THREE RIVERS LEVEE IMPROVEMENT AUTHORITY AGENDA FEBRUARY 6, 2007

Yuba County Government Center
Board Chambers
915 Eighth Street, Suite 109A
Marysville, California

Unless otherwise indicated

3:30 P.M. I

**CALL TO ORDER**

II **ROLL CALL** – Directors Rick Brown, Jerry Crippen, Mary Jane Griego, Dan Logue, Richard Webb

III **ELECTION OF OFFICERS/CHAIRMAN AND VICE-CHAIRMAN** (Conducted by Clerk)

IV **PUBLIC COMMUNICATIONS**: Any person may speak about any subject of concern provided it is within the jurisdiction of the Levee Improvement Authority and is not already on today’s agenda. The total amount of time allotted for receiving such public communication shall be limited to a total of 15 minutes and each individual or group will be limited to no more than 5 minutes.

V **CONSENT AGENDA**: All matters listed under the Consent Agenda are considered to be routine and can be enacted in one motion.

- A. Approve minutes of the meetings of January 9 and 16, 2007.

VI **ACTION ITEMS**

- A. Adopt resolution delegating certain administrative authority to the Executive Director regarding the acquisition of real property and the relocation of displaced persons in connection with levee improvement projects.

- B. Adopt resolution accepting implementation grant from the State of California for the construction of the Bear-Feather River Setback Levee and authorizing the Executive Director to execute grant and disbursements of funds.

- C. Adopt resolution adopting procedure to waive the appraisal in cases involving acquiring property of a low fair market value of $25,000 or less.

- D. Approve amendment five to agreement with Bender Rosenthal, Inc. in the amount of $158,880 for eminent domain services and authorize Chairman to execute same.

- E. Adopt resolution regarding certification of the Feather River Levee Repair Project final environmental impact report; adoption of California Environmental Quality Act findings, mitigation measures, mitigation monitoring program and statement of overriding considerations; and approval of the Feather River Levee Repair Project.

VII **BOARD AND STAFF MEMBERS’ REPORTS**: This time is provided to allow Board and staff members to report on activities or to raise issues for placement on future agendas.

VIII **CLOSED SESSION**


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THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

MINUTES – BOARD OF DIRECTORS

JANUARY 9, 2007

A meeting of the Board of Directors of the Three Rivers Levee Improvement Authority was held on the above date, commencing at 2:00 p.m., within the Government Center, Marysville, California, with a quorum being present as follows: Directors Mary Jane Griego, Dan Logue, and Richard Webb. Directors Rick Brown and Jerry Crippen were absent. Also present were Executive Director Paul Brunner, County Counsel Daniel Montgomery, and Clerk of the Board of Supervisors/Secretary Donna Stottlemeyer. Chairman Webb presided.

PUBLIC COMMUNICATIONS

No one came forward.

CONSENT AGENDA

Upon motion of Director Logue, seconded by Director Griego, and carried with Directors Brown and Crippen being absent, the Board took the following actions:

A. Minutes: Approved the minutes of the regular meeting of December 12, and special meeting of December 19, 2006, as written.

B. Budget Transfer/$3,000: Authorized a Budget Transfer in the amount of $3,000 from Account No. 805-3350-425-2302 (Professional Services) to Account No. 805-3350-425-2000 (Membership) for California Central Valley Flood Control Association Dues.

ACTION ITEMS

Chairman Webb continued the matter of the Yuba County Water Agency loan agreement and an amendment to the contract with Bender Rosenthal, Inc. to the meeting of January 16, 2007.

Meeting Schedule: Following Board discussion, upon motion of Director Logue, seconded by Director Griego, and carried with Directors Brown and Crippen being absent, the Board changed the regular meeting schedule to the first and third Tuesdays of each month at 3:30 p.m. and 2:00 p.m. respectively effective immediately.
BOARD AND STAFF MEMBERS REPORTS

Reports were received on the following:

Right-of-way Agent Bob Morrison:
  • Right-of-way activities during November

Executive Director Paul Brunner:
  • Use of bridge loan and revenue
  • Release of Governor’s budget and hopeful inclusion of Feather River project

ADJOURNMENT

There being no further business to come before the Three Rivers Levee Improvement Authority the meeting was adjourned at 2:20 p.m. by Chairman Webb.

__________________________________________
Chairman

ATTEST: DONNA STOTLEMEYER
CLERK OF THE BOARD OF SUPERVISORS
AND SECRETARY OF THE PUBLIC AUTHORITY

__________________________________________________________________________ Approved: _________________
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

MINUTES – BOARD OF DIRECTORS

JANUARY 16, 2007

A meeting of the Board of Directors of the Three Rivers Levee Improvement Authority was held on the above date, commencing at 2:04 p.m., within the Government Center, Marysville, California, with a quorum being present as follows: Directors Rick Brown, Jerry Crippen, Mary Jane Griego, Dan Logue, and Richard Webb. Also present were Executive Director Paul Brunner, County Counsel Daniel Montgomery, and Clerk of the Board of Supervisors/Secretary Donna Stottlemyer. Chairman Webb presided.

PUBLIC COMMUNICATIONS

No one came forward.

Director Logue joined the meeting at 2:06 p.m.

ACTIONS ITEMS

A. **Bid Process/Evaluation Criteria:** Executive Director Paul Brunner recapped the criteria to be included, subsequent process, and responded to Board inquiries.

In response to comments from Mr. Rex Archer, Linda, regarding the water side of the Linda levee, Chairman Webb requested Mr. Archer to listen to the response from Mr. Brunner. Mr. Archer declined to remain to hear comments.

Mr. Brunner advised of the stability of the Linda levee which included the breakage area and submission of certification to the Corps of Engineers whose response is expected within thirty days.

Mr. Ron Erny, Marysville, felt the proposed process was a necessary inclusion to mitigate unforeseen change orders.

Following Board discussion, upon motion of Director Crippen, seconded by Director Logue, and unanimously carried, the Board authorized the Executive Director to evaluate and implement the bid process with evaluation criteria to award Feather River Levee Segment 1 and 3 construction and approve construction contract to be bid prior to being finalized upon review and approval with Special Counsel.

Director Webb left the meeting at 2:53 p.m.
B. **Yuba County Water Agency Agreement**: Following Executive Director Paul Brunner recapving need for the proposed agreement, upon motion of Director Griego, seconded by Director Crippen, and carried with Director Webb being absent, the Board approved an agreement with Yuba County Water Agency in the amount of $225,000 for engineering and administrative services related to Phase 4 Feather River Setback Project and authorized the Chairman to execute upon submittal, review and approval of County Counsel.

C. **Bender Rosenthal Inc./Fourth Amendment $100,000**: Following a brief recap from Executive Director Paul Brunner, upon motion of Director Griego, seconded by Director Crippen, and carried with Director Webb being absent, the Board approved Amendment Four to the agreement with Bender Rosenthal, Inc. in the amount of $100,000 for right-of-way actions along the Phase 4, Feather River Setback Levee alignment, and authorized the Executive Director to execute upon submittal, review and approval of County Counsel.

D. **Bookman-Edmonston (GEI Consultants, Inc.)/Fourth Amendment $115,000**: Following a brief recap from Executive Director Paul Brunner, upon motion of Director Griego, seconded by Director Crippen, and carried with Director Webb being absent, the Board approved Amendment Four to the agreement with GEI Consultants, Inc. in the amount of $115,000 for Phase 4 Segment 2/Feather River Setback design and authorized the Chairman to execute upon submittal, review and approval of County Counsel.

Director Griego left the meeting at 2:59 p.m.

**BOARD AND STAFF MEMBERS' REPORTS**

Director Webb joined the meeting at 2:59 p.m.

Reports were received on the following:

**Executive Director Paul Brunner:**
- Assessment engineering and plan
- State Reclamation Board meeting on January 19, 2007 and monthly update
- Revenue and expenditures to date
- Governor's budget and fund inclusion from the Department of Fish and Game
- Administrative office move to 1114 Yuba Street, Suite 218 at the Yuba County One Stop

**Director Crippen:**
- Meeting schedule
Counsel Dan Montgomery advised the agenda should reflect the addition of Tom Wesley to closed session.

The Board retired into closed session at 3:34 p.m. to discuss the following:


Director Griego joined closed session at 4:05 p.m.

The Board returned from closed session at 4:25 p.m. with all Board and staff members present as indicated above.

There was no announcement from closed session.
ADJOURNMENT

There being no further business to come before the Three Rivers Levee Improvement Authority the meeting was adjourned at 4:25 p.m. by Chairman Webb.

_________________________________________
Chairman

ATTEST: DONNA STOTTERMeyer
CLERK OF THE BOARD OF SUPERVISORS
AND SECRETARY OF THE PUBLIC AUTHORITY

_________________________________________
Approved: ____________________
February 6, 2007

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director
        Dan Montgomery, General Counsel
SUBJECT: Update TRLIA Resolution 06-09, which pertains to the acquisition of
         property and/or property interests and the relocation of displaced persons
         in connection with the TRLIA project

**Recommended Action**

Repeal Resolution No. 06-09 and approve new updated resolution. Resolution delegates
TRLIA authority to carry out certain functions with respect to the acquisition of property
and/or property interests and the relocation of displaced persons in connection with the
TRLIA project to the TRLIA Executive Director. This updated Resolution accepts all
completed acts, approvals and agreements performed or executed by the Executive
Director before the effective date of this resolution.

**Discussion**

The TRLIA Board adopted Resolution No. 06-09 on June 27, 2006 to allow Paul G.
Brunner, new TRLIA Executive Director, to perform numerous previously delegated
property acquisition duties. Since the adoption of Resolution No. 06-09, the TRLIA
Executive Director has consummated numerous property actions. Recently, the TRLIA
Executive Director and County Counsel met and discussed the current resolution and
concluded that it needed to be updated. The resolution before you will continue the
policy of having the Executive Director handle most land acquisition issues, but now
within a pre-TRLIA Board approved real property acquisition program.

**Fiscal Impact**

None.
BEFORE THE BOARD OF DIRECTORS
OF
THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

RESOLUTION NO. __________

A RESOLUTION DELEGATING
AUTHORITY TO THE EXECUTIVE
DIRECTOR TO CARRY OUT
CERTAIN ADMINISTRATIVE
FUNCTIONS WITH RESPECT TO
THE ACQUISITION OF REAL
PROPERTY AND THE
RELOCATION OF DISPLACED
PERSONS IN CONNECTION WITH
LEVEE IMPROVEMENT PROJECTS

WHEREAS, the Three Rivers Levee Improvement Authority ("TRLIA") is a joint powers authority, organized under the Joint Exercise of Powers Act (Government Code section 6500 et seq.), and composed of the County of Yuba and Reclamation District No. 784; and

WHEREAS, TRLIA is authorized to finance, construct, and maintain levee improvements surrounding the South Yuba County Area and to establish and undertake projects that are necessary and proper to fulfilling that goal and objective; and

WHEREAS, in connection with the plan, design and performance of projects, TRLIA is authorized to acquire real property and to provide for the relocation of displaced persons in connection therewith; and

WHEREAS, TRLIA is authorized to develop an acquisition program to standardize the acquiring of real property and providing for the relocation of displaced persons for various properties in connection with projects; and
WHEREAS, the Board of Directors finds that it would be beneficial to TRLIA to authorize the creation of an acquisition program; and

WHEREAS, TRLIA has an Executive Director whose duties include, but are not limited to, numerous administrative and managerial functions; and

WHEREAS, the Board of Directors has the authority to delegate various functions to the Executive Director; and

WHEREAS, the Board of Directors finds that it would be efficient and advantageous for projects to have the Executive Director perform certain administrative functions relating thereto, including acting in furtherance of an acquisition program.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors hereby repeals Resolution No. 06-09 and by this action Resolution No. 06-09 is made void and no longer in effect or force, except for completed acts, approvals and agreements performed or executed by the Executive Director before the effective date of this resolution, which hereby expressly supersedes and terminates Resolution No 06-09.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Board of Directors, in order that specific administrative functions relating the acquisition of real property, and the relocation of displaced persons, hereby delegates to the Executive Director the following administrative authority:

A. To study, review and recommend to the Board of Directors for approval a program for the acquisition of real property, relocation of displaced persons, and certification of projects for construction ("Acquisition Program"). The Acquisition Program shall include a detailed budget on a per parcel basis.
B. To authorize, in accordance with an approved Acquisition Program, the commencement of the appraisal process, including authorizing a right-of-way consultant to send out notices of intent to appraise.

C. To review and approve appraisals.

D. To establish the just compensation for the real property to be acquired by TRLIA and the amount required for the relocation of displaced persons, and approve the appropriation of funds therefore.

E. To approve the written offers of just compensation to acquire real property based on approved appraised values as required by Government Code § 7267.2.

F. To approve requests for appraisal revisions and administrative settlements up to ten percent (10%), but not to exceed $100,000, over the amount authorized by the Board of Directors in the Acquisition Program. In such an event, the Executive Director must make a written report, after the fact, to the Board of Directors of the appraisal revisions and/or administrative settlements.
G. After first obtaining approval from the Board of Directors, to execute agreements for the purchase of property, together with escrow instructions, which set forth the terms and conditions of conveyances of the applicable real property to TRLIA.

H. Pursuant to the prior approval of the Board of Directors, to accept deeds and easement documents conveying real property to the TRLIA for recording in accordance with Government Code § 27281.

I. To recommend, if the Executive Director deems it necessary, to the Board of Directors the creation of an Appeals Board to be appointed by the Board of Directors to hear appeals from displaced persons regarding the adequacy of relocation assistance and to recommend persons to be appointed to such a board.

J. To take such further actions as may be reasonably necessary from time to time to carry out the objectives and purposes set forth by this Resolution, which may include executing rights of entry for construction, engineering, and environmental surveys.
PASSED AND ADOPTED this _____ day of _____________ 2007,

by the Board of Directors of Three Rivers Levee Improvement Authority, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

________________________
RICHARD E. WEBB
Chairman

ATTEST:

________________________
DONNA STOTTLMEYER
Secretary

APPROVED AS TO FORM:

________________________
DANIEL G. MONTGOMERY
General Counsel
February 6, 2007

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director
SUBJECT: Amendment 1 to State of California Proposition 13 TRLIA Grant for Phase 3, Unit 1

Recommended Action
Adopt the attached resolution which amends the previously TRLIA Board approved State Proposition 13 Grant Phase 3, Unit 1 to incorporate expenses from Phase 3 Unit 2, and authorize the Executive Director of TRLIA (and in the Executive Director’s absence, his authorized TRLIA representative) to execute the grant contract and sign requests for disbursement of State funds.

Discussion
On August 11, 2005 TRLIA submitted a Grant application to the Department of Water Resources for Phase 3 levee construction work. Due to design issues the application was submitted in two parts; Unit 1 and Unit 2.

- Unit 1 was for land acquisition and construction of the new levee foundation. The Unit 1 grant was executed by TRLIA Resolution No. 05—18 adopted on October 18, 2005. The reimbursable grant amount was $12,445,950.

- Unit 2 was for construction of the new levee embankment and demolition of the existing levee. The Unit 2 Grant was executed by TRLIA Resolution No. 06—14 adopted on December 21, 2006. The reimbursable grant amount was $6,051,135.

The Phase 3 Unit 1 Grant has not been fully expensed. The Phase 3 Unit 2 Grant will be fully expensed, and has an additional $5,119,453 of expenses that currently cannot be reimbursed unless the Phase 3 Unit 1 Grant is amended to incorporate these work/expenses. The State (DWR) has agreed to amend the Phase 3 Unit 1 Grant to incorporate the Phase 3 Unit 2 additional work/expenses. The Amended Grant is called Phase 3 Unit 1 and 2A. The Phase 3 Unit 2 Grant is now called Phase 3 Unit 2B.

Article A-5(a) of Amended Grant (#4600004327 Amendment 1) requires the TRLIA Board of Directors to formally accept the Grant. The article also requires the Board to designate a representative to execute the Grant and sign requests for disbursement of State funds, before such disbursement can be effected. These are preconditions to the State’s reimbursement of TRLIA’s construction costs for Phase 3 Unit 1 & 2A.

