I  CALL TO ORDER

II  ROLL CALL – Directors Rick Brown, Jerry Crippen, Don Graham, Mary Jane Griego, Dan Logue

III  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.

IV  CONSENT AGENDA: All matters listed under the consent agenda are considered to be routine and can be enacted by one motion.

   A. Approve the minutes of the regular meeting from June 17, 2008.
   B. Approve grant easements for irrigation line to Danna and Danna Inc., and authorize the Executive Director to execute same.

V  ACTION ITEMS

   A. Adopt resolution declaring the public necessity for acquisition of property along the Feather River for Phase 4 Levee Repair Project identified as the following:
      i)  APN 014-250-028 (Yuba County), 023-180-007 028-180-009 (Sutter County) - Naumes, Inc.
      ii) APN 013-010-013, 013-010-016 – Mann
      iii) APN 013-010-014 – Davit
      iv) APN 014-250-029 – Rice
   B. Approve contract with Wildland’s Inc. for the purchase of Valley Elderberry Beetle mitigation credits at River Ranch Conservation Bank in the amount of $31,500; authorize the Executive Director to execute same.
   C. Approve contract with Wildland’s Inc. for the purchase of Vernal Pool Crustaceans Preservation at Daley Ranch Preserve in the amount of $212,500; authorize the Executive Director to execute same.
   D. Approve a Memorandum of Agreement between United States Army Corps of Engineers, California State Historic Preservation Office and Three Rivers Levee Improvement Authority regarding segment 2 of the Feather River Levee Repair Project prehistoric archaeological site and authorize the Executive Director to execute upon review and approval of counsel.
   E. Approve letter of support for HR 6285 amending A99 FEMA designation to allow locally-funded levee repairs to qualify, and authorize the Chair to sign.

VI  BOARD AND STAFF MEMBERS’ REPORTS

   A. Farming operation impacts on water flow within the Feather River floodway.
   B. Costs associated with the creation of offsite Giant Garter Snake habitat.
VII **CLOSED SESSION**

A. Conference with Real Property Negotiator pursuant to Government Code §54956.8 - Property: /APN 014-250-027
   Negotiating Parties: Naumes and Three Rivers Levee Improvement Authority/Rich Brown/Bob Morrison/Madison
   Wiggins Price and Terms of Payment

B. Pending litigation pursuant to Government Code §54956.9(a) – In Re: Nordic Industries

VIII **ADJOURN**

The complete agenda, including backup material, is available at the Yuba County Government Center, 915 8th Street, Suite 109, and the County Library at 303 Second Street, Marysville. Any disclosable public record related to an open session item on the agenda and distributed to all or a majority of the Board of Directors less than 72 hours prior to the meeting are available for public inspection at Suite 109 during normal business hours.

In compliance with the American with Disabilities Act, the meeting room is wheelchair accessible and disabled parking is available. If you have a disability and need disability-related modifications or accommodations to participate in this meeting, please contact the Clerk of the Board's office at (530) 749-7510 or (530) 749-7353 (fax). Requests must be made one full business day before the start of the meeting.
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

MINUTES - BOARD OF DIRECTORS

JUNE 17, 2008

A meeting of the Board of Directors of the Three Rivers Levee Improvement Authority was held on the above date, commencing at 2:01 p.m., within the Government Center, Marysville, California, with a quorum being present as follows: Directors Rick Brown, Jerry Crippen, Don L. Graham, Mary Jane Griego, and Dan Logue. Also present were Executive Director Paul Brunner, Counsel Scott Shapiro, and Clerk of the Board of Supervisors/Secretary Donna Stottlemyer. Chair Griego presided.

CONSENT AGENDA

Minutes: Upon motion of Director Logue, seconded by Director Crippen, and unanimously carried, the Board approved the minutes of the regular meeting of May 20, 2008, as amended.

ACTION ITEMS

1) Wildlands Inc./Mitigation Purchase Amendment Agreement/Giant Garter Snake: Following a brief recap from Executive Director Paul Brunner and Director inquiries, upon motion of Director Logue, seconded by Director Brown, and unanimously carried, the Board approved the First Amendment to the Mitigation Purchase Agreement with Wildlands Inc., for Giant Garter Snake credit required at Gilsizer Slough Preserve in the amount of $3,412,500 and authorized the Executive Director to execute same.

