian and floodplain habitat in the enlarged floodway. We also support removing 525 acres of farmland and actively restoring habitat in the setback area, as is currently under discussion between TRLIA, various landowners, and regulatory agencies.

Based on our review, we have rated this DEIS LO-1, Lack of Objections, Adequate Information. We do suggest that the Corps and TRLIA consider the promotion of sustainable agricultural practices in the floodway to further reduce potential impacts to water quality in the Feather River that could result from chemical fertilizers and pesticides. We also suggest that mitigation for fill of water of the U.S. (WOUS) be clarified in a table in the FEIS, and that adequate mitigation for fill of 6.7 acres of WOUS be done onsite. Active restoration of 4.2 acres of disturbed riparian habitat, at the proposed floodway drainage swale, is recommended instead of allowing the site to revegetate on its own. Finally, we recommend the use of construction equipment meeting EPA Tier 3 engine standards, and that Tier 2 standards be required, to help reduce air quality impacts from construction. Best available emission control technologies should be used.

Thank you for the opportunity to review the ADEIS and this DEIS. We appreciate having had the opportunity to coordinate with the Corps early in the review process. Please send a copy of the Final EIS, 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,

/s/

Kathleen M. Goforth, Manager
Environmental Review Office

Enclosures: Summary of EPA Rating System
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 Regional Water Quality Control Board

Water Quality

Consider sustainable agricultural practices, for floodway lands that are not removed from agriculture, to reduce inputs of chemical pesticides and fertilizers to the Feather River. The DEIS states that placing 525 acres of agriculture into the levee setback floodway could result in increased inputs of pesticides, fertilizers, and other agricultural chemicals to the Feather River during flood inundation. Furthermore, this could result in a violation of water quality standards or waste discharge requirements (p. 3.4-5). As discussed in the document, the Feather River is currently listed on the Clean Water Act Section 303(d) list for impaired water bodies for diazinon and Group A pesticides, among other pollutants. Diazinon and other pesticides are assumed to result primarily from agricultural runoff. The TRLIA and Corps should consider working with land owners to implement sustainable agricultural practices, including reduced use of chemical pesticides and fertilizers in the floodway.

The DEIS also describes the removal of 525 acres of land from agriculture, and active restoration and conversion of this land to habitat (p. 2-8). The DEIS water quality analysis also concludes that "…the total use of pesticides, herbicides, and fertilizers, and therefore the potential for these materials to enter the Feather River, would be reduced because 525 acres of active agricultural land would be taken out of production and converted to grassland, riparian, and other habitat types." (p. 3.4-5). EPA acknowledges the potential water quality benefits of removing 525 acres of land from production in the proposed floodway and supports the conversion of 525 acres to habitat.

> *Recommendations:*
> The FEIS should commit to working with land owners to implement sustainable agricultural practices in the floodway as a way to reduce inputs of chemical pesticides and fertilizers to the Feather River. 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.
>
> We support and recommend the conversion of 525 acres of agricultural land to habitat in the proposed floodway.

Waters of the United States

The Proposed Project would impact 10.9 acres of Waters of the United States (WOUS), of which 6.7 acres would be permanently filled and 4.2 acres disturbed. In addition, a total of 56.9 acres of WOUS would be located on the river side of the new levee, and subjected to periodic inundation. The Corps and TRLIA propose to mitigate impacts to 10.9 acres of WOUS through enhancement and modifications to the new 4.2 acre floodway drainage swale, purchase of 49 acres of giant garter snake (GGS) aquatic habitat at an off-site conservation bank, and onsite creation of 20 to 30 acres of valley elderberry longhorn beetle (VELB) habitat, which includes planting of riparian vegetation (p. 3.6-16). As stated in the DEIS, GGS and VELB mitigation has been established through consultation with the U.S. Fish and Wildlife Service (USFWS) and

the California Department of Fish and Game (CDFG). EPA supports the proposed mitigation measures but it remains unclear whether they are sufficient to fully offset impacts to WOUS.

The DEIS should clarify what mitigation is proposed to offset environmental losses from fill of 6.7 acres of WOUS. As described in the April 10, 2008 Corps and EPA "Compensatory Mitigation for Losses of Aquatic Resources; Final Rule" (Mitigation Rule) 40 CFR 230, "…the fundamental objective of compensatory mitigation is to offset environmental losses from unavoidable impacts to WOUS authorized by Department of the Army permits." GGS and VELB mitigation are discussed in the DEIS as required mitigation for impacts to their respective habitats, but not specifically for the fill of the 6.7 acres of WOUS. The FEIS should include a table that specifies what mitigations are proposed to offset environmental effects to WOUS, including permanent fill of 6.7 acres and disturbance to 4.2 acres. In addition, given the proximity of the Proposed Project to the Feather River and the potential for restoration of aquatic resources in the immediate area, the Corps and TRLIA should consider onsite mitigation opportunities for permanent fill of WOUS.

The FEIS should commit to actively restoring riparian habitat at the proposed floodway drainage swale. The DEIS states that the floodway drainage swale "…would either be actively restored to pre-project vegetative conditions, or riparian vegetation would be allowed to naturally re-colonize the site" (p. 3.6-10). We suggest the swale be actively restored in order to reduce temporal impacts and ensure environmental impacts are offset following disturbance to 4.2 acres of riparian habitat.

> *Recommendations:*
> The FEIS should include a mitigation table that specifies what mitigation is intended to offset impacts from fill of 6.7 acres and disturbance of 4.2 acres of WOUS.
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> Given the proximity of the Proposed Project impacts to the Feather River, onsite mitigation opportunities for fill of WOUS should be considered.
>
> We recommend the 4.2 acres of disturbed riparian habitat be actively restored to reduce temporal impacts and ensure environmental effects are fully mitigated.

Air Quality

As described in the DEIS, the Proposed Project would occur in Yuba County within the Northern Sacramento Valley Air Basin (NSVAB). Yuba County is currently in attainment or unclassified for National Ambient Air Quality Standards; therefore, the Corps is not required to demonstrate general conformity with a State Implementation Plan (SIP). However, construction activities would result in daily construction emissions of reactive organic gasses (ROG), nitrogen oxides (NOx), and particulate matter smaller than 10 microns (PM_{10}) that exceed Feather River Air Quality Management District (FRAQMD) thresholds. TRLIA has committed to implementing FRAQMD mitigation measures to reduce daily construction emissions; but those emissions may still exceed thresholds of significance. EPA commends the Corps and TRLIA for coordinating with FRAQMD and committing to implementing mitigation measures to reduce construction emissions. In addition to the measures described, the Corps and TRLIA should consider the use

of construction equipment that meets Tier 3 engine standards, available for the 2008 model year. Construction equipment should be required to meet Tier 2 standards and be retrofitted with the best available emission control technology.

Recommendation:
To further reduce air quality impacts, we recommend the use of construction equipment meeting Tier 3 emission standards, where available. Tier 2 standards should be required and equipment should be retrofitted with the best available emission control standards.