Fiscal Impact
The dollar value of the amended grant remains the same $12,445,950; however $5,119,453 from Phase 3 Unit 2 are now eligible to reimbursed from this Amended Grant.
BEFORE THE BOARD OF DIRECTORS
OF THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

IN RE: RESOLUTION NO._____

RESOLUTION ACCEPTING IMPLEMENTATION
GRANT FROM THE STATE OF CALIFORNIA FOR
THE CONSTRUCTION OF THE BEAR-FEATHER RIVER
SETBACK LEVEE

WHEREAS, the Board of Directors of Three Rivers Levee Improvement Authority (TRLIA) adopted resolution No.05-11 on August 2, 2005, directing and authorizing the Executive Director of the Authority to prepare, sign and file an application for obtaining State of California Proposition 13 grant funds for construction of the Bear-Feather River Setback Levee in South Yuba County.

WHEREAS, the Board of Directors of Three Rivers Levee Improvement Authority adopted resolution No. 05-18 on October 18, 2005, which made State funds available from Grant No. 4600004327 for Phase 3 construction work, specifically for Phase 3 Unit 1.

WHEREAS, the Board of Directors of Three Rivers Levee Improvement Authority adopted resolution No. 06-14 on December 19, 2006, which made State funds available from Grant No. 4600004542 for Phase 3 construction work, specifically for Phase 3 Unit 2.

WHEREAS, the proposed work is referred to as the TRLIA Phase 3 Construction project; specifically Phase 3, Unit 1 and 2A.

WHEREAS, on February 6, 2007 the California Department of Water Resources (acting on behalf of the State of California) forwarded for TRLIA’s consideration and acceptance Grant No.4600004327 Amendment 1, which if accepted and signed by the TRLIA Board of Directors, will make State funds available for the Phase 3 construction work (Phase 3, Unit 2A).

WHEREAS, Article A-5(a) of the grant contract requires the TRLIA Board of Directors to formally accept the grant, and designate a representative to execute the grant contract and sign requests for disbursement of State funds.
NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF
THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY AS FOLLOWS:

1. The forgoing recitals are true and correct.
2. The Authority Board of Directors accept the subject grant, and designate the
   Executive Director, TRLIA (and in the Executive Director’s absence his/her
   authorized TRLIA representative) as the Board’s representative to execute the grant
   and sign requests for disbursement of State funds.

PASSED AND ADOPTED this day of 2006, by the Board of Directors of the
Three Rivers Levee Improvement Authority, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

______________________________
Richard E. Webb, Chairman

ATTEST: DONNA STOTTERMeyer
Clerk of the Board of Supervisors

______________________________
APPROVED AS TO FORM: COUNTY COUNSEL
DANIEL G. MONTGOMERY
STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES

AMENDED

GRANT AGREEMENT BETWEEN THE STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES
AND THE
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

FOR AN IMPLEMENTATION GRANT FOR

UNIT 1 AND 2A OF THE
BEAR-FEATHER RIVERS LEVEE SETBACK ELEMENT

OF THE
YUBA-FEATHER SUPPLEMENTAL FLOOD CONTROL PROJECT

UNDER THE YUBA FEATHER FLOOD PROTECTION PROGRAM
OF THE
CALIFORNIA SAFE DRINKING WATER, CLEAN WATER,
WATERSHED PROTECTION AND FLOOD PROTECTION ACT

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GRANT AGREEMENT PERFORMANCE REQUIREMENTS

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EXHIBIT C
IMPLEMENTATION PLAN, BUDGET, AND SCHEDULE

C-1. AMENDED PHASE 3 UNIT 1 IMPLEMENTATION PLAN/SCOPE OF WORK For UNIT 2A (Phase 3 Unit 1 work was described in original grant #4600004327, dated November 21, 2005)

C-2. BUDGET (Amended Cost estimate showing revised Unit 1 costs and new Unit 2A costs)

C-3. Schedule
STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES

GRANT AGREEMENT BETWEEN THE STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES AND THE
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

UNDER THE YUBA FEATHER FLOOD PROTECTION PROGRAM
OF THE CALIFORNIA SAFE DRINKING WATER, CLEAN WATER,
WATERSHED PROTECTION, AND FLOOD PROTECTION ACT

(Water Code Section 79068.6 et seq.)

THIS GRANT AGREEMENT is entered into by and between the State of California, acting by and through
its Department of Water Resources, herein referred to as the “State” and the Three Rivers Levee Improvement
Authority, a public agency in the County of Yuba. State of California, duly organized, existing, and acting pursuant to
the laws thereof, herein referred to as the “Local Public Entity”, which parties do hereby agree as follows:

GRANT AGREEMENT SPECIAL PROVISIONS

SECTION 1. PURPOSE OF GRANT

This grant is made by the State to the Local Public Entity to assist in financing the implementation of a
flood protection project pursuant to Water Code Division 26, Chapter 5, Article 8, beginning with Section 79068,
and regulations adopted in accordance with that Article.

SECTION 2. INCORPORATION OF STANDARD CONDITIONS AND PERFORMANCE REQUIREMENTS

This Grant Agreement incorporates Exhibit A, “Grant Agreement Standard Conditions” (hereinafter referred
to as “Standard Conditions”) and Exhibit B, “Grant Agreement Performance Requirements” (hereinafter referred to
“Performance Requirements”). The Local Public Entity accepts and agrees to comply with all terms, provisions,
conditions, and commitments of this Grant Agreement, including all incorporated documents, and to fulfill all
assurances, declarations, representations, and statements made by the Local Public Entity in the application,
documents, amendments, and communications filed in support of its request for Yuba Feather Flood Protection
Program financing.

SECTION 3. LOCAL PUBLIC ENTITY AGREEMENT

The Local Public Entity agrees to use the grant funds to complete a flood protection project in accordance
with the Implementation Plan/Scope of Work, budget and schedule, copies of which are attached hereto as Exhibit C
and incorporated by reference, as it may be revised from time to time with the mutual consent of the parties.

SECTION 4. ESTIMATE OF IMPLEMENTATION COST

The reasonable cost of the implementation of the Project or Implementation Unit is estimated to be
$12,445,950, as shown in Exhibit C. Grant funds may be used only for such eligible implementation costs as defined
in the Implementation Plan/Scope of Work, any revisions thereof, and Article A-3 of the Grant Agreement Standard
Conditions.
SECTION 5. GRANT AMOUNT

Pursuant to the Yuba Feather Flood Protection Program of the California Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act, its applicable rules and regulations, and subject to the availability of funds, the State will grant to the Local Public Entity in accordance with the terms of this Grant Agreement an amount not to exceed $12,445,450, as shown in Exhibit C. The remaining costs, if any, for the implementation of the Project or Implementation Unit will be met by other sources, as shown in Exhibit C.

SECTION 6. REQUIREMENTS FOR DISBURSEMENT

The Local Public Entity shall meet all applicable conditions precedent to the disbursement of money under this Grant Agreement, including Basic Conditions Precedent under Article A-5 of the Standard Conditions. Failure by the Local Public Entity to comply with this requirement may, at the option of the State, result in termination of the Grant Agreement under Article A-33 of the Standard Conditions.

SECTION 7. RELATIONSHIP OF PARTIES HERETO

The Local Public Entity, its contractors, subcontractors, and their respective agents and employees required for performing any work under this Grant Agreement shall act in an independent capacity and not as officers, employees or agents of the State.

The Local Public Entity is solely responsible for the implementation and operation and maintenance of the Project or Implementation Unit. Review or approval of plans, specifications, project documentation, bid documents or other documents by the State is solely for the purpose of proper administration of grant funds by the State and shall not be deemed to relieve or restrict the Local Public Entity's responsibility.

SECTION 8. PERMITS, LICENSES, APPROVALS AND LEGAL OBLIGATIONS

The Local Public Entity shall be responsible for obtaining any and all permits, licenses, easements, rights-of-way and approvals required for performing any work under this Grant Agreement. The Local Public Entity shall be responsible for observing and complying with any applicable federal, state and local laws, rules or regulations affecting any such work, specifically those including, but not limited to, environmental, procurement and safety laws, rules, regulations and ordinances.

SECTION 9. SUPERVISION OF WORK AND SUBMISSION OF PROGRESS REPORTS

The Local Public Entity shall submit quarterly progress reports on the status of the implementation of the Project or Implementation Unit to the Department of Water Resources, commencing three months from the effective date of this contract. The quarterly progress report shall provide a complete description of the work performed during the quarter including, but not limited to, legal, engineering, environmental and administrative tasks associated with the implementation; a detailed breakdown of costs incurred during the quarter; and a schedule showing actual progress in comparison to the planned schedule as set forth in the Implementation Plan/Scope of Work. Timely submittal of the progress reports is a requirement for continued disbursement of grant funds under Section A-5 of Exhibit A.

The Local Public Entity shall give personal supervision to any work in progress that is required under this Grant Agreement or employ a competent representative, satisfactory to the State, with the authority to act for the Local Public Entity. The Local Public Entity or its authorized representative shall be present while work is in progress. The Local Public Entity shall give attention to fulfillment of the Grant Agreement and completion of the Project or Implementation Unit, and shall keep work under control. The Local Public Entity shall be responsible for any and all disputes arising out of its contracts for work on the Project, including but not limited to bid disputes and payment disputes with the Local Public Entity's contractors and subcontractors. The State will not mediate disputes between the Local Public Entity and any other entity concerning responsibility for performance of work.
SECTION 10. PROJECT OFFICIALS AND NOTICES

The Department of Water Resources' Program Manager for the Yuba Feather Flood Protection Program shall act as the State Project Manager.

The State Project Manager shall be the State's representative for administration of the Grant Agreement and shall have authority to make determinations and findings with respect to any controversy arising under or in connection with the interpretation, performance, or payment for work performed under the Grant Agreement. Disputes shall be resolved in accordance with Article A-26 of Exhibit A.

The Local Public Entity Project Manager shall be Paul G. Brunner, Executive Director. The Local Public Entity Project Manager shall be the Local Public Entity's representative for the administration of the Grant Agreement and shall have full authority to act on behalf of the Local Public Entity. All communications given to the Project Manager shall be as binding as if given to the Local Public Entity.

Either party may change its Project Manager upon written notice to the other party.

Any notice, demand, request, consent, or approval that either party desires or is required to give to the other party under this Grant Agreement shall be in writing. Notices may be sent by any of the following means: (i) by delivery in person; (ii) by certified U.S. mail, return receipt requested, postage prepaid; (iii) by "overnight" delivery service, provided that next-business-day delivery is requested by the sender; or (iv) by facsimile transmission, followed submittal of a hard copy. Notices delivered in person will be deemed effective immediately on receipt (or refusal of delivery or receipt). Notices sent by certified mail will be deemed effective given five (5) business days after the date deposited with the U.S. Postal Service. Notices sent by overnight delivery service will be deemed effective one business day after the date deposited with the delivery service. Notices sent by facsimile will be effective on the date of successful transmission, which is documented in writing. Notices required to be given in writing to the Local Public Entity under this Grant Agreement shall be sent to:

Three Rivers Levee Improvement Authority
915 Eighth Street, Suite 115
Marysville, California 95901-5273
Attention: Executive Director

Notices required to be given in writing to the State under this Grant Agreement shall be sent to:

State of California
Department of Water Resources
Division of Flood Management
Yuba Feather Flood Protection Program
Post Office Box 942836
Sacramento, California 94236-0001
Attention: Program Manager

A change of address for delivery of notice may be made by either party by written notice of such change of address to the other party a minimum of seven days prior to the change.

SECTION 11. SPECIAL INDEMNIFICATION PROVISION

In addition to agreeing to the condition set forth under Article A-18 and before any funds are disbursed under this Grant Agreement, the Local Public Agency must provide assurances that the County of Yuba and Reclamation District No. 784 have also agreed to defend, indemnify and hold the State, including its agencies, departments, boards, and commissions, and their respective officers, agents, employees, successors and assigns,
safe and harmless of and from any and all claims, demands, damages, losses, costs, expenses, or liability due or incident to, either in whole or in part, that directly or indirectly arise out of the performance under this Grant Agreement, and to discharge this obligation to the extent allowed by law. This does not preclude the Local Public Entity or its member agencies from contracting to apportion indemnity and the responsibility to defend amongst themselves, but such apportionment shall not limit the rights of the State to full defense and indemnification from these parties.

IN WITNESS WHEREOF, the parties hereto have executed this Grant Agreement to be effective upon the date last signed below:

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

By
Rodney G. Mayer, Chief
Division of Flood Management

Date: __________________________

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

By
Paul G. Brunner
Executive Director

Date: __________________________

Approved as to Legal Form
And Sufficiency:

By
David A. Sandino
Acting Chief Counsel

Date: __________________________

Approved as to Legal Form
And Sufficiency:

By
Daniel G. Montgomery
Authority Counsel

Date: __________________________
Grant Agreement No. 4600004327
AMENDMENT 1

EXHIBIT A

STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES
GRANT AGREEMENT STANDARD CONDITIONS

ARTICLE A-1. GOVERNING LAW

This Grant Agreement is governed by and shall be interpreted in accordance with the laws of the State of California.

ARTICLE A-2. TIMELINESS

Time is of the essence in this Grant Agreement.

ARTICLE A-3. DEFINITIONS

Whenever the following terms are used in this Contract, their meaning shall be as follows unless the context clearly requires otherwise:

Grant Agreement: The Grant Agreement including all exhibits appended thereto.

Days: Calendar days unless otherwise expressly indicated.

Months: Calendar months unless otherwise expressly indicated.

Years: Calendar year unless otherwise expressly indicated.

Local Public Entity: Any political subdivision of the State of California, including but not limited to any county, city, city and county, district, joint powers agency, or council of governments within the geographic area specified in the Yuba Feather Flood Protection Program of the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act.

Project: A proposed flood protection project as described in Water Code Section 79068.6, which is part of Article 8, Yuba Feather Flood Protection Program, of the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act.

Implementation: Those actions taken to put a designed project into effect, including both the construction of project works and carrying out a program for flood damage reduction that does not require construction.

Implementation Unit: All or a designated portion of a flood protection project that constitutes the whole or a portion of a design or aggregate of designs, designated for implementation.

Eligible Implementation Costs: The reasonable and necessary costs to implement the Project or Implementation Unit, as shown in Exhibit C of this Grant Agreement. Eligible costs may also include those reasonable and necessary costs incurred by the applicant to prepare the application and to establish eligibility prior to or after the effective date of this Grant Agreement, but not before September 28, 2000. Any revisions to the eligible implementation costs depicted in Exhibit C are subject to the approval of the State. Upon approval by the State, the Grant Agreement amendment process will commence until an amendment is executed or determined to be unnecessary.

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ARTICLE A-4. TERM OF GRANT AGREEMENT

Subject to the provisions of Article A-5, this Grant Agreement shall become effective upon signature by the State and the Local Public Entity, and shall remain in effect until the Post-Implementation Report is accepted in writing by the State, but no longer than five years from the execution of this Grant Agreement.

ARTICLE A-5. BASIC CONDITIONS PRECEDENT

The State shall have no obligation to disburse money under this Grant Agreement unless and until the Local Public Entity has satisfied the State that the disbursement is in accordance with requirements of the Yuba Feather Flood Protection Program regulations, California Code of Regulations, Title 23, Division 2, Chapter 2.5.2, and the following conditions:

(a) The Local Public Entity provides a copy of a resolution adopted by its governing body accepting the grant, and designating a representative to execute this Grant Agreement and to sign requests for disbursement of State funds.

(b) The Local Public Entity has submitted all periodic progress reports due at the time of disbursement in accordance with Section 9 of this Grant Agreement.

(c) The Local Public Entity submits a written statement that it has obtained all easements, rights-of-way and approvals as may be required by other state, local or federal agencies prior to commencement of any work done under this contract, as specified in Section 8 of this Grant Agreement.