2) Wildlands Inc./Mitigation Purchase Amendment Agreement/Vernal Pool Crustaceans: Following a brief recap from Executive Director Paul Brunner and upon motion of Director Logue, seconded by Director Crippen, and unanimously carried, the Board approved the First Amendment to Mitigation Purchase Agreement with Wildlands Inc. for Vernal Pool Crustaceans at Best Slough Preserve in the amount of $40,500 and authorized the Executive Director to execute same.

3) River Partners/Restoration Design Agreement: Following a brief recap from Executive Director Paul Brunner regarding restoration activities and changes to agreement and Board inquiries, upon motion of Director Logue, seconded by Director...
Crippen, and unanimously carried, the Board approved the agreement with River Partners for restoration design for the Feather River Setback project in the amount of $223,000 and authorized the Executive Director to execute same upon review and approval of counsel and to implement agreement.

4) GEI Consulting/Amendment No. 8/Construction Management: Upon motion of Director Graham, seconded by Director Crippen, and unanimously carried, the Board approve Amendment No. 8 with GEI Consulting for Feather River Levee Repair Project Phase 4 Segment 2 in the amount of $5,671,000 and authorized the Chair to execute same.

5) Pacific Gas and Electric/Cost Agreement/Power line Relocation: Following a brief recap from Executive Director Paul Brunner and Director inquiries, upon motion of Director Logue, seconded by Director Graham, and unanimously carried, the Board approved the Cost Contract with Pacific Gas and Electric for relocation of a power line in the amount of $2,429,936 and authorized the Executive Director to execute same and issue payments for invoices.

6) Proposed Budget Fiscal Year 2008-2009: Executive Director Paul Brunner recapped revenue and expenditures within the proposed budget including estimated costs for temporary maintenance support to Reclamation District 784 and Olivehurst Detention Basin and responded to Director inquiries.

Upon motion of Director Logue, seconded by Director Graham, and unanimously carried, the Board approved the Proposed Budget for Fiscal Year 2008-2009; directed the Executive Director to make copies available for public inspection; and directed Budget Hearings be scheduled to begin on Tuesday, July 15, 2008, starting at 3:00 p.m.

BOARD AND STAFF MEMBERS REPORTS

Reports were received on the following:

Counsel Scott Shapiro:
- Fair Political Practices Commission regarding responding to campaign mailers
- Brown Act changes
- Flood insurance for Plumas Lake properties provided by Beazer Homes through 2008

Chair Mary Jane Griego:
- Presented recognition to Mr. Walt Whitendon who participated in Ground Breaking Ceremony for the Feather River Setback Levee
Executive Director Paul Bruner:
- FEMA correspondence denying grant application regarding south county floodplain property acquisition
- Feather River Setback Levee regarding construction and 408 permit process
- Feather River Segment 1 construction schedule and slurry wall

CLOSED SESSION

The Board retired into closed session at 3:02 p.m. to discuss the following:

Conference with real property negotiators pursuant to Government Code §54956.8 .

The Board returned from closed session at 3:49 p.m. with all Board and staff members present as indicated above, except Secretary Donna Stottlemyer.

Counsel Scott Shapiro advised further direction was provided to staff.

ADJOURNMENT

There being no further business to come before the Three Rivers Levee Improvement Authority the meeting was adjourned at 3:50 p.m. by Chair Griego.

__________________________
Chair

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

______________________________
Approved:
July 15, 2008

To: Three Rivers Levee Improvement Authority Board
From: Paul Brunner, Executive Director
Bob Morrison, TRLIA ROW Manager
Re: Danna Easement

**Recommendation:**
Delegate authority to Executive Director to grant the easement to the Danna’s for their irrigation line and sign the easement documents.

**Discussion:**
TRLIA purchased approximately 400 acres from the Danna Family for the Bear Setback Levee, Setback Area, and detention basins.

As part of that acquisition, TRLIA must grant back to the Danna’s an easement under one of the Detention ponds for an irrigation pipe. This pipeline feeds the entire remaining farm orchards.

It is not clear if the authority to execute this action has been previously delegated to the Executive Director to execute, so this action is being brought to the Board for approval.