(d) The Local Public Entity demonstrates the availability of sufficient funds to complete the Project or Implementation Unit.

(e) The Local Public Entity demonstrates that it has complied with all applicable requirements of the California Environmental Quality Act and the National Environmental Policy Act, when applicable, prior to initiating implementation.

ARTICLE A-6. GRANT DISBURSEMENTS BY STATE

(a) Cost Statements

After all applicable conditions of the Basic Conditions Precedent in Article A-5 are met, the State will disburse the whole, or portions of the grant commitment to the Local Public Entity following receipt from the Local Public Entity of a detailed cost statement of incurred eligible implementation costs. This cost statement shall identify the tasks or subtasks included in the Implementation Plan/Scope of Work that were worked on, as well as the total hours charged by the Local Public Entity staff and all subcontractor costs. This cost statement shall also include the cost of any interest in real property that have been necessarily required for the Project or Implementation Unit for the implementation, operation, or maintenance of the Project or Implementation Unit. Requests for state funds shall be filed at least quarterly but not more often than monthly.

After the implementation of the Project or Implementation Unit has been completed or terminated, the Local Public Entity shall furnish to the State, within sixty (60) days, a final statement of incurred eligible implementation costs and disposition of funds disbursed. Periodic costs statements and the final statement of costs shall clearly delineate those costs claimed for reimbursement from the State’s grant commitment and those costs that represent the Local Public Entity’s costs.

(b) Disbursement

Following the review by the State of each statement of costs and relevant progress reports, the State will disburse to the Local Public Entity the amount approved, subject to the availability of funds and annual appropriations and bond sales. Disbursements will be made in arrears at intervals not more often than monthly. Any
and all money disbursed to the Local Public Entity under this Grant Agreement and any and all interest earned by
the Local Public Entity on such money shall be used solely to pay eligible implementation costs.

(c) Withholding of Grant Disbursements by Local Public Entity

The Local Public Entity may retain up to ten percent (10%) from any contract or combination of contracts it
enters into with third parties for the implementation of all or part of the Project or Implementation Unit until all defined
tasks and results are completed.

ARTICLE A-7. WITHHOLDING OF GRANT DISBURSEMENTS BY STATE

(a) Conditions for Withholding

The State may withhold up to ten percent (10%) of the funds requested by the Local Public Entity for
reimbursement of eligible implementation costs until the Project or Implementation Unit is completed and the
certification of a California Registered Civil Engineer, required by Article A-13, is accepted by the State.

(b) Additional Conditions for Withholding

If the State determines that the Project or Implementation Unit is not being implemented substantially in
accordance with the provisions of this Grant Agreement, or that the Local Public Entity has failed in any other
respect to substantially comply with the provisions of this Grant Agreement, and if the Local Public Entity does not
remedy any such failure to the State’s satisfaction, the State may withhold from the Local Public Entity all or any
portion of the grant commitment and take any other action that it deems necessary to protect its interests.

(c) Withholding Entire Grant Commitment

If the State notifies the Local Public Entity that it has decided to withhold the entire grant commitment from
the Local Public Entity pursuant to Subdivision (b) of this Article, this Grant Agreement shall terminate upon receipt
of such notice by the Local Public Entity and shall no longer be binding on either party.

(d) Withholding Balance of Grant Commitment

Where a portion of the grant commitment has been disbursed to the Local Public Entity and the State
notifies the Local Public Entity that it has decided to withhold the balance of the grant commitment from the Local
Public Entity pursuant to Subdivision (b) of this Article, the portion that has been disbursed shall thereafter be repaid
immediately with interest as directed by the State. Refusal of the Local Public Entity to so repay may, at the option
of the State, be considered a material breach of contract and may be treated as default under Article B-2 of Exhibit
B.

ARTICLE A-8. IMPLEMENTATION SCHEDULE AND COMPLETION

(a) Implementation Completion Date

The Local Public Entity shall expeditiously undertake the implementation of the Project or Implementation
Unit in strict accordance with this Grant Agreement, and shall complete it no later than June 30, 2007. Said date for
completion may be extended upon written request by the Local Public Entity and written approval by the State. Upon
approval by the State, the Grant Agreement amendment process will commence until an amendment is executed or
determined to be unnecessary.

(b) Post-Implementation Report

Within ninety (90) days after completion of the Project or Implementation Unit, the Local Public Entity shall
prepare and submit to the State a Post-Implementation Report. This report shall include: 1) an Executive Summary;
2) a comparison between the planned schedule in the Grant Agreement and actual timeline and explain the
differences; and 3) a discussion of major problems that occurred in meeting the Project or Implementation Unit goals
and objectives as proposed and how and if they were resolved. The final report shall also contain a detailed 
description and analysis of project results, including but not limited to as-built drawings, and a summary of costs 
incurred and disposition of funds disbursed. The final report shall be provided in hard copy and digital format prior to 
final payment of grant funds retained by the State.

(c) **Determination of Implementation Completion**

For the purposes of this Grant Agreement, the implementation of the Project or Implementation Unit shall be considered to be completed when a Post-Implementation Report is accepted by the State, or to be terminated when so determined by the State.

(d) **Audit Requirement**

Pursuant to Government Code Section 8546.7, the Grant Agreement shall be subject to the examination and audit of the State, including the State Auditor, for a period of three years after final payment under this Grant Agreement with respect to all matters connected with the performance of the Grant Agreement, including, but not limited to, the cost of administering this Grant Agreement. All records of the Local Public Entity, its contractors or subcontractors involving this Grant Agreement shall be retained for this purpose for that period.

**ARTICLE A-9. OPERATION AND MAINTENANCE OF PROJECT**

For the useful life of the Project or Implementation Unit and in consideration of the Grant made by the State, the Local Public Entity agrees to expeditiously commence and to continue operation of the Project or Implementation Unit and shall cause the Project or Implementation Unit to be operated in an efficient and economical manner; shall provide for all repairs, renewals, and replacements necessary to the efficient operation of the same; and shall cause the same to be maintained in as good and efficient condition as upon its construction, ordinary and reasonable wear and depreciation excepted. Refusal of the Local Public Entity to operate and maintain the Project or Implementation Unit in accordance with this provision may, at the option of the State, be considered a breach of this Grant Agreement and may be treated as default under Article B-2.

**ARTICLE A-10. ACCOUNTING AND DISPOSITION OF GRANT DISBURSEMENTS**

(a) **Separate Accounting of Grant Disbursements and Interest Records**

The Local Public Entity shall account for the money disbursed pursuant to this Grant Agreement separately from all other Local Public Entity’s funds. The Local Public Entity shall maintain audit and accounting procedures that are in accordance with generally accepted accounting principles and practices, consistently applied. The Local Public Entity shall keep complete and accurate records of all receipts, disbursements, and interest earned on expenditures of such funds. The Local Public Entity shall require its contractors and subcontractors to maintain books, records, and other documents pertinent to their work in accordance with generally accepted accounting principles and practices. Records are subject to inspection by the State at any and all reasonable times.

(b) **Disposition of Money Disbursed**

All money disbursed pursuant to this Grant Agreement shall be deposited, administered, and accounted for pursuant to the provisions of law applicable to the Local Public Entity. Any unexpended funds that were disbursed to the Local Public Entity that were not needed to pay eligible costs shall be remitted to the State of California within sixty (60) days from completion of the implementation of the Project or Implementation Unit.

(c) **Interim and Final Audits**

The State reserves the right to conduct an audit at any time between the execution of this Grant Agreement and the completion of the Post-Implementation Report. After completion of the implementation of the Project or Implementation Unit, the State shall require the Local Public Entity to conduct a final audit, at the Local Public Entity’s expense; such audit to be conducted by and a report prepared by an independent Certified Public
Accountant, in compliance with generally accepted auditing standards and government auditing standards. Upon completion, the audit report shall be submitted to the State for review and acceptance.

Failure or refusal by Local Public Entity to comply with this provision shall be considered a substantial failure to comply with this Grant Agreement, and the State may elect to pursue any remedies provided in Article A-7 or take any other action it deems necessary to protect its interests.

ARTICLE A-11. COMPETITIVE BIDDING AND PROCUREMENTS

The Local Public Entity shall comply with all applicable laws and regulations regarding securing competitive bids and undertaking competitive negotiations in the Local Public Entity's contracts with other entities for acquisition of goods and services and construction of public works with funds provided by the State under the Grant Agreement.

ARTICLE A-12. INSPECTIONS OF WORK BY STATE

The State shall have the right to inspect the work being performed at any and all reasonable times during the term of the Grant Agreement. This right shall extend to any subcontracts, and the Local Public Entity shall include provisions ensuring such access in all its contracts and subcontracts entered into pursuant to its Grant Agreement with the State.

ARTICLE A-13. FINAL INSPECTIONS AND CERTIFICATION OF A REGISTERED CIVIL ENGINEER

Upon completion of the implementation of the Project or Implementation Unit, the Local Public Entity shall provide for a final inspection and certification by a California Registered Civil Engineer that the Project or Implementation Unit has been completed in accordance with submitted final plans and specifications and any modifications thereto in accordance with the Grant Agreement. The Local Public Entity shall notify the State's Project Manager of the inspection date at least fourteen (14) days prior to the inspection in order to provide the State the opportunity to participate in the inspection.

ARTICLE A-14. PROHIBITION AGAINST DISPOSAL OF PROJECT WITHOUT STATE PERMISSION

The Local Public Entity shall not sell, abandon, lease, transfer, exchange, mortgage, hypothecate, or encumber in any manner whatsoever all or any portion of any real or other property necessarily connected or used in conjunction with the Project or Implementation Unit without prior permission of the State. The Local Public Entity shall not take any action, including but not limited to actions relating to user fees, charges, and assessments that could adversely affect the ability of the Local Public Entity to meet its obligations under this Grant Agreement, without prior written permission of the State. The State may require that the proceeds from the disposition of any real or personal property be remitted to the State.

ARTICLE A-15. NONDISCRIMINATION CLAUSE

During the performance of this Grant Agreement, the Local Public Entity, its contractors and subcontractors shall not deny the Grant Agreement's benefits to any person on the basis of religion, color, ethnic group, identification, sex, age, physical or mental disability, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, marital status, age, or sex. The Local Public Entity shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.

The Local Public Entity, its contractors and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.), the regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Government Code, Sections 11135-11139.5) and the regulations or standards adopted by the State to implement such articles.

The Local Public Entity, its contractors and subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
The Local Public Entity shall include the nondiscrimination and compliance provisions of this clause in all contracts and subcontracts to perform work under the Grant Agreement.

The Local Public Entity's signature on this Grant Agreement shall constitute a certification under the penalty of perjury under the laws of the State of California that the Local Public Entity has, unless exempted, complied with the nondiscrimination program requirements of Government Code, Section 12990, and Title 2, California Code of Regulations, Section 8103.

ARTICLE A-16. WORKERS' COMPENSATION CLAUSE

The Local Public Entity affirms that it is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and the Local Public Entity affirms that it will comply with such provisions before commencing the performance of the work under this Grant Agreement and will make its contractors and subcontractors aware of this provision.

ARTICLE A-17. SUCCESSORS AND ASSIGNS

This Grant Agreement and all of its provisions shall apply to and bind the successors and assigns of the parties hereto. No assignment or transfer of this Grant Agreement or any part hereof, rights hereunder, or interest herein by the Local Public Entity shall be valid unless and until it is approved by the State and made subject to such reasonable terms and conditions as the State may impose.

ARTICLE A-18. STATE TO BE HELD HARMLESS

The Local Public Entity and its member agencies, if any, agree jointly and severally to defend, indemnify and hold the State, including its agencies, departments, boards, and commissions, and their respective officers, agents, employees, successors and assigns, safe and harmless of and from any and all claims, demands, damages, losses, costs, expenses, or liability due or incident to, either in whole or in part, that directly or indirectly arise out of the performance under this Grant Agreement, and to discharge this obligation to the extent allowed by law.

ARTICLE A-19. REMEDIES NOT EXCLUSIVE

The use by either party of any remedy specified herein for the enforcement of this Grant Agreement is not exclusive and shall not deprive the party using such remedy of, or limit the application of, any other remedy provided by law.

ARTICLE A-20. AMENDMENTS

This Grant Agreement may be amended in writing at any time by mutual agreement of the parties, except insofar as any proposed amendments are in any way contrary to applicable law. Requests by the Local Public Entity for amendments must be in writing stating the amendment request and the reason for the request.

ARTICLE A-21. OPINIONS AND DETERMINATIONS

Where the terms of this Grant Agreement provide for action to be based upon opinion, judgment, approval, review, or determination of either party hereto, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review, or determination to be arbitrary, capricious, or unreasonable.

ARTICLE A-22. CONTRACTING OFFICER OF THE STATE

The contracting officer of the State shall be the Director of the Department of Water Resources of the State of California and his successors, or their duly authorized representatives. The contracting officer shall be responsible for all discretionary acts, opinions, judgments, approvals, reviews, and determinations required by the State under the terms of this Grant Agreement.
ARTICLE A-23. WAIVER OF RIGHTS

None of the provisions of this Grant Agreement shall be deemed waived unless expressly waived in writing. It is the intention of the parties hereto that from time to time either party may waive any of its rights under this Grant Agreement unless contrary to law. Any waiver by either party hereto of rights arising in connection with this Grant Agreement shall not be deemed to be a waiver with respect to any other rights or matters and such provisions shall continue in full force and effect.

ARTICLE A-24. NOTICES

All notices that are required either expressly or by implication to be given by one party to the other under this Contract shall be signed for the State by its contracting officer, or designee, and for the Local Public Entity by such officers, as from time to time, it may authorize in writing to so act. All such notices shall be deemed to have been given if delivered personally or if enclosed in a properly addressed postage-prepaid envelope and deposited in a United States Post Office for delivery.

ARTICLE A-25. INSPECTION OF BOOKS, RECORDS, AND REPORTS

During regular office hours, each of the parties hereto and their duly authorized representatives shall have the right to inspect and to make copies of any books, records, or reports of either party pertaining to this Grant Agreement or matters related hereto. Each of the parties hereto shall maintain and shall make available at all times for such inspection accurate records of all its costs, disbursements, and receipts with respect to its activities under this Grant Agreement. Failure or refusal by Local Public Entity to comply with this provision shall be considered a substantial failure to comply with this Grant Agreement, and the State may withhold disbursements to the Local Public Entity or take any other action it deems necessary to protect its interests, as provided in Article B-2.

ARTICLE A-26. CLAIMS DISPUTE CLAUSE

Any claim that the Local Public Entity may have regarding the performance of this Grant Agreement including, but not limited to, claims for additional compensation or extension of time, shall be submitted to the Director, Department of Water Resources within thirty (30) days of the Local Public Entity's knowledge of the claim. The State and the Local Public Entity shall then attempt to informally negotiate a resolution of the claim. If this attempt fails, the next step shall be resolution of the claim through non-binding mediation. Once a resolution is reached, its terms may be implemented through an amendment to this Grant Agreement.

ARTICLE A-27. DRUG-FREE WORKPLACE CERTIFICATION

By signing this Grant Agreement, the Local Public Entity, its contractors and subcontractors hereby certify under penalty of perjury, under the laws of the State of California, compliance with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and have or will provide a drug-free workplace by taking the following actions:

(a) Prohibition of Controlled Substances

Publish a statement notifying employees, contractors and subcontractors that unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees, contractors and subcontractors for violations, as required by Government Code Section 8355(a).

(b) Drug-Free Awareness Program

Establish a Drug-Free Awareness Program, as required by Government Code Section 8355(b), to inform employees, contractors and subcontractors about all of the following:

1. The dangers of drug abuse in the workplace;
(2) The Local Public Entity's policy of maintaining a drug-free workplace;
(3) Any available counseling, rehabilitation and employee assistance program; and
(4) Penalties that may be imposed upon employees, contractors and subcontractors for drug abuse violations.

(c) Drug-Free Policy Statement

Provide, as required by Government Code 8355(c), that every employee, contractor and subcontractor who works under this Grant Agreement:

(1) Will receive a copy of the Local Public Entity's drug-free policy statement; and
(2) Will agree to abide by terms of the Local Public Entity's statement as a condition of employment or contract/subcontract award.

(d) Penalties

This Grant Agreement may be subject to suspension of payments or termination, or both, and the Local Public Entity may be subject to debarment if the State determines that:

(1) The Local Public Entity, its contractors or subcontractors have made a false certification; or
(2) The Local Public Entity, its contractors or subcontractors violates the certification by failing to carry out the requirements noted above.

ARTICLE A-28. AMERICANS WITH DISABILITIES ACT

By signing this Grant Agreement, the Local Public Entity assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, (42 U.S.C. 12101 et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.

ARTICLE A-29. UNION ORGANIZING

The Local Public Entity, by signing this Grant Agreement, hereby acknowledges the applicability of Government Code 16645 through 16649 to the Grant Agreement. Furthermore, the Local Public Entity, by signing this Grant Agreement, hereby certifies that:

a) No State funds disbursed by this Grant Agreement will be used to assist, promote or deter union organizing;
b) The Local Public Entity shall account for State funds disbursed for a specific expenditure by this Grant Agreement to show those funds were allocated to that expenditure;
c) The Local Public Entity shall, where State funds are not designated as described in (b) above, allocate, on a pro rata basis, all disbursements that support the grant program; and
d) If the Local Public Entity makes expenditures to assist, promote or deter union organizing, the Local Public Entity will maintain records sufficient to show that no State funds were used for those expenditures and that the Local Public Entity shall provide those records to the Attorney General upon request.

ARTICLE A-30. CONFLICT OF INTEREST

(a) Current State Employees

(1) No State officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any State agency, unless the employment, activity or enterprise is required as a condition of regular State employment.
(2) No State officer or employee shall contract on his or her own behalf as an independent contractor with any State agency to provide goods or services.

(b) Former State Employees

(1) For the two-year period from the date he or she left State employment, no former State officer or employee may enter into a Grant Agreement in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any State agency.

(2) For the twelve-month period from the date he or she left State employment, no former State officer or employee may enter into a Grant Agreement with any State agency if he or she was employed by that State agency in a policy-making position in the same general subject area as the proposed contract within the twelve-month period prior to his or her leaving State service.

ARTICLE A-31. NO THIRD PARTY RIGHTS

The parties to this Grant Agreement do not intend to create rights in, or to grant remedies to, any third party as a beneficiary of this Grant Agreement, or of any duty, covenant, obligation or undertaking established herein.

ARTICLE A-32. SEVERABILITY

Should any portion of this Grant Agreement be determined to be void or unenforceable, such shall be severed from the whole and the Grant Agreement shall continue as modified.

ARTICLE A-33. TERMINATION

The State may terminate this Grant Agreement under Article B-2 of Exhibit B.
EXHIBIT B

GRANT AGREEMENT PERFORMANCE REQUIREMENTS

ARTICLE B-1. PERFORMANCE AND ASSURANCES

The Local Public Entity agrees to faithfully and expeditiously perform or cause to be performed all Project or Implementation Unit implementation work as approved or as later amended and approved by the State under this Grant Agreement and to apply State funds received only to eligible implementation costs in accordance with applicable provisions of the law. In the event the State finds it necessary to enforce this provision or any right of power under this Grant Agreement in the manner provided by law, the Local Public Entity agrees to pay all costs incurred by the State including, but not limited to, reasonable attorneys' fees, legal expenses, and costs.

ARTICLE B-2. DEFAULT PROVISIONS

(a) The Local Public Entity will be in default under this Grant Agreement if any of the following occur:

(1) Substantial breach of this Grant Agreement, or any supplement or amendment to it;
(2) Making any false warranty, representation, or statement with respect to this Grant Agreement;
(3) Failure of the Local Public Entity to make any remittance required by this Grant Agreement; or
(4) Prior to any claim of default, the State shall provide the Local Public Entity with notice of the potential default and a reasonable opportunity, of not less than forty-five days, to cure such potential default.

(b) Should an event of default occur, the State may do any or all of the following:

(1) Demand the grant be immediately repaid, with interest, which shall be equal to the State of California general obligation bond interest rate in effect at the time of the default;
(2) Terminate any obligation to make future payments to the Local Public Entity;
(3) Terminate the Grant Agreement; and
(4) Take any other action that the State deems necessary to protect its interests.

(c) The Local Public Entity agrees that any remedy provided in this Grant Agreement is in addition to and not in derogation of any other legal or equitable remedy available to the State as a result of a breach of this Grant Agreement by the Local Public Entity, whether such breach occurs before or after completion of the implementation of the Project or Implementation Unit.

(d) No waiver by the State of any breach or default will be a waiver of any breach or default occurring later. A waiver will be valid only if signed by the State or its authorized agent.
EXHIBIT C

IMPLEMENTATION PLAN/SCOPE OF WORK, BUDGET, AND SCHEDULE

ARTICLE C-1. AMENDED PHASE 3 UNIT 1 IMPLEMENTATION PLAN/SCOPE OF WORK FOR UNIT 2A (Phase 3 Unit 1 work was described in original grant #4600004327, dated November 21, 2005)

ARTICLE C-2. BUDGET (Amended Cost estimate showing revised Unit 1 costs and new Unit 2A costs)

ARTICLE C-3. SCHEDULE
ARTICLE C-1:  
AMENDED PHASE 3 UNIT 1 IMPLEMENTATION PLAN/SCOPE OF WORK  
For UNIT 2A

The Bear River Setback Levee was be constructed in the 2005 and 2006 construction seasons. The levee foundation work and Feather River tie-in buttress work was completed in 2005 as part of Phase 3 Unit 1. Elements of the setback levee will completed as part of this amendment as Unit 2A. This staged construction assures that the levee will be completed before the 2006-07 flood season and allow use of material in the existing Bear River levee for construction of the setback in 2006.

Unit 2A – Work Associated with Supporting and Completing New levee construction

The Unit 2A construction activities are planned to be performed over the 2006 construction season. The primary Unit 2A construction activities will include the following:

- Site Drainage and Relief wells
- Final Site Work
- Real Estate
- Construction Management
- Program Management

Each Task is briefly described below:

Task 2A.1 Site Drainage, Relief Wells, and Foundation Preparation

- Construction of Relief Wells, Concrete-Lined Drainage Ditches, Detention Pond Inlet/Outlet/Gates/Outfall Structures
- All work necessary to prepare foundation for new levee embankment

Task 2A.2 Final Site Work

- Final Grading and Contouring of Site
- Erosion Control
- Maintenance Road Construction
- Demobilization

Task 2A.3 Additional Real Estate

- Additional Real Estate Acquisition Costs associated with Acquiring Real Estate to build Setback Levee

Task 2A.4 Construction Management

- Contract Administration; Meetings; Coordination with Corp of Engineers; Contractor Submittals; Request for Information, Construction Inspections; Designer Field Visits; and Quality Assurance Testing;
- Start-Up, Closeout and Acceptance.
Task 2A.5 Program Management

- Includes TRLIA Management attending team meetings, reviewing reports and technical memorandum, preparing progress reports, and overall project coordination with team members and DWR, and regulatory agencies, and stakeholder outreach.

- Includes review of all progress reports, TRLIA review and approval of invoices, and preparation and maintenance of the project accounting and tracking project schedule. This task includes agency and stakeholder outreach.
ARTICLE C-2:
Budget

Amended Cost estimate showing revised Unit 1 costs and new Unit 2A costs

Construction Cost Estimate
Three Rivers Levee Improvement Authority, Bear River Levee – Unit 1

<table>
<thead>
<tr>
<th>Task</th>
<th>Estimated Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Construction</td>
<td>$5,130,632.42</td>
</tr>
<tr>
<td>2. Construction Management</td>
<td>$ 646,253.83</td>
</tr>
<tr>
<td>3. Program Management and Administration</td>
<td>$ 55,029.34</td>
</tr>
<tr>
<td>4. Real Estate</td>
<td>$1,494,581.85</td>
</tr>
</tbody>
</table>

Total Estimated Cost, Phase 3 Unit 1 $7,326,497.43

State Share- 70 percent of total estimated implementation costs $5,128,548.20

Local Share- Up to 30 percent of total estimated implementation costs to be paid by State using eligible credit issued to TRLIA $2,197,949.23

Total eligible reimbursable costs from Prop 13 Funds $7,326,497.43
## Construction Cost Estimate
### Three Rivers Levee Improvement Authority, Bear River Levee – Unit 2A

<table>
<thead>
<tr>
<th>Task</th>
<th>Estimated Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>5. Site Drainage, Relief Wells, and Foundation Preparation</td>
<td>$2,219,452.57</td>
</tr>
<tr>
<td>6. Site Clearing and Demolition</td>
<td>$1,100,000</td>
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<tr>
<td>7. Final Site Work</td>
<td>$400,000</td>
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<tr>
<td>8. Additional Real Estate</td>
<td>$500,000</td>
</tr>
<tr>
<td>9. Construction Management</td>
<td>$500,000</td>
</tr>
<tr>
<td>10. Program Management and Administration</td>
<td>$400,000</td>
</tr>
</tbody>
</table>

**Total Estimated Cost, Phase 3 Unit 2A**

$5,119,452.57

State Share- 70 percent of total estimated implementation costs

$3,583,616.80

Local Share- 30 percent of total estimated implementation costs to be paid by State using credit issued to TRLIA

$1,535,835.77

**Total eligible reimbursable costs from Prop 13 Funds**

$5,119,452.57

## Summary of Construction Cost Estimate
### Three Rivers Levee Improvement Authority, Bear River Levee – Unit 1 and Unit 2A

<table>
<thead>
<tr>
<th>Total Estimated Cost, Phase 3 Unit 1</th>
<th>$7,326,497.43</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Estimated Cost, Phase 3 Unit 2A</td>
<td>$5,119,452.57</td>
</tr>
</tbody>
</table>

$12,445,950

**Total eligible reimbursable costs from Prop 13 Funds**

$12,445,950.00

**ARTICLE C-3:**
February 6, 2007

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director
        Bob Morrison, Real Property Manager
SUBJECT: Resolution to establish a, “Procedure to Waive Appraisal in the Cases Involving Acquiring Property of a Low Fair Market Value”

Recommended Action
Approve resolution to establish a, “Procedure to Waive Appraisal in the Cases Involving Acquiring Property of a Low Fair Market Value”. This action will save TRLIA roughly $50,000 in consultant fees and 8 to 12 weeks in schedule.

Discussion
Government Code 7267.1 (b) allows a public agency to waive an appraisal in cases of low fair market value. The proposed TRLIA procedure was originally developed by Caltrans (section 7.02.13.00 of Caltrans’ Right of Way Manual).

The most significant issue with the TRLIA Procedure is that it uses “$25,000 or less” as the benchmark for “low fair market value.” This term is not defined in the Government Code. Nor is it defined in case law or legal treatises. As such, a plausible argument could be made for the use of “$25,000 or less.”

Currently, Caltrans employs $10,000 or less as the benchmark for low market value. This mirrors what the federal government does, based on the same language found in Government Code section 7267.1(b) (42 U.S.C. 4651(2); 49 C.F.R 24.102(2)).

Caltrans and the Federal Government established these benchmarks in the mid 1990’s, prior to the most recent real estate market upswing of the last 6 years. In fact, Caltrans is currently reviewing their policy, and considering moving the limit to $25,000 for all state highway projects.

TRLIA staff recommendation is to adopt the procedure with updated definition of low fair market value at $25,000.

Fiscal Impact
The costs to perform these Real Property Acquisitions are incorporated into the Feather River Phase 4 cost estimates/budget. This procedure will help expedite the Right of Way acquisition phase for the Feather River Segments 1 and 3 by up to 3 months. In addition, this procedure will decrease the amount of consulting fees by up to $50,000.
BEFORE THE BOARD OF DIRECTORS OF
THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

A RESOLUTION ADOPTING A PROCEDURE
TO WAIVE THE APPRAISAL IN CASES
INVOLVING ACQUIRING PROPERTY OF
A LOW FAIR MARKET VALUE

WHEREAS, the Three Rivers Levee Improvement Authority ("TRLIA") is a joint
powers authority, organized under the Joint Exercise of Powers Act (Government Code section
6500 et seq.), and composed of the County of Yuba and Reclamation District No. 784; and

WHEREAS, TRLIA is authorized to finance, construct, and maintain levee improvements
surrounding the South Yuba County Area and to establish and undertake projects that are necessary and
proper to fulfilling that goal and objective; and

WHEREAS, in carrying-out such projects, TRLIA is authorized to acquire property pursuant to,
among others, the following statutes: Government Code section 25350.5; Code of Civil Procedure section
1250.140; and Water Code section 50930; and

WHEREAS, in acquiring property for such projects, TRLIA is required to perform appraisals
for such property, pursuant to Government Code section 7267.1.

WHEREAS, TRLIA is authorized under Government Code section 7267.1(b) to prescribe a
procedure to waive the appraisal in cases involving the acquisition by sale or donation of property with a
low fair market value; and

WHEREAS, the Board of Directors finds that property valued at $25,000 or less is property of
a low fair market value; and
NOW, THEREFORE, BE IT RESOLVED that the Three Rivers Levee Improvement Authority hereby adopts a procedure to waive the appraisal in cases involving the acquisition by sale or donation of property with a low fair market value, which procedure is attached hereto as Exhibit A and incorporated herein by reference.

PASSED AND ADOPTED this day of 2005, by the Three Rivers Levee Improvement Authority, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

__________________________________________
Chairman

ATTEST: DONNA STOTTERMeyer
SECRETARY

__________________________________________

APPROVED AS TO FORM: COUNTY COUNSEL
DANIEL MONTGOMERY
Exhibit A

PROCEDURE TO WAIVE THE APPRAISAL IN CASES INVOLVING ACQUIRING PROPERTY OF A LOW FAIR MARKET VALUE
PROCEDURE TO WAIVE APPRAISAL IN CASES INVOLVING ACQUIRING PROPERTY OF A LOW FAIR MARKET VALUE

1. Purpose of Procedure

Pursuant to Government Code section 7267.1(b), Three Rivers Levee Improvement Authority ("TRLIA"), a joint powers authority, hereby prescribes a procedure to waive the otherwise mandated appraisal in cases involving the acquisition by sale or donation of property with a low fair market value ("Procedure").

2. Waiver Valuation in Lieu of Appraisal

An appraisal is not required if the Executive Director of TRLIA determines one is unnecessary because the valuation problem is uncomplicated and the anticipated value of the proposed acquisition is estimated at $25,000 or less, based on a review of available data.

Among the factors to be considered in the determination as to whether a parcel is "uncomplicated" include: whether there is a serious question as to highest and best use; whether adequate market data is available; whether substantial damages and benefits are involved; and whether there is a substantial decrease in market value due to the presence of hazardous material/waste.

The "review of available data" may include a review of: comparable sales data or listing data; comparable data and multiple-listing service data; opinions of the County Assessor's Office or real estate brokers; and other cost sources.

When an appraisal is determined to be unnecessary, TRLIA shall prepare a "Waiver Valuation."

3. Person Performing the Waiver Valuation

The person performing the Waiver Valuation need not be a member of the Appraisal Institute, or similar professional standards organization, nor be licensed by the State of California to perform appraisals. However, the person performing the Waiver Valuation must at least have sufficient understanding of the local real estate market to be qualified to make the Waiver Valuation.
4. Contents of Waiver Valuation

The Waiver Valuation shall contain the following information.

a. Project description
b. Property description
c. Valuation analysis
d. Valuation
e. Certification by the person performing the Waiver Valuation

The information shall be similar to that provided in traditional appraisals, though not to the same extent. Forms consistent with this Procedure may be developed and revised from time to time by the Executive Director.
February 6, 2007

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director
SUBJECT: Consider Contractual Agreement with Bender Rosenthal, Inc. (BRI) for TRLIA Phase 3, Eminent Domain Services

Recommended Action

Approve Amendment 5 to the existing contract with BRI for the TRLIA Phase 3, Eminent Domain Services for both the Danna and Foster Trials. The specific contract terms are detailed in the attached document (i.e., the contract document). Authorize Executive Director to sign agreement once County Counsel has reviewed.