**Fiscal Impact:**

None. Already included in the eminent domain settlement.
EXHIBIT 2

EASEMENT FOR
WATER LINE, WATER PUMP STATION
AND ACCESS
Easement Deed

The undersigned Grantor(s) declare(s):
Documentary transfer tax is $____.
☐ Computed on full value of property conveyed, or
☐ Computed on full value less value of liens and encumbrances remaining at time of sale.
☐ Unincorporated area ☐ City of

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, a joint powers agency
hereby GRANT(S) to
DANNA & DANNA, INC., a California corporation
the following described real property in the
County of Yuba
State of California:

a non-exclusive easement as described and shown in Exhibits A and B, attached hereto and made a part hereof, for the following purposes:
1. Placement, maintenance, construction and repair of a water line.
2. Placement, maintenance, construction and repair of a water intake pump station.
3. Ingress and egress to the water line and water intake pump station.

Dated: __________

STATE OF CALIFORNIA
COUNTY OF

On ______, before me, ______ (here insert name and title of the officer), personally appeared ______, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature ____________________________ (Seal)

MAIL TAX STATEMENTS AS DIRECTED ABOVE

APN: 016-120-005
EXHIBIT "A"

PARCEL H

A permanent easement situate in the County of Yuba, State of California, being a portion of block 18 and 19 as shown on that certain map entitled "Arboga Colony No. 2", filed in Book 2 of Maps at Page 15, Yuba County Official Records, also being a portion of the land described in deed to Danna & Danna, Inc., a California Corporation, recorded in Book 317 at page 563, Yuba County Official Records, said easement being a strip of land 30 feet in width lying 25 feet on each side of the following described centerline:

Commencing at a point on the northerly boundary of said Danna parcel and approximate centerline of Feather River Boulevard, from which, a ¾" iron pipe marking the lot corner common to lots 5, 6, 11, and 12, in block 20, of said Arboga Colony No. 2, bears South 36°59'41" East, a distance of 4835.80 feet; thence leaving said centerline South 00°40'31" East, a distance of 1242.47 feet; thence South 00°29'33 West, a distance of 93.93 feet; thence South 29°07'06" West, a distance of 473.81 feet; thence South 71°03'16" West, a distance of 292.68 feet; thence North 84°14'16" West, a distance of 131.23 feet; thence North 47°33'39" West, a distance of 17.52 feet; thence WEST, a distance of 314.44 feet to the westerly boundary of said Danna parcel; thence along said westerly boundary the following courses, North 24°11'48" East, a distance of 160.13 feet; thence North 40°57'13" East, a distance of 29.29 feet to the TRUE POINT OF BEGINNING of the herein described centerline; thence North 89°55'29" East, a distance of 720.56 feet to the easterly boundary of the permanent basin right of way and there terminating. This description contains 0.99 acres, more or less.

Subject to other easements and rights of record.

END OF DESCRIPTION

APN 15-120-005

3/15/06
EXHIBIT "A"

PARCEL G

A permanent easement situate in the County of Yuba, State of California, being a portion of block 18 and 19 as shown on that certain map entitled "Arboga Colony No. 2", filed in Book 2 of Maps at Page 15, Yuba County Official Records, also being a portion of the land described in deed to Danna & Danna, Inc., a California Corporation, recorded in book 317 at page 563, Yuba County Official Records more particularly described as follows:

Commencing at a point on the northerly boundary of said Danna parcel and approximate centerline of Feather River Boulevard from which, a ¾" iron pipe marking the lot corner common to lots 5, 6, 11, and 12, in block 20, of said Arboga Colony No. 2., bears South 36°59'41" East, a distance of 4835.80 feet; thence leaving said centerline South 00°40'31" East, a distance of 1242.47 feet; thence South 09°29'33" West, a distance of 93.93 feet; to the TRUE POINT OF BEGINNING of the herein described parcel; thence South 29°07'06" West, a distance of 473.81 feet; thence South 71°03'14" West, a distance of 292.68 feet; thence North 84°14'16" West, a distance of 131.23 feet; thence North 47°33'39" West, a distance of 17.52 feet; thence WEST, a distance of 314.44 feet to the westerly boundary of said Danna parcel;