Discussion

TRLIA filed eminent domain actions against Danna and Danna, Inc, Danna Investments, and David and Pam Foster. As part of the eminent domain process, TRLIA is required to exchange an updated valuation 90 days prior to trial. In addition, expert witness testimony will be necessary from both the appraiser and crop damage expert. This testimony will be the basis for the trial or potential settlement.

Fiscal Impact

The contract amendment would increase the existing contract by $158,880 for services on a time-and-expenses basis, to a maximum amount not exceeding $1,993,061 without prior authorization by TRLIA. The BRI contract amendment is a time and materials contract that can be terminated without penalty. This work is currently included in the FY 06/07 budget for Phase 3.
FIFTH AMENDMENT
TO
AGREEMENT BETWEEN
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
AND
BENDER ROSENTHAL, INC.

THIS FIFTH AMENDATORY AGREEMENT is made and entered into this _____ day of February 2007, by
and between the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY ("TRLIA"), a Joint Powers
Authority, TRLIA and BENDER ROSENTHAL, INC. ("CONSULTANT")

RECITALS:

WHEREAS, TRLIA and CONSULTANT entered into a agreement to provide basic services dated March 1,
2005, ("AGREEMENT");

WHEREAS, TRLIA and CONSULTANT entered into the first Amendatory Agreement to provide basic
services dated March 1, 2006.

WHEREAS, TRLIA and CONSULTANT entered into the second Amendatory Agreement to provide basic
services dated May 16, 2006.

WHEREAS, TRLIA and CONSULTANT entered into the third Amendatory Agreement to provide basic
services dated September 26, 2006.

WHEREAS, TRLIA and CONSULTANT entered into the fourth Amendatory Agreement to provide basic

WHEREAS, Attachment B.1 of the AGREEMENT, state that modifications or amendments to the terms of the
AGREEMENT shall be in writing and executed by both parties;

WHEREAS, the TRLIA and CONSULTANT desire to amend the Agreement;

NOW, THEREFORE, the TRLIA and CONSULTANT agree as follows:

1. Exhibit A of the AGREEMENT shall be amended to perform those additional services described in
Exhibit A attached to this Fourth AMENDMENT.

2. Article 4 of the AGREEMENT shall be revised to increase the price ceiling for basic services by
$158,380 from $1,837,181.00 to: $1,995,561.00

All other terms and conditions contained in the Agreement shall remain in full force and effect.

This Amended agreement is hereby executed on this ______ day of __________________ 2007.

THREE RIVERS LEVEE
IMPROVEMENT AUTHORITY

BY: ______________________________

Paul G. Brunner, Executive Director

CONSULTANT

BY: ______________________________

BENDER ROSENTHAL, INC.

APPROVED AS TO FORM.

__________________________

DANIEL O. MONTGOMERY
County Counsel
January 26, 2007

Mr. Paul Brunner, P.E.
Three Rivers Levee Improvement Authority
915 8th Street, Suite 119
Marysville, CA 95901

RE: Three Rivers Levee Improvements – Eminent Domain Support
    Danna & Danna Inc.
    Danna Investment Company
    David and Pam Foster

Dear Mr. Brunner:

Per the instruction of Mr. Richard Brown, TRLIA’s Eminent Domain Attorney, we have been requested to provide you with analysis and conclusions that will contain our opinion of fair market value for the above referenced properties. The date of value will be the date of deposit, which is April 5, 2005. Our efforts will include the investigation, data, and analysis supporting our conclusion, as of the date of value, and development of a Summary Statement for exchange purposes inclusive of severance damages, specially crop damages. It is our understanding that TRLIA will be our client, and the intended use of the appraisal is for potential settlement or litigation purposes as it relates to the condemnation action filed.

The appraisal assignment involves an inspection of the subject property by the appraiser, interviews with government departments having jurisdiction over the property, and collection of data pertaining to the subject property and the relevant market. Information will be obtained from the client, the owner, public records, publications, appraisal office files, real estate agents, and/or knowledgeable persons. Sales data will be confirmed with parties directly involved in the transactions, unless otherwise stipulated. Opinions will be sought from knowledgeable persons. Professional experts in such fields as site engineering, etc., will not be hired, as this will be beyond the scope of the assignment. Mr. Tom Neely, of our firm will accompany the appraiser at the time of inspection, interview the Danna’s or their representatives, most likely meet with the Danna’s to discuss agricultural practices, and investigate various impacts to the operation over a three year period as it relates to crop production.

The valuation process also will involve an investigation and analysis of regional area demographic and economic trends, and the Yuba County region agricultural market. Neighborhood attributes such as amenities, services, facilities, and other factors that could influence value will be investigated. The highest and best use of the property will be considered in light of these trends and factors.

Information considered relevant to the appraisal assignment will be retained in the appraiser’s file, and data pertaining to value will be analyzed using the Sales Comparison Approach, as this is the most typical approach to value for agricultural lands. We will investigate agricultural reports,
historical crop income, and investigate current crop prices in the development of the crop loss. Aspects of the Cost Approach may be utilized to determine costs associated with replacement of irrigation facilities.

The table below outlines the fees associated with the described services.

<table>
<thead>
<tr>
<th>Item</th>
<th>Danna &amp; Danna Inc. / Danna Investments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appraisal -</td>
<td>$48,000</td>
</tr>
<tr>
<td>Crop Damages</td>
<td>80 hrs x $160/hr. = $12,000</td>
</tr>
<tr>
<td>Meetings</td>
<td>8 mtgs @ 4 hours x $260/hr = $8,320</td>
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<tr>
<td>Expert Witness</td>
<td></td>
</tr>
<tr>
<td>- Appraisal</td>
<td>80 hrs @ $265/hr = $21,200</td>
</tr>
<tr>
<td>- Crops</td>
<td>80 hrs @ $150/hr = $12,000</td>
</tr>
<tr>
<td>Total</td>
<td>$101,520</td>
</tr>
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</table>

<table>
<thead>
<tr>
<th>Item</th>
<th>David and Pam Foster</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appraisal -</td>
<td>$32,000</td>
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<tr>
<td>Meetings</td>
<td>4 mtgs @ 4 hours x $260/hr = $4,160</td>
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<td>Expert Witness</td>
<td></td>
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<tr>
<td>- Appraisal</td>
<td>80 hrs @ $265/hr = $21,200</td>
</tr>
<tr>
<td>Total</td>
<td>$57,360</td>
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</tbody>
</table>

Total Suggested Contract: $158,880

The files and reports will be developed and prepared in conformance with and subject to the requirements of the Code of Professional Ethics and the Standards of Professional Practice of the Appraisal Institute, which fully incorporate the Uniform Standards of Professional Appraisal Practice (USPAP) of the Appraisal Foundation1. A complete appraisal will be performed, communicated in a Summary Statement along with file development.

The final estimate of value will be subject to the attached statement of Assumptions and Limiting Conditions. We understand the purpose of this appraisal is to establish fair market value as defined by the Code of Civil Procedures for possible eminent domain proceedings.

Expert witness services are estimated and included in this proposal. The time for these services is difficult to determine, and is purely a placeholder. All meetings, depositions, etc. will be billed at our standard hourly rate below, with a minimum charge of 2 hours for cancellation of events. This proposal excludes the costs of developing exhibits, which we can certainly work with the team to

1The Appraisal Institute is a national organization of professional appraisers that self-regulates its members, and the undersigned is a designated Member of the Appraisal Institute (MAI). A Member must at all times adhere to the Institute's ethics code and standards. The Appraisal Foundation has been tasked by the Congress to set standards and procedures with which state certified appraisers must comply when appraising any property interest involved in a federally regulated transaction.
Mr. Paul Brunner  
TRLIA – Danna & Foster Eminent Domain Services  
January 26, 2007

develop during trial preparation. Additional services performed by us, if any, such as post-appraisal meetings, consultations, presentations/briefings, deposition preparation, pre-trial conferences, court or briefing preparation, depositions, court appearances, etc., will be billed at the following rates for 2007:

Stephen A. Rosenthal, MAI $173/hr.*
Cydney G. Bender, MAI $173/hr.*
David Wraa, MAI $173/hr.*
Project Manager $158/hr.
Senior Appraiser $121/hr.
Senior Acquisition Agent $110/hr.**
Relocation Specialist $110/hr.
Acquisition Agent – Level 2 $95/hr.
Acquisition Agent – Level 1 $80/hr.
Other Associated Professional Staff $89/hr.
Researchers $58/hr.
Administrative/Production $47/hr.

* $260 per hour for court or briefing preparation, depositions, any pre-trial conferences, court appearances, etc., should these ever become necessary.

* $160 per hour for any crop damage court or briefing preparation, depositions, any pre-trial conferences, court appearances, etc., should these ever become necessary.

Contract amendment number five is attached to this letter proposal. Please forward to the TRLIA Board for approval.

Sincerely,

BENDER ROENTHAL, INC.

Cydney G. Bender Reents, MAI

Attachment Standard Assumptions and Limiting Conditions
Bender Rosenthal, Inc. TIN: 41-2034507
ASSUMPTIONS AND LIMITING CONDITIONS

This appraisal report and the value estimate it contains are expressly subject to the following contingent and/or limiting conditions.

1. Title to the property is marketable.

2. No survey of the property has been made and proposed property lines as they appear on the ground are assumed to be correct.

3. Data, maps, and descriptive data furnished by the client or his representatives are accurate and correct.

4. No responsibility is assumed for matters of law or legal interpretation.

5. No conditions exist affecting the use and value of the property that are not discoverable through normal, diligent investigation.

6. The valuation is based on information and data from sources believed reliable, and that such information is correct and accurately reported.

7. The value estimate is made subject to the purpose, date, and definition of value.

8. The report is to be considered in its entirety and use of only a portion will invalidate the appraisal.

9. This appraisal was made on the premise that there are no encumbrances prohibiting utilization of the property under the appraiser's estimate of highest and best use.

10. Possession of this report or a copy does not carry with it the right of publication nor may it be used for any purpose by any other than the client without the previous written consent of the firm of Bender Rosenthal, Inc. and then only with proper qualifications.

11. Disclosure of the contents of this appraisal report is governed by the By-Laws and Regulations of the Appraisal Institute. No part of this narrative report may be reproduced by any means nor disseminated to the public in any way without the prior written consent of Bender Rosenthal, Inc.

12. The liability of Bender Rosenthal, Inc. and its employees and associates is limited to the client only and to the fee actually received by the appraisal firm. There is no accountability, obligation, or liability to any third party. If the appraisal report is disseminated to anyone other than the client, the client shall make such party or parties aware of all limiting conditions and assumptions affecting the appraisal assignment. Neither the appraiser nor the appraisal firm are in any way to be responsible for any costs incurred to discover or correct any physical, financial and/or legal deficiencies of any type present in the subject property.

13. Any person or entity who obtains or reads this report, or a copy, other than the client specified in this report, expressly assumes all risk of damages to himself or third persons arising out of reliance on this report and waives the right to bring any action based on the appraisal, and neither Bender Rosenthal, Inc. nor the appraiser shall have any liability to any such person or entity.

14. The appraiser shall not be required to give testimony or appear in court by reason of this appraisal with reference to the property described in this report unless prior arrangements have been made.

__________________________
BENDER ROSENTHAL, INC.
15. No responsibility is assumed for building permits, zone changes, engineering or any other services or
duty connected with legally utilizing the subject property.

16. Unless otherwise stated in this report, the existence of hazardous material, which may or may not be
present on the property, was not observed by the appraiser. The appraiser has no knowledge of the
existence of such materials on or in the property. The appraiser, however, is not qualified to detect
such substances. The presence of such substances as asbestos, urea-formaldehyde foam insulation, or
other potentially hazardous materials may affect the value of the property. The value estimate is
predicated on the assumption that there is no such material on or in the property that would cause a
loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering
knowledge required to discover them. The client is urged to retain an expert in this field, if desired.

17. The property appraised may or may not be subject to the Americans with Disabilities Act of 1990
(ADA). Title III of this act provides for penalties for discrimination in failing "...to remove
architectural barriers... in existing facilities [unless] an entity can demonstrate that the removal... is
not readily achievable..." Unless otherwise noted in this appraisal, it is assumed that the property
appraised is not substantially impacted by this law.

18. It is assumed that any proposed improvements are completed in a timely and good workmanlike
manner according to the preliminary plans and specifications provided by the client.

19. It is assumed that the property will receive competent management and marketing services.
February 6, 2007

TO: Three Rivers Levee Improvement Authority Board
Yuba County Board of Supervisors

FROM: Paul Brunner, TRLIA Executive Director;
Robert Bendorf, Yuba County CAO;
Ric Reinhardt, TRLIA Program Manager;
Scott Shapiro, TRLIA Special Counsel

SUBJECT: Certification of Environmental Impact Report and Selection of Project

**TRLIA Recommended Action:** TRLIA Board should take testimony during public hearing, consider the testimony, and then adopt the attached Resolution which: (i) certifies the Final Environmental Impact Report, (ii) adopts findings, (iii) approves mitigation measures, (iv) approves the mitigation monitoring program, and (v) approves Alternative 2, the Setback Levee, as the TRLIA project for improvements to the Feather River levee.

**Board of Supervisors Recommended Action:** It is recommended that the Board of Supervisors receive a report from TRLIA staff and the County Administrator regarding the current status of the levee improvement projects and discuss, review, and provide comments for the TRLIA Board to consider regarding the pending TRLIA decision for design and construction of the Feather River portion of the levee project.

**Background:** The purpose of the proposed project is to correct deficiencies on the east bank levees of the Feather River and Lower Yuba River and consequently to improve flood protection for the area encompassing Reclamation District 784. The overall objectives of the project are as follows:

- Secure flood protection for at least a flood event with a 0.5% (or 1-200) annual chance of occurring;
- Obtain Federal Emergency Management Agency (FEMA) accreditation of the reaches of levee;
- Avoid increasing downstream flow and stage during peak-flow conditions;
- Achieve these objectives as soon as possible;
- Incorporate environmental mitigation as required.
TRLIA, as lead agency, has completed the Final Environmental Impact Report ("Final EIR") for Feather River Levee Repair Project ("Proposed Project" or "FRLRP"). A Draft Environmental Impact Report ("Draft EIR") was released for public review on August 4, 2006. Volume 1 of the Draft EIR assesses the potential environmental effects of implementation of the Proposed Project, identifies means to eliminate or reduce potential adverse impacts, and evaluates a reasonable range of alternatives to the Proposed Project. Volume 2 of the Draft EIR consists of Appendices referred to in Volume 1. The Final EIR is comprised of the Draft EIR together with one additional volume that includes the comments on the Draft EIR submitted by interested public agencies, organizations and members of the public, written responses to the environmental issues raised in those comments, revisions to the text of the Draft EIR reflecting changes made in response to comments and other information, and other minor changes to the text of the Draft EIR.

The EIR considered four alternatives, dividing the impacted Feather River levees into three segments. The No Project Alternative described the environmental conditions in existence at the time the Notice of Preparation was published, along with a discussion of what would be reasonably expected to occur at the site in the foreseeable future, based on current plans and consistent with available infrastructure and community services. Therefore, under the No-Project Alternative, no levee repair or strengthening would be implemented, and the river bank levees would be left in their current condition. The No Project Alternative would not result in any adverse environmental effects from levee repair and strengthening activities or the construction of a setback levee. The No-Project Alternative, however, would not result in any beneficial effects in the form of increased flood protection and other benefits that would occur with implementation of Alternative 1, 2, or 3.

Alternative 1 is the Levee Strengthening Alternative. Under Alternative 1, levee repair and strengthening activities, including installation of slurry cutoff walls, relief wells, and seepage/stability berms, would be completed along the entire length of project segments 1, 2, and 3. Pump Station No. 3 would be removed under this alternative, and a new pump station would be constructed farther east of the levee bank. Alternative 1 would also include construction of a detention basin to hold peak flows. Alternative 1 has the fewest impacts that remain significant and unavoidable after mitigation. The only non-temporary significant and unavoidable impact is the conversion of farmland to non-agricultural uses, and Alternative 1 results in the smallest agricultural acreage to be converted of the three alternatives evaluated in equal detail in the EIR. Alternative 1 is considered to be the least intrusive to the environment (in CFQA parlance, the "Environmentally Superior Alternative"). Alternative 1 would meet all of the project objectives related to increasing flood protection, and unlike Alternatives 2 and 3, would not affect residences and other structures that could be affected by construction of a setback levee. Some of the environmental benefits associated with construction of a setback levee, such as changes in local flood hydrology upstream and downstream of the project area, would not occur with Alternative 1.

Alternative 2 is the Levee Strengthening and ASB Setback Levee Alternative. Alternative 2 includes the levee repair and strengthening activities of Alternative 1 but adds a setback levee in project segment 2. The setback area would occupy approximately 1,600 acres, and would require the removal of several residences and other structures, as well as the relocation of those residents. The use of the setback area as a floodway would conflict with existing land use designation and zoning of the setback area acreage, and thus, Alternative 2 results in an additional significant and unavoidable impact in the area of Land Use Conflicts, as compared to Alternative 1. Alternatives 2 and 3 have the same number of impacts that remain significant and unavoidable after mitigation. The acreage of the setback area under Alternative 2, however, is larger than under Alternative 3.
Thus, while both Alternative 2 and 3 have more significant and unavoidable impacts than Alternative 1, the magnitude of the impacts of Alternative 2 is slightly greater than under Alternative 3. Alternative 2 would provide the greatest degree of flood protection benefit, but would have relatively higher costs in the form of environmental effects and impacts to residences and other structures in the setback area.

Alternative 3 is the Levee Strengthening and Intermediate Setback Levee Alternative. Alternative 3 involves the same levee repair and strengthening activities as Alternative 1, and a setback levee in project segment 2 similar to that proposed under Alternative 2. The setback levee follows a different alignment, however, that results in a setback area of approximately 1,300 acres. Thus, fewer houses, structures, and other facilities would be affected or need to be removed from the setback area under Alternative 3 than under Alternative 2. Nonetheless, as with Alternative 2, the use of the setback area as a floodway would conflict with existing land use designation and zoning of the setback area acreage results in an additional significant and unavoidable impact in the area of Land Use Conflicts, as compared to Alternative 1. Alternatives 2 and 3 have the same number of impacts that remain significant and unavoidable after mitigation. The acreage of the setback area under Alternative 3, however, is smaller than under Alternative 2. Thus, while both Alternative 2 and 3 have more significant and unavoidable impacts than Alternative 1, the magnitude of the impacts of Alternative 3 is slightly smaller than under Alternative 2. Alternative 3 would provide a greater degree of flood protection benefit than Alternative 1, but at a relatively lower cost in the form of environmental effects and impacts to residences and other structures in the setback area than Alternative 2.

Discussion: Critical factors in selecting an alternative are the design and construction schedule, the flood protection benefits, and the need for funding. Both the strengthen in place alternative (Alternative 1) and the setback alternatives (Alternatives 2 and 3) are projected to be completed by the end of 2008. For the last year TRLIA has consistently communicated to the Reclamation Board, to FEMA, and to other stakeholders and the media that the levee improvements necessary to provide 200-year flood protection would be completed by 2008. Alternatives 1, 2, and 3 all appear consistent with the information previously conveyed; however, to achieve the 2008 completion goal an alternative needs to be selected within the next 30 days, especially if either alternative 2 or 3 is selected.

As discussed above in the background section, while all three alternatives provide at least 200-year flood protection, the setback levee provides a higher level of flood protection. This higher level of flood protection is a result of the construction of a new levee and a new foundation, coupled with the benefits associated with a lower water surface elevation.

The incremental cost of the setback levee is projected to be between $65 to $100 million more than strengthen in place (Alternative 1). A large portion of this is the cost to purchase additional land required for the setback levee. At this time Three Rivers has contractual commitments from local funding sources that would cover only a portion of the estimated cost. However, Three Rivers has had multiple discussions with the Department of Water Resources (DWR) regarding funding from State Proposition 1E. Measure 1E has passed the electorate and is now a legitimate and available funding source. In addition, DWR has issued draft criteria for Early Implementation Funding from 1E. The setback levee (Alternative 2) currently meets all of the draft criteria issued by DWR. TRLIA has submitted a Prop 1E request to DWR for funds to build the Feather Setback and has received favorable feedback from DWR that funding for the Feather River Setback will be supported. DWR has also indicated that there is an interest to
support advance funding for a portion of the Feather River Setback project this Fiscal Year (FY06/07) in order to maintain the TRLIA construction schedules, once the State Prop 1E Bond Expenditure Plan has been approved. Staff therefore believes that adequate funding will be available to construct and complete the setback levee (Alternative 2).

It is also important to note that the State Reclamation Board will likely require indemnification by TRLIA, the County, and RD 784 in conjunction with the Reclamation Board permit for any selected option.

For these reasons, staff recommends the selection of Alternative 2 – the setback levee.

**Fiscal Impact:** Staff believes that the Alternative 2 (setback levee) can be constructed within those revenue streams that have been identified above.
RESOLUTION NO. 2006-__

A RESOLUTION BY THE BOARD OF THREE RIVERS LEVEE IMPROVEMENT AUTHORITY IN REGARD TO CERTIFICATION OF THE FEATHER RIVER LEVEE REPAIR PROJECT FINAL EIR; ADOPTION OF CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS, MITIGATION MEASURES, MITIGATION MONITORING PROGRAM AND STATEMENT OF OVERRIDING CONSIDERATIONS; AND APPROVAL OF THE FEATHER RIVER LEVEE REPAIR PROJECT

I. CERTIFICATION OF THE FINAL EIR

Three Rivers Levee Improvement Authority ("TRLIA"), as lead agency, has completed the Final Environmental Impact Report ("Final EIR") for Feather River Levee Repair Project ("Proposed Project" or "FRLRP"). The Final EIR comprises a project-level analysis of the Proposed Project, and has State Clearinghouse No. 2006062071.

A Draft Environmental Impact Report ("Draft EIR") was released for public agency review on August 4, 2006. Volume 1 of the Draft EIR assesses the potential environmental effects of implementation of the Proposed Project, identifies means to eliminate or reduce potential adverse impacts, and evaluates a reasonable range of alternatives to the Proposed Project. Volume 2 of the Draft EIR consists of Appendices referred to in Volume I. The Final EIR is comprised of the Draft EIR together with one additional volume that includes the comments on the Draft EIR submitted by interested public agencies, organizations and members of the public, written responses to the environmental issues raised in those comments, revisions to the text of the Draft EIR reflecting changes made in response to comments and other information, and other minor changes to the text of the Draft EIR. The Final EIR is hereby incorporated into this document by reference.

The Board of Directors of the Three Rivers Levee Improvement Authority ("the Board") certifies that it has been presented with the Final EIR and that it has reviewed and considered the information contained in the Final EIR prior to making the following certifications and the findings in Section II and the approvals in Section III, below.

Pursuant to CEQA Guidelines Section 15090 (Title 14 of the California Code of Regulations, Section 15090) the Board certifies that the Final EIR has been completed in compliance with the California Environmental Quality Act, Public Resources Code Sections 21000 et seq. ("CEQA") and the CEQA Guidelines, Title 14 of the California Code of Regulations, Sections 15000 et seq. The Board certifies the Final EIR for the actions described in these findings and in the Final EIR, i.e., the Feather River Levee Repair Project

The Board further certifies that the Final EIR reflects its independent judgment and analysis.
II. FINDINGS

The Board is adopting these findings for the entirety of the actions described in these findings and in the Final EIR and for each individual action.

Having received, reviewed and considered the Final EIR and other information in the record of proceedings, the Board hereby adopts the following findings in compliance with CEQA and the CEQA Guidelines:

Part A: Findings regarding the environmental review process and the contents of the Final EIR.

Part B: Findings regarding the environmental impacts of the FRLRP and the mitigation measures for those impacts identified in the Final EIR and adopted as conditions of approval.

Part C: Findings regarding the environmental impacts of the FRLRP and mitigation measures for those impacts identified in the Final EIR and adopted as conditions of approvals relating to development of the FRLRP.

Part D: Findings regarding alternatives and the reasons that such alternatives are rejected.

Part E: Statement of Overriding Considerations determining that the benefits of implementing the FRLRP outweigh the significant unavoidable environmental impacts that will result and therefore justify approval of the FRLRP despite such impacts.

The Board certifies that these findings are based on full appraisal of all viewpoints, including all comments received up to the date of adoption of these findings, concerning the environmental issues identified and discussed in the Final EIR. The Board adopts the findings and the statements in Parts A through E for the approvals that are set forth in Section III, below.

A. Environmental Review Process

1. Development of the Feather River Levee Repair Project

Since the flood events that occurred in 1997, studies have been underway to develop a FRLRP for a higher level of protection to supplement flood protection system for Yuba County. In 2004, Yuba County Water Agency certified a program-level EIR for the Yuba-Feather Supplemental Flood Control Project ("Y-FSFCP"), which evaluated three flood control elements including a setback of the east bank of the Feather River below the Yuba River in two segments. The FRLRP is a modified version of the Above Star Bend ("ASB") levee setback
project segment evaluated in the Y-FSFCP EIR and consists of repairing and strengthening the Feather River left bank levee as well as a small portion of the left (south) bank levee of the lower Yuba River. An alternative approach to simply repairing and strengthening the existing levee is constructing a setback levee in the central portion of the project area following a modified version of the ASB levee setback alignment. The FRLRP Draft EIR evaluated three equal-weight project alternatives reflecting combinations of repair, strengthening, and setback levee components. (Draft EIR, pp. 2-2 to 2-5.)

2. Preparation of the EIR

On June 14, 2006, TRLIA issued a Notice of Preparation announcing the intended preparation of the Draft EIR and describing its proposed scope. A public scoping meeting was held on June 29, 2006. Comments received in response to the Notice of Preparation and the scoping meeting are included in Appendix A to the Draft EIR. Comments pertinent to the scope and content of the EIR are reflected in the Draft EIR.

TRLIA completed the Draft EIR on August 3, 2006 and circulated the Draft EIR for public review and comment for a period of 45 days ending September 18, 2006. Approximately five letters commenting on the Draft EIR were received during the comment period, and two letters (from the California Department of Water Resources and the U.S. Army Corps of Engineers) were received after the close of the comment period. No comments were received at the public meeting on September 6, 2006. (Final EIR, p. 2-1.)

The Final EIR was completed and made available for review by public agencies and members of the public on November 2, 2006.

The Final EIR contains all of the comments received during the public comment period, as well as the two letters received after the close of the comment period, together with written responses to those comments which were prepared in accordance with CEQA and the CEQA Guidelines.

The Board finds and determines that the Final EIR provides adequate, good faith and reasoned responses to all comments that raised significant environmental issues.

3. Absence of Significant New Information

CEQA Guidelines Section 15088.5 requires a lead agency to recirculate an EIR for further review and comment when significant new information is added to the EIR after public notice is given of the availability of the draft EIR but before certification of the Final EIR. New information added to an EIR is not “significant” unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect that the
project proponent declines to implement. The CEQA Guidelines provide examples of significant new information under this standard. Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.

The Board recognizes that the Final EIR incorporates information obtained by TRLIA since the Draft EIR was completed, and contains clarifications or other non-substantive changes. With respect to this information, the Board finds as follows:

Minors Changes. Various minor changes and edits have been made to the the Draft EIR, as set forth in the Final EIR. These changes are generally of an administrative nature such as correcting typographical errors, making minor adjustments, and adding or changing certain phrases to improve readability. The Board finds that these changes are of a minor, non-substantive nature and do not require recirculation of the EIR.

EIR Table 1.3. The Board further finds that there are no changes to the Draft EIR, Table 1.3 for purposes of certification of the Final EIR, attached as Exhibit A to these Findings. The Board finds that the mitigations proposed are identified in Exhibit A, Table 1.3 and more fully described in the Mitigation Monitoring and Reporting Program attached as Exhibit B to these Findings. The Board finds that any differences between Exhibit A and Exhibit B are minor and clerical in nature, and do not cause any new or more severe environmental impacts than previously revealed. Therefore, in accordance with CEQA and the CEQA Guidelines, no recirculation of the EIR is necessary based on Exhibits A and B.

In addition to the changes and corrections described above, the Final EIR and the February 6, 2007 staff report provide additional information in response to comments and questions from agencies and the public. The Board finds that this additional information does not constitute significant new information requiring recirculation, but rather that the additional information merely clarifies or amplifies or makes insignificant modifications in an adequate EIR. Specifically, the Board finds that the additional information including the changes described above, does not show that:

1. A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.

2. A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.

3. A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project’s proponents decline to adopt it.
(4) The Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

Based on the foregoing, and having reviewed the information contained in the Final EIR and in the record of TRLIA’s proceedings, including the comments on the Draft EIR and the responses thereto, and the above-described information, the Board hereby finds that no significant new information has been added to the Final EIR since public notice was given of the availability of the Draft EIR that would require recirculation of the EIR.

4. Differences of Opinion Regarding the Impacts of the Project

In making its determination to certify the Final EIR and to approve the Proposed Project, the Board recognizes that the Proposed Project implicates a number of complex environmental issues and that a range of technical and scientific opinion exists with respect to those issues. The Board has acquired an understanding of the range of this technical and scientific opinion by its review of the Draft EIR, the comments received on the Draft EIR and the responses to those comments in the Final EIR, as well as testimony, letters and reports regarding the Final EIR. The Board has reviewed and considered, as a whole, the evidence and analysis presented in the Draft EIR, the evidence and analysis presented in the comments on the Draft EIR, the evidence and analysis presented in the Final EIR, the information submitted on the Final EIR, and the reports prepared by the experts who prepared the EIR, TRLIA’s consultants, and by staff, addressing those comments. The Board has gained a comprehensive and well-rounded understanding of the environmental issues presented by the Proposed Project. In turn, this understanding has enabled the Board to make its decisions after weighing and considering the various viewpoints on these important issues. The Board accordingly certifies that its findings are based on full appraisal of all of the evidence contained in the Final EIR, as well as the evidence and other information in the record addressing the Final EIR.

B. Impacts and Mitigation Measures: The Feather River Levee Repair Project

1. Impacts and Mitigation Measures

These findings provide the written analysis and conclusions of the Board regarding the environmental impacts of the Proposed Project and the mitigation measures proposed by the Final EIR and adopted by the Board as conditions of approval for the FRLRP.

In making these findings, the Board has considered the opinions of other agencies and members of the public disagreeing with some of the significance thresholds used in the EIR. The Board finds that the determination of significance thresholds is a judgment decision within the discretion of the Board; the significance thresholds used in the EIR are supported by substantial evidence in the record, including the expert opinion of the EIR preparers and TRLIA
staff; and the significance thresholds used in the EIR provide reasonable and appropriate means of assessing the significance of the adverse environmental effects of the Proposed Project.