thence along said westerly boundary the following courses. North 24°11'48" East, a distance of 160.13 feet; thence North 40°57'18" East, a distance of 106.19 feet; thence North 69°31'03" East, a distance of 292.00 feet; thence leaving said Danna westerly boundary South 45°43'08" East, a distance of 22.39 feet; thence South 44°14'51" East, a distance of 233.90 feet to the beginning of a curve, concave to the east, having a radius of 49.96 feet and a central angle of 91°51'25"; thence along the arc of said curve, a distance of 80.09 feet; thence South 47°33'39" East, a distance of 81.35 feet to the beginning of a curve concave to the northeast, having a radius of 50.40 feet and a central angle of 39°52'22"; thence along the arc of said curve, a distance of 35.07 feet; thence South 84°14'16" East, a distance of 161.14 feet to the beginning of a curve, concave to the northwest, having a radius of 43.87 feet and a central angle of 21°56'15"; thence along the arc of said curve, a distance of 16.80 feet; thence North 71°02'50" East, a distance of 264.55 feet to the beginning of a curve concave to the northwest, having a radius of 35.01 feet and a central angle of 41°54'57"; thence along the arc of said curve, a distance of 25.61 feet; thence North 29°06'14" East, a distance of 485.94 feet to the point of beginning. This description contains 1.86 acres, more or less.

Subject to other easements and rights of record.

END OF DESCRIPTION

APN 16-120-005

Surveyor's Survey Description W. 3208791841176121 16-120-005 Page 01 2-31-06.doc
Bearing shown hereon are based upon the California Coordinate System, Zone 2, NAD83, 1986 Epoch and originate from the Control Survey File No. 03-25F by the U.S. Army Corps. of Engineers in October 2003.
EXHIBIT 3
ACCESS EASEMENT
Easement Deed

The undersigned Grantor(s) declare(s):

Documentary transfer tax is $0.

☐ Computed on full value of property conveyed, or
☐ Computed on full value less value of liens and encumbrances remaining at time of sale.
☒ Unincorporated area ☐ City of and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, a joint powers agency

hereby GRANT(S) to

DANNA & DANNA, INC., a California corporation

the following described real property in the

County of Yuba

State of California:

a non-exclusive easement as described and shown in Exhibits A and B, attached hereto and made a part hereof, for construction, maintenance, and repair of an unpaved road to be used for agricultural purposes.

Dated:

STATE OF CALIFORNIA
COUNTY OF

On ___, before me, ___, (here insert name and title of the officer), personally appeared ___, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Paul Brunner, Executive Director, Three Rivers Levee Improvement Authority

Signature (Seal)
EXHIBIT “A”

PARCEL B-3

An easement situate in the County of Yuba, State of California, being a portion of block 19 as shown on that certain map entitled “Arboga Colony No. 2”, filed in Book 2 of Maps at Page 15, Yuba County Official Records, also being a portion of the land described in deed to Danna Investment Company, a California Partnership, recorded in document no. 200013430, Yuba County Official Records. Said easement being a strip of land 24 feet wide lying parallel with and easterly of the following described line:

Commencing at a ¾” iron pipe marking the lot corner common to lots 5, 6, 11, and 12 in block 20 of said Arboga Colony No. 2, thence along the northerly line of lot 12 in block 20 of said Arboga Colony No. 2, a distance of 1320.00 feet; thence WEST, along the northerly line of said lot 12, a distance of 475.50 feet to the northeasterly corner of said Danna Investment Company parcel; thence continuing along the northerly line of said lot 12, EAST, a distance of 1298.54 feet; thence leaving said northerly line South 15°24'37" West, a distance of 742.11 feet; thence South 74°44'06" East, a distance of 58.53 feet to the TRUE POINT OF BEGINNING of the herein described line; thence South 13°47'14" West 238.92 feet; thence South 11°49'02" West, a distance of 230.63 feet; thence South 01°26'24" West, a distance of 147.64 feet to the northerly sideline of the permanent levee right-of-way and there terminating.

The sidelines of said easement are to be lengthened or shortened to begin and end at the property line and permanent levee right-of-way. Containing 0.22 acres, more or less.

Subject to other easements and rights of record.

END OF DESCRIPTION

APN 16-150-019

[Signature]

10/12/07
Bearing shown hereon are based upon the California coordinate system, Zone 2, NAD83, 1986 epoch and originate from the control survey file no. 03-29f by the U.S. Army Corps of Engineers in October 2003.

Line Table

<table>
<thead>
<tr>
<th>Line</th>
<th>Length</th>
<th>Bearing</th>
</tr>
</thead>
<tbody>
<tr>
<td>L1</td>
<td>58.53’</td>
<td>S14°44’06”E</td>
</tr>
<tr>
<td>L2</td>
<td>238.92’</td>
<td>S13°47’14”W</td>
</tr>
<tr>
<td>L3</td>
<td>230.63’</td>
<td>S11°49’02”W</td>
</tr>
<tr>
<td>L4</td>
<td>147.64’</td>
<td>S09°26’24”W</td>
</tr>
<tr>
<td>L5</td>
<td>56.55’</td>
<td>S00°05’20”W</td>
</tr>
<tr>
<td>L6</td>
<td>553.26’</td>
<td>S00°33’58”E</td>
</tr>
</tbody>
</table>

Three Rivers

Levee Improvement Authority

Levee Improvements

Plat for Acquisition of Easements

For Levee Improvements

Yuba County

October 11, 2006

California

Scale 1”=800’

Prepared by: MHM, Inc., Marysville CA.