Exhibit A attached to these Findings and incorporated herein by reference summarizes the environmental determinations of the Final EIR about the FRLRP's impacts before and after mitigation. This Exhibit does not attempt to describe the full analysis of each environmental impact contained in the Final EIR. Instead, Exhibit A provides a summary description of each impact, describes the applicable mitigation measures identified in the Final EIR and adopted by the Board, and states the Board's findings on the significance of each impact after imposition of the adopted mitigation measures. A full explanation of these environmental findings and conclusions can be found in the Final EIR and these findings hereby incorporate by reference the discussion and analysis in the Final EIR supporting the Final EIR's determinations regarding the FRLRP's impacts and mitigation measures designed to address those impacts. In making these findings, the Board ratifies, adopts and incorporates the analysis and explanation in the Final EIR in these findings, and ratifies, adopts and incorporates in these findings the determinations and conclusions of the Final EIR relating to environmental impacts and mitigation measures, except to the extent any such determinations and conclusions are specifically and expressly modified by these findings. In addition, the February 6, 2007 staff report further explains the TRLIA environmental findings and conclusions and these findings hereby incorporate by reference the discussion and analysis in the February 6, 2007 staff report supporting the Final EIR's determinations regarding the FRLRP's impacts and mitigation measures designed to address these impacts. In making these findings, the Board ratifies and adopts the analysis and explanation in the February 6, 2007 staff report and adopts the recommendations of the staff report regarding mitigation measures.

As set forth in Part III, below, the Board adopts, and incorporates as conditions of approval, the mitigation measures set forth in Exhibits A and B to reduce or avoid the potentially significant and significant impacts of the FRLRP, as well as certain less-than-significant impacts. In adopting these mitigation measures, the Board intends to adopt each of the mitigation measures proposed in the Final EIR together with such supplemental mitigation measures as have been recommended by the February 6, 2007 staff report. Accordingly, in the event a mitigation measure recommended in the Final EIR has inadvertently been omitted from Exhibit A or B, such mitigation measure is hereby adopted and incorporated in the findings below by reference.

Exhibit A is based on Table 1.3 of the Final EIR and with Exhibit B includes the full text of all mitigation measures. It also includes supplemental mitigation measures and enhancements to some mitigation measures identified in the Final EIR compiled by TRLIA's staff after the Final EIR was completed that are also adopted by this Board.

In several comments on the Draft EIR, various measures were suggested by commenters as proposed additional mitigation measures or modifications to the mitigation measures identified by the EIR. Several of the EIR's mitigation measures were modified in
response to such comments, and other mitigation measures were added to the Final EIR in response to such comments. Other comments requested minor modifications in mitigation measures identified in the Draft EIR, requested mitigation measures for impacts that were less than significant, or requested additional mitigation measures for impacts as to which the Draft EIR identified mitigation measures that would reduce the identified impact to a less than significant level; these requests are declined as unnecessary.

With respect to the additional measures suggested by commenters that were not added to the Final EIR or February 6, 2007 staff report, the Board hereby adopts and incorporates by reference the reasons set forth in the response to comments contained in the Final EIR and February 6, 2007 staff report as its grounds for rejecting adoption of these mitigation measures.

2. Further Findings Regarding Proposed Mitigation Measures

In addition to the reasoning contained in the responses to comments contained in the Final EIR, the Board provides the following additional explanation regarding its grounds for rejecting several mitigation measures proposed by commenter's during the EIR comment period or at various meetings:

Proposed Mitigation for Potential Conversion of Agricultural Acreage. The California Department of Conservation, Division of Land Resource Protection, encouraged the TRLIA to consider mitigating for conversion of agricultural land with an agricultural conservation easement in the form of an outright purchase or payment of a mitigation fee to an organization or agency that takes responsibility for agricultural conservation easements. As discussed in the responses to comments contained in the Final EIR, the purchase of conservation easements or payment of mitigation fees are neither necessary nor economically sound for this project. The establishment of agricultural conservation easements does not create new farmland, put new farmland into production, or increase productivity of existing farmland, but rather only ensures that existing farmland is not converted to a different use. Thus, the impact of conversion in one location is not avoided, minimized, rectified, or reduced by establishment of agricultural conservation easement elsewhere. (Final EIR, Response F-3.)

Furthermore, agricultural conservation easements are most commonly established where a project is permanently converting agricultural land to a non-open space use, such as residential, commercial, or industrial development. In those instances, there is no realistic potential for the land to be returned to agricultural use. For the FRLRP, however, most of the agricultural land that may be “converted” in the levee setback areas under Alternative 2 or 3 will remain in an undeveloped condition, as habitat or fallow lands. There is no requirement to commit to any particular scheme of habitat preservation for lands within the levee setback area. Thus, it is possible that some or all of the land, even if temporarily converted, could be returned to agricultural use in the future. (Final EIR, Response F-3; see also Draft EIR, pp. 5.1-15 to 5.1-16, 5.1-19 to 5.1-20.)
Alternative I could result in the conversion of up to 180 acres of farmland due to the construction of seepage/stability berms and a detention basin. (Draft EIR, pp. 5.1-12 to 5.1-13.) Alternatives 2 and 3 could result in the conversion of and/or loss of access to up to 1,045 acres or 720 acres, respectively, due to the construction of setback levees. (Draft EIR, pp. 5.1-15, 5.1-19.) Implementation of any of the alternatives would include compensating agricultural operators for temporary disturbance and/or permanent loss of agricultural lands associated with the project. (Draft EIR, pp. 5.1-12, 5.1-14, 5.1-18.) In addition, improvements to the flood control system will provide increased flood protection to thousands of acres of valuable farmland in the project vicinity. (Id.) For each alternative, the Draft EIR includes mitigation to minimize losses of farmland where it occurs, consistent with the nature and extent of the loss, and to preserve the productivity of existing farmland to the extent feasible. (Draft EIR, pp. 5.1-20 to 5.1-23; Final EIR, Response F-3.) The Board finds that these measures mitigate the loss of farmland in a manner that is proportionate to the nature and level of anticipated impact from the project.

In addition, there are limited funding sources available to accomplish TRLIA's flood protection goals. Particularly in light of the limited effectiveness of agricultural conservation easements in this context, the Board concludes that the purchase of easements or credits is not sound economic policy. Thus, the Board finds that after balancing environmental and economic factors, the purchase of agricultural conservation easements or mitigation credits, as proposed by the commenter's, is not feasible and declines to adopt the proposed mitigation.

3. Mitigation Measures Within The Jurisdiction And Control Of Other Agencies.

The Board has adopted all of the mitigation measures identified in Exhibit A. Some of the measures identified in Exhibit A are also within the jurisdiction and control of other agencies. To the extent any of the mitigation measures are within the jurisdiction of other agencies, the Board finds those agencies can and should implement those measures within their jurisdiction and control.

Mitigation measures within the control of other agencies include the following:

Mitigation Measure ASB-5.1-a: Resolve Inconsistencies between Proposed Uses of the Levee Setback Area and Yuba County Zoning. Mitigation Measure ASB-5.1-a provides that upon adoption of Alternative 2, TRLIA will coordinate with the Yuba County Planning Department to apply for general plan amendments and/or rezoning or other measures if necessary to ensure the consistency of proposed land uses with County Zoning. Any necessary modifications will require approval by the County Planning Commission and Board of Supervisors pursuant to County ordinances.

Mitigation Measure IS-5.1-a: Resolve Inconsistencies between Proposed Uses of the Levee Setback Area and Yuba County Zoning. If TRLIA adopts Alternative 3,
Mitigation Measure IS-3.1-a provides that TRLIA will coordinate with the Yuba County Planning Department to apply for general plan amendments and/or rezoning or other measures if necessary to ensure the consistency of proposed land uses with County Zoning. Any necessary modifications will require approval by the County Planning Commission and Board of Supervisors pursuant to County ordinances.

C. **Basis for the Board’s Decision to Approve the Proposed Project Rather Than An Alternative to the Proposed Project**

1. **Summary of discussion of alternatives in the Final EIR.**

   The Proposed Project consists of implementing one of three potential alternatives, each evaluated at an equal level of detail in the Draft EIR. The Draft EIR examines and compares the environmental impacts of each alternative and the relative ability of each alternative to satisfy Project Objectives.

   The Draft EIR also summarizes the criteria used to identify a range of reasonable alternatives for review in the EIR and describes proposals that TRLIA concluded did not merit additional more detailed review either because they did not present feasible alternatives to the Proposed Project or are variations on the alternatives that are evaluated in detail. (Draft EIR, pp. 8-2 to 8-7.)

   The discussion and analysis of alternatives in the Draft EIR is augmented by a further discussion of alternatives in the Responses to Comments section of the Final EIR. That discussion provides additional information about the range of alternatives examined in the EIR, provides further detail on proposals that did not merit more detailed evaluation in the EIR, further describes the relationship between alternatives examined in the EIR and project objectives, and addresses several variations on the alternatives that were suggested in comments on the Draft EIR.

2. **The Board’s Findings Relating to Alternatives.**

   In making these findings, the Board certifies that it has independently reviewed and considered the information on alternatives provided in the Final EIR, including the information provided in comments on the Draft EIR that proposed other options for flood protection improvements and the responses to those comments in the Final EIR. The Final EIR’s discussion and analysis of these alternatives is not repeated in these findings, but the discussion and analysis of the alternatives in the Final EIR is incorporated in these findings by reference.

   The Final EIR describes and evaluates three equal weight alternatives. Implementation of one of these alternatives comprises the Proposed Project. Each of these alternatives includes actions implicating each of the three project segments used to define the project area. Each alternative results in somewhat varying impacts on and benefits to the physical environment. For any of the alternatives, as set forth in section II.B above, the EIR
contains and the Board could adopt mitigation measures that substantially mitigate the significant environmental effects of the alternative. As explained in section II.D of these findings, while these mitigation measures will not mitigate all project impacts to a less-than-significant level, the measures will mitigate those impacts to a level that the Board finds is acceptable. Furthermore, the Board finds that each alternative satisfies the project objectives in varying degrees; accordingly, the Board considers the potential to achieve some or all of the project objectives alongside the impacts of each alternative and/or beneficial effect on the environment. The Board finds that, on balance, Alternative 1 has environmental advantages over Alternatives 2 and 3 that make Alternative 1 the “Environmentally Superior” Alternative. Alternatives 2 and 3, in turn have critical hydrologic and ecological benefits.

The Board has determined to approve Alternative 2. In making this determination, the Board finds that when compared to the other alternatives described and evaluated in the Final EIR, Alternative 2, as mitigated, provides a reasonable balance between implementation of the Project Objectives and reducing potential environmental impacts to an acceptable level. The Board further finds and determines that the environmental gains available under other alternatives are less compelling when compared with the benefits of Alternative 2, for the reasons set forth below.

a. Description of Project Objectives.

The overall goal of the Proposed Project is to correct deficiencies in the left (east) bank levees of the Feather and lower Yuba Rivers, and consequently to improve flood protection of the Reclamation District (RD) 784 area in Yuba County, and to achieve the following Project Objectives:

- To secure flood protection for at least a flood event with a 0.5% (or 1-in-200) annual chance of exceedance;

- To help secure Federal Emergency Management Agency (FEMA) accreditation of the subject reaches of levee;

- To avoid increasing downstream flow and stage during peak-flow conditions;

- To achieve those objectives as soon as possible; and

- To incorporate environmental mitigation as appropriate.

(Final EIR, p. 3-2.)
b. Discussion and Findings Relating to the
Alternatives Evaluated in The Draft EIR

No Project Alternative. Under CEQA, a “No Project Alternative” compares the
impacts of proceeding with a proposed project with the impacts of not proceeding with the
proposed project. A No Project Alternative describes the environmental conditions in existence
at the time the Notice of Preparation was published, along with a discussion of what would be
reasonably expected to occur at the site in the foreseeable future, based on current plans and
consistent with available infrastructure and community services. Other than the FRLRP, there
are no other near-term plans to comprehensively repair or improve the subject levees. Therefore,
under the No-Project Alternative, no levee repair or strengthening would be implemented, and
the river bank levees would be left in their current condition. (Draft EIR, p. 8-9.)

The No Project Alternative would not result in any adverse environmental effects
from levee repair and strengthening activities or the construction of a setback levee. The No-
Project Alternative, however, would not result in any beneficial effects in the form of increased
flood protection and other benefits that would occur with implementation of Alternative 1, 2, or
3. (Draft EIR, pp. 8-10 to 8-12.)

Alternative 1 – The Levee Strengthening Alternative. Under Alternative 1,
levee repair and strengthening activities, including installation of slurry cutoff walls, relief wells,
and seepage/stability berms, would be completed along the entire length of project segments 1, 2,
and 3. Pump Station No. 3 would be removed under this alternative, and a new pump station
would be constructed farther east of the levee bank. Alternative 1 would also include
construction of a detention basin to hold peak flows. (Draft EIR, p. 8-8.)

Alternative 1 has the fewest impacts that remain significant and unavoidable after
mitigation. As discussed in section II.D below, of the remaining significant and unavoidable
impacts of Alternative 1, two are temporary (construction air quality and noise impacts). (Draft
EIR, p. 8-13.) The only non-temporary significant and unavoidable impact is the conversion of
farmland to non-agricultural uses, and Alternative 1 results in the smallest acreage to be
converted of the three alternatives that are evaluated in equal detail in the EIR (although, as
noted above, most of the “conversion” associated with the other alternatives does not necessarily
result in the same open space, soil, water and other impacts as does conversion to developed
uses). (Draft EIR, pp. 5.1-12 to 5.1-13, 5.1-15, 5.1-19.) On balance, although the Draft EIR
does not identify it as such, Alternative 1 should be considered to be the “Environmentally
Superior Alternative” for the project under CEQA. Alternative 1 would meet the project
objectives related to increasing flood protection, and unlike Alternatives 2 and 3, would not
affect residences and other structures that could be affected by construction of a setback levee.
Notwithstanding the consideration of Alternative 1 as the Environmentally Superior, some
important environmental benefits associated with construction of a setback levee, such as
changes in local flood hydrology upstream and downstream of the project area that would
provide higher levels of flood protection, would not occur with Alternative 1. (Draft EIR, pp. 8-12 to 8-18.)

**Alternative 2 – The Levee Strengthening and ASB Setback Levee Alternative.** Alternative 2 includes the levee repair and strengthening activities of Alternative 1 but adds a setback levee in project segment 2 roughly in the same alignment as the ASB levee identified in the Y-FSFCP EIR. The setback area would occupy approximately 1,600 acres, and would require the removal of several residences and other structures, as well as the relocation of those residents. (Draft EIR, p. 8-8.) The use of the setback area as a floodway would conflict with existing land use designation and zoning of the setback area acreage, and thus, Alternative 2 results in an additional significant and unavoidable impact in the area of Land Use Conflicts, as compared to Alternative 1. (Draft EIR, pp. 5.1-14 to 5.1-15, 8-12, 8-15.)

However, Alternative 2 would provide the greatest degree of flood protection benefits of all of the Alternatives. As identified in Table 1-2, Alternative 2 would result in the greatest reductions in water surface elevations in the Feather River at the upper end of the levee setback area and at the confluence of the Feather and Yuba Rivers than Alternatives 1 or 3. (Draft EIR, pp. 1-4.) Another favorable factor is that, as identified in Table 1-2, Alternative 2 would result in the same or slightly higher water surface elevations downstream of the levee setback area than Alternatives 1 or 3, which minimizes downstream impacts. *(Id.)*

At the same time, due to the size of the setback area Alternative 2 would have a relatively higher magnitude of environmental impacts, and impacts to residences and other structures, than either Alternatives 1 or 3. (Draft EIR, pp. 8-12 to 8-19.) More precisely, Alternatives 2 and 3 have the same number of impacts that remain significant and unavoidable after mitigation, but the magnitude of the impacts would be relatively higher under Alternative 2 because the acreage of the setback area under Alternative 2 is larger than under Alternative 3. At the same time, of the acreage affected by Alternative 2, it is anticipated that a substantial portion could continue to be cultivated and that acreage would benefit in the long-term from increased flood protection. (Draft EIR, pp. 5.1-14.)

The flood protection benefits of Alternative 2 are highly desirable, and the balance of impacts to benefits suggests that approval of this Alternative would be appropriate, as described in the February 6, 2007 staff report. With the passage of State Proposition 1E and DWR’s favorable response to TRLIA Feather River Setback Proposition 1E funding request, TRLIA has sufficient funding to implement Alternative 2. Alternative 2 meets the primary objective of achieving the designated level of flood protection as soon as possible.

**Alternative 3 – The Levee Strengthening and Intermediate Setback Levee Alternative.** Alternative 3 involves the same levee repair and strengthening activities as Alternative 1, and a setback levee in project segment 2 similar to that proposed under Alternative 2. The setback levee follows a different alignment, however, that results in a setback area of approximately 1,300 acres. Thus, fewer houses, structures, and other facilities would be affected.
or need to be removed from the setback area under Alternative 3 than under Alternative 2. (Draft EIR, p. 8-9.) Nonetheless, as with Alternative 2, the use of the setback area as a floodway would conflict with existing land use designation and zoning of the setback area acreage results in an additional significant and unavoidable impact in the area of Land Use Conflicts, as compared to Alternative 1. (Draft EIR, pp. 5.1-18 to 5.1-19, 8-12, 8-15.)

Alternatives 2 and 3 have the same number of impacts that remain significant and unavoidable after mitigation. The acreage of the setback area under Alternative 3, however, is smaller than under Alternative 2. Thus, while both Alternative 2 and 3 have more significant and unavoidable impacts than Alternative 1, the magnitude of certain impacts (which ones, plus residences/structures) of Alternative 3 is slightly smaller than under Alternative 2. However, Alternative 3 would provide a lower degree of flood protection benefit than Alternative 2. (Draft EIR, pp. 1-4; 8-12 to 8-19.) Moreover, of the acreage affected by Alternative 2, it is anticipated that a significant portion could continue to be cultivated. (Draft EIR, pp. 5.1-14.)

Summary of Findings Regarding Alternatives. For all of the foregoing reasons, given the nature and type of environmental impacts when viewed in light of the benefits of each Alternative, the record indicates that the Board could reasonably choose to approve any one of the Alternatives. Given the imperative for the highest degree of flood control protection and the availability of funding, the Board finds that on balance, after considering environmental, economic, social, technological and other feasibility considerations, the highest public interest supports approval of Alternative 2 instead of the other Alternatives.

Under Alternative 2, the setback levee footprint and levee easements identified in Segment 2 would cover approximately 240-250 acres of agricultural land, and setting back the levee could indirectly result in the removal of more land from agricultural production by dividing land parcels and allowing periodic flooding of agricultural land. Construction of a detention basin would be required to prevent adverse flooding effects on area properties, and this would like occur on several hundred acres of agricultural land. These uses would conflict without County land use policies regarding the preservation of agricultural land and would be inconsistent with current land use and zoning designations for the area.

This is the only impact that could be mitigated from significant and unavoidable to less than significant levels through selection of another project alternative (Alternative 1). However, TRLIA has concluded that the benefits of Alternative 2 outweigh any environmental gain in this resource category that might be incurred by selecting Alternative 1 over Alternative 2. Alternative 1 also results in some impacts in this resource category. (Draft EIR, pp. 5.1-11 to p. 5.1-12.) Both Alternatives 1 and 3 would result in some conversion of agricultural land, however, in all instances the impact remains significant and unavoidable. Although Alternatives 1 and 3 would convert a relatively smaller amount of land than Alternative 2, TRLIA has concluded that the benefits of Alternative 2 implicate a stronger public interest as compared to those environmental gains. The continuing evolution of flood control knowledge over time suggests that the higher level of protection under Alternative 2 is warranted to protect existing
and planned communities and as a precautionary measure in case new information or changing circumstances reveals new risks in the future. Moreover, of the acreage affected by Alternative 2, conversion impacts are not the same as those associated with conversion to developed urban uses; the vast majority of the Important Farmland that could be “converted” under Alternative 2 (up to approximately 1,045 acres) would remain in an undeveloped condition, as habitat or fallow lands within the levee setback area created by these alternatives. (Final EIR, Response F.) It is anticipated that a substantial portion could continue to be cultivated and that acreage would benefit in the long-term from increased flood protection. (Draft EIR, pp. 5.1-14.)

c. Findings Regarding Suggestions for Modifying the Proposed Project and Variations On The Alternatives.

In addition to the reasoning contained in the responses to comments contained in the Final EIR, the Board provides the following additional explanation regarding commenter’s’ suggestions for analysis of alternatives:

Eminent Domain Implications for Discussion of Alternatives. Attorney Thomas Enes submitted comments on behalf of Hofman Ranch, in which he opined that “the potential adoption of a ‘Resolution of Necessity’ may impact the analysis of alternatives” and that “the issue of feasibility of alternatives in the context of eminent domain need [sic] to be addressed.” Referring to Alternatives 2 and 3, the commenter seemed to be referring to the private ownership of the acreage that would be inside of a setback levee, if one were approved. As discussed in the responses to comments in the Final EIR, eminent domain proceedings and the accompanying Resolution of Necessity would only be needed if the landowners and TRLIA could not agree upon appropriate compensation for any private property that may be needed to accomplish the objectives of the project or that would otherwise require compensation. (Final EIR, Response G-15.)

Should TRLIA pursue eminent domain proceedings, a Resolution of Necessity would be required which would contain a finding that “the proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.” (Code Civ. Proc. § 1245.230(c)(2); see also § 1240.030(b).) As explained in the responses to comments in the Final EIR, there is a strong imperative for local flood control. Alternatives 2 and 3 provide greater flood control benefits than Alternative 1. Thus, although any of the three Alternatives would meet the requirements for eminent domain, if eminent domain proceedings were required, Alternative 2 would most easily meet the requirements.

The relocation of residents in a setback area may result in economic and social effects, as described in the EIR. TRLIA has determined that these effects are not significant, directly or indirectly. TRLIA has committed to pay compensation to relocated landowners and relocation assistance for eligible homeowners, tenants, businesses and farm operations under federal and state relocation statutes. (Draft EIR, pp. 5.1-16 to 5.1-17.) The Draft EIR reports
that as of the 2000 Census, there were 2,101 vacant housing units in Yuba County, with 312 of those units in the Marysville area. (Draft EIR, p. 5.1-17.) According to the U.S. Census Bureau, these numbers represent a 9.3% vacancy rate in Yuba County, and a 6.2% vacancy rate in Marysville. (US Census Bureau 2006.) Thus, the available data indicates there are sufficient existing housing units available in the project area to accommodate displaced residents under Alternative 2. (Draft EIR, p. 5.1-17.)

D. Statement of Overriding Considerations

1. Impacts That Remain Significant

As listed in Exhibit A, the following impacts of the FRLRP remain significant following adoption and implementation of the mitigation measures described in the Final EIR:

<table>
<thead>
<tr>
<th>Number</th>
<th>Impact</th>
<th>Alt. 1</th>
<th>Alt. 2</th>
<th>Alt. 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.1-a</td>
<td>Conflicts with Land Use Planning and Policies Resulting from Levee Repairs and the Levee Setback.</td>
<td>LTS</td>
<td>SU</td>
<td>SU</td>
</tr>
<tr>
<td>5.1-b</td>
<td>Conversion of Important Farmland to Nonagricultural Uses Resulting from Levee Repairs and Strengthening.</td>
<td>SU</td>
<td>SU</td>
<td>SU</td>
</tr>
<tr>
<td>5.9-a</td>
<td>Temporary Emissions of ROG, NOX, and PM10 during Construction.</td>
<td>SU</td>
<td>SU</td>
<td>SU</td>
</tr>
<tr>
<td>5.10-a</td>
<td>Temporary Increase in Noise Levels during Construction.</td>
<td>SU</td>
<td>SU</td>
<td>SU</td>
</tr>
</tbody>
</table>

2. Overriding Considerations Justifying Approval of Alternative 2

In accordance with CEQA Guidelines Section 15093, the Board has, in determining whether or not to approve the FRLRP, balanced the economic, social, technological and other benefits of the FRLRP against its unavoidable environmental risks, and has found that the benefits of the FRLRP outweigh the significant adverse environmental effects that are not mitigated to less-than-significant levels, for the reasons set forth below. This statement of overriding considerations is based on the Board’s review of the Final EIR and other information in the administrative record.

The project is needed to help resolve the existing risk of flooding impacts in the identified area, as demonstrated by recent catastrophic flood events. Removing the potential for property and natural resource damage and destruction, personal injury and death, supports strong public, social and economic interests. The project would also address the deficiencies in the Feather River levee that have led to uncertainty and controversy surrounding planned and
ongoing development in the area, which is subject to a higher flood risk than previously believed. The continuing evolution of flood control knowledge over time suggests that the higher level of protection under Alternative 2 is warranted to protect existing and planned communities and as a precautionary measure in case new information or changing circumstances reveals new risks in the future. The additional flood protection will yield economic benefits in the form of reduced costs associated with flood insurance and flood-related property damage. Flood protection also results in an increased sense of security in the community, particularly among owners of property that has flooded in the past or has been in danger of flooding.

Two of the four significant unavoidable impacts of Alternative 2 are temporary: construction emissions of ROG, NOX, and PM10 (Impact ASB-5.9-a) and construction-related increases in noise levels (Impact ASB-5.9-b). Alternative 2 would potentially result in long-term beneficial changes to air quality. (Draft EIR, pp. 5.9-25 to 5.9-26.) The Board has determined to adopt mitigation measures that will reduce these impacts to the extent feasible. (Mitigation Measures ASB-5.9-1, ASB-5.10-a.) The Board finds that the short-term air quality and noise impacts would be significant and unavoidable under all Alternatives, and that the flood protection and other long-term benefits provided by Alternative 2 outweigh these temporary impacts.

The remaining significant unavoidable impacts are the related impacts of conflicts with land use plans and policies (Impact ASB-5.1-a) and conversion of agricultural land to nonagricultural uses (Impact ASB-5.1-b). In part, conflicts with land use plans and policies are outside the jurisdiction of TRLIA, as described above and in the EIR. (Mitigation Measure ASB-5.1-a.)

The EIR concludes that the conversion of agricultural land is significant and unavoidable for any of the three alternatives. Alternative 1 could result in the conversion of up to 180 acres of farmland due to the construction of seepage/stability berms and a detention basin. (Draft EIR, pp. 5.1-12 to 5.1-13.) Alternatives 2 and 3 could result in the conversion of and/or loss of access to up to 1,045 acres or 720 acres, respectively, due to the construction of setback levees, although most of that conversion would not result in the same open space, soil, water, and other impacts that is typically associated with permanent conversion to developed uses. (Draft EIR, pp. 5.1-15, 5.1-19.) Implementation of any of the Alternatives would include compensating agricultural operators for temporary disturbance and/or permanent loss of agricultural lands. (Draft EIR, pp. 5.1-12, 5.1-14, 5.1-18.) In addition, improvements to the flood control system will provide increased flood protection to thousands of acres of valuable farmland in the project vicinity. (Id.)

Both Alternatives 1 and 3 would result in some conversion of agricultural land, however, in all instances the impact remains significant and unavoidable. Although Alternatives 1 and 3 would convert a relatively smaller amount of land than Alternative 2, TRLIA has concluded that the benefits of Alternative 2 implicate a stronger public interest as compared to those environmental gains. The continuing evolution of flood control knowledge over time
suggests that the higher level of protection under Alternative 2 is warranted to protect existing and planned communities and as a precautionary measure in case new information or changing circumstances reveals new risks in the future. Moreover, of the acreage affected by Alternative 2, conversion impacts are not the same as those associated with conversion to developed urban uses; the vast majority of the Important Farmland that could be “converted” under Alternative 2 (up to approximately 1,045 acres) would remain in an undeveloped condition, as habitat or fallow lands within the levee setback area created by these alternatives. (Final EIR, Response F.) It is anticipated that a substantial portion could continue to be cultivated and, as noted, that acreage would benefit in the long-term from increased flood protection. (E.g., Draft EIR, pp. 5.1-14.) TRLIA has proposed, and the Board herein adopts, mitigation measures that will preserve the productivity of Important Farmland to the extent feasible by, for example, minimizing fragmentation, retaining contiguous parcels where practical, addressing access issues, providing productive topsoil, and addressing protection of existing utilities, strategically siting laydown and staging areas, and using existing roads for access. (Mitigation Measure ASB-5.1-b.)

The displacement of a small number of residences and other structures in the setback area under Alternative 2 may result in economic and social effects, as described in the EIR. (Draft EIR, pp. 5.1-17.) To the extent these are considered relevant to physical impacts under CEQA, the Board concludes that these effects are not significant. (Id.) TRLIA has committed to pay compensation to relocated landowners and relocation assistance for eligible homeowners, tenants, businesses and farm operations under federal and state relocation statutes. (Draft EIR, pp. 5.1-16 to 5.1-17.)

In short, implementation of Alternative 2 will result in additional flood protection, which in turn will yield economic benefits in the form of reduced costs associated with flood insurance and flood-related property damage. Flood protection also results in an increased sense of security in the community, particularly among owners of property that has flooded in the past or has been in danger of flooding. The Board finds that these social and economic benefits outweigh the impacts that cannot be reduced to less than significant levels, and warrant approval of Alternative 2 in spite of those remaining impacts. The Board finds that under all of the circumstances, the flood control benefits of Alternative 2 outweigh its environmental costs.

E. Record of Proceedings

Various documents and other materials constitute the record upon which the Board bases these findings and the approvals contained herein. The location and custodian of these documents and materials is Paul G. Brunner at Three Rivers Levee Improvement Authority.

F. Mitigation Monitoring and Reporting Program

In accordance with CEQA and the CEQA Guidelines, the Board must adopt a mitigation monitoring and reporting program to ensure that the mitigation measures adopted
herein are implemented in the implementation of the Proposed Project. The Board hereby adopts the Mitigation Monitoring Program for the Project attached to these Findings as Exhibit B.

G. Summary

1. Based on the foregoing findings and the information contained in the administrative record, the Board has made one or more of the following findings with respect to each of the significant environmental effects of the Proposed Project identified in the Final EIR:

a. Changes or alterations have been required in, or incorporated into, the Proposed Project which avoid or substantially lessen the significant environmental effects on the environment.

b. Those changes or alterations that are wholly or partially within the responsibility and jurisdiction of another public agency have been, or can and should be, adopted by that other public agency.

c. Specific economic, social, technological, or other considerations make infeasible the mitigation measures or alternatives identified in the Final EIR that would otherwise avoid or substantially lessen the identified significant environmental effects of the Proposed Project.

2. Based on the foregoing findings and information contained in the record, it is hereby determined that:

a. All significant effects on the environment due to approval of the Proposed Project have been eliminated or substantially lessened where feasible.

b. Any remaining significant effects on the environment found unavoidable are acceptable due to the factors described in the Statement of Overriding Considerations in Section II.D above.

III. RESOLUTION OF APPROVAL

NOW, THEREFORE, BE IT RESOLVED THAT:

The Board hereby takes the following actions and makes the following approvals:

A. The Board has certified the Final EIR in Section I, above.

B. The Board hereby adopts as conditions of approval all mitigation measures within the responsibility and jurisdiction of Three Rivers Levee Improvement Authority as set forth in Section II.B of the Findings, above.
C. The Board hereby adopts the Mitigation Monitoring Program for the Proposed Project as set forth in Exhibit B and discussed in Section II.F of the Findings, above.

D. The Board hereby adopts these Findings in their entirety as its findings for these actions and approvals.

E. The Board hereby adopts the statement of overriding considerations set forth herein.

F. Having certified the Final EIR, independently reviewed and analyzed the Final EIR, incorporated mitigation measures into the Proposed Project, and adopted Findings and a statement of overriding considerations, the Board hereby approves Alternative 2 set forth in the EIR as the Feather River Levee Repair Project. The Board also directs staff to file a Notice of Determination pursuant to CEQA Guidelines Section 15094, and to take other necessary and appropriate actions to implement this approval.

PASSED AND ADOPTED this ________ day of ______________ 2007,

by the Board of Directors of Three Rivers Levee Improvement Authority, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

______________________________________________
Dan Logue
Vice Chairman

______________________________________________
DONNA STOTTLEMEYER
Secretary

APPROVED AS TO FORM:

______________________________________________
Scott Shapiro
TRLIA Special Counsel