05123A

Sheet 1 of 1
July 15, 2008

TO: THREE RIVERS LEVEE IMPROVEMENT BOARD OF DIRECTORS
FROM: PAUL BRUNNER, EXECUTIVE DIRECTOR
       BOB MORRISON, RIGHT OF WAY MANAGER
SUBJECT: CONSIDER ADOPTING RESOLUTIONS OF NECESSITY FOR ACQUISITION OF FOUR PROPERTIES ALONG THE FEATHER RIVER FOR THE PHASE 4 LEVEE REPAIR PROJECT

RECOMMENDATION:
That the Board of Directors adopt the attached Resolutions of Necessity for the acquisition of certain properties bearing the following Assessor's Parcel Numbers for the Three Rivers Phase 4 Levee Repair Project (the "Project"):

1. Naumes, Inc. - 014-250-028, (Yuba County) and 23-180-007, 009 (Sutter County) (Waterside property)
2. Mann – 013-010-016 (Ella Road and PG&E ICE)
3. Davit – 013-010-014 (Ella Road)
4. T. Rice – 014-250-029 (realignment of levee from original resolution)

BACKGROUND:
The Three Rivers Levee Improvement Authority (3RLIA) is preparing to carry out the construction, improvement and repair work along certain sections of the flood control levees along the Feather River in Yuba County. A major portion of the levee improvements includes a new setback levee.

The proposed setback levee is part of a larger flood control project that includes 29.3 miles of levee improvements in Yuba County. The proposed setback levee is about 5.7 miles long and will replace approximately 6.2 miles of existing Feather River levees. At the North end the new levee begins about 2,000 feet downstream of the Linda County Water District wastewater treatment plant and is West of the Yuba County airport. The Northern tie-in station with the existing Feather River levee is at approximately Project Levee Mile (PLM) 23.4. The Southern tie-in with the existing levee is just North of the Star Bend boat ramp, at about PLM 17.2. The levee height generally ranges between 18 and 30 feet, with an average height of about 24 feet, and the setback area (the area between the existing levee and the new setback levee, including the footprint of the new levee) is about 1,550 acres.
Selection of Current Alignment

The selection of the current alignment is based on previous planning studies, hydraulic analysis, and geotechnical analysis. A summary of the planning studies, hydraulic and geotechnical conditions that were considered before selecting the existing Feather River setback levee alignment are described below.

Previous Planning Studies

Setbacks of the Feather River left (East) bank levee within RD 784 have been the subject of several studies and projects by the Yuba County Water Agency and TRLIA during the last seven years. These studies have evaluated levee deficiencies, deficiency remediation measures, and setback levee options. The significant findings of these studies are documented in the following reports:

Yuba - Feather Supplemental Flood Control Project (2003 Feasibility Report) - The 2003 Feasibility Report included Feather River setback levees as options to reduce flooding impacts in Marysville, Yuba City, and RD 784. The study included drilling a total of nine borings to investigate soil conditions in the project area. The Feather River levee was divided into two segments, above Start Bend and below Star Bend. Recommendations included continued development of setback levee options for both reaches.

RD 784 Supplemental Flood Control Improvements (2004 Feasibility Report) - The 2004 Feasibility Report evaluated an alternative that included a combined setback levee for the lower Bear River and the lower (below Star Bend) Feather River. The study recommended a Southern alignment for a Bear River setback levee over the combined Feather-Bear Rivers setback levee alternative. It was found that the Southern Bear River setback levee could accomplish some of the benefits of a below-Star-Bend Feather setback levee. Construction of the Bear River setback levee has been completed.

Phase 4 Feather River Levee Repair Project Alternatives Analysis (2006 Alternatives Analysis Report) - While the 2003 Feasibility Report considered a single setback levee alignment extending from Star Bend to about one mile North of Murphy Road, the 2006 Alternatives Analysis Report evaluated that alignment plus two additional alignments farther to the West. The alternative setback levee alignments for study were selected by a range of project stakeholders in an Alternatives Identification Workshop held in January 2006. The workshop participants identified two alignments to include in the alternatives analysis. Subsequent to the workshop a third alternative setback levee alignment was identified to address property owner concerns at the Northern end of Segment 2. These alignments are shown on Figure 2 and summarized in Table 1.

<table>
<thead>
<tr>
<th>Study Description</th>
<th>Workshop Description</th>
<th>Setback Levee Length</th>
<th>Setback Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Above Star Bend (ASB) Setback Levee</td>
<td>Modified 2003 Setback Levee</td>
<td>30,000 ft.</td>
<td>1.600 acres</td>
</tr>
<tr>
<td>Intermediate Setback Levee</td>
<td>Intermediate Setback Levee</td>
<td>29,000 ft.</td>
<td>1.200 acres</td>
</tr>
<tr>
<td>Modified Intermediate Setback Levee</td>
<td>n/a</td>
<td>29,000 ft.</td>
<td>1.000 acres</td>
</tr>
</tbody>
</table>

*Setback area includes the footprint of the setback levee*
The study assessed the impact of the three alignments on lowering of flood stages in the Feather and Yuba Rivers and evaluated the geotechnical conditions along the alignments, inundation reduction benefits, impact on private property, comparative costs, and opportunities for habitat restoration. As part of the geotechnical evaluation, 13 additional soil borings were drilled to investigate soils conditions along the alternative alignments. Combined with the nine borings from the 2003 Feasibility Report, and several borings from earlier Corps studies, over 25 borings were included in the geotechnical evaluation. Based on the hydraulic, geotechnical, environmental, inundation damage reduction, and cost evaluations documented in the 2006 Alternatives Analysis Report, the Above Star Bend (ASB) setback levee was determined to provide the greatest total benefits and greatest net benefit of the identified alternatives and was therefore determined to be the economically superior alternative.

**DISCUSSION:**

Undertaking the proposed construction work along the Feather and Yuba River bank levee will necessitate the acquisition of the six properties illustrated below: which affects the four property owners listed below. TRLIA has already taken an eminent action impacting these four property owners, however, the finalization of the levee design (e.g. alignment) has required this acreage to be acquired.

<table>
<thead>
<tr>
<th>Assessor's Parcel No.</th>
<th>Owner</th>
<th>Area to be acquired (Acres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>014-250-028, (Yuba County) and 23-180-007, 009 (Sutter County)</td>
<td>Naumes, Inc.</td>
<td>184.86 acres (waterside property)</td>
</tr>
<tr>
<td>013-010-016 (Ella Road and PG&amp;E TCE)</td>
<td>Joga &amp; Rikki Mann</td>
<td>0.9 acres (Ella Road &amp; 100 sq. ft. PG&amp;E TCE)</td>
</tr>
<tr>
<td>013-010-014 (Ella Road)</td>
<td>Satinder N. Davit and Saroj K. Davit, Trustees</td>
<td>0.12 acres (Ella Road)</td>
</tr>
<tr>
<td>014-250-029</td>
<td>T. Rice; Jeanette Young</td>
<td>4.82 acres (Realignment of levee from original resolution)</td>
</tr>
</tbody>
</table>

**FISCAL IMPACT:**

The appraised values for these six parcels are within the TRLIA Board approved (Feb. 6, 2007) land acquisition plan for Feather River Segment 2. The funding to acquire these six parcels is in the TRLIA cash flow and is available to be deposited to the State Treasurer's Condemnation Fund.
RESOLUTION NO. ________

A RESOLUTION OF THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
DECLARING THE PUBLIC NECESSITY FOR THE TAKING OF CERTAIN PROPERTY
FOR REPAIR, CONSTRUCTION, INSTALLATION AND MAINTENANCE OF THE THREE
RIVERS LEVEE IMPROVEMENT PROJECT
(CODE CIV. PROC. § 1245.230)

WHEREAS, Three Rivers Levee Improvement Authority ("TRLIA") proposes to repair, construct, install, and maintain the Three Rivers Phase 4 Levee Repair Project (the "Project") affecting Assessor's Parcel Nos. 014-250-028 (Yuba County) and 23-180-007 and 009 (Sutter County), California (the "Property"); and

WHEREAS, TRLIA has advised the owners of the Property of the need for the Project and offered said owners an opportunity for a hearing before the TRLIA Board on July 15, 2008, pursuant to section 1245.235 of the Code of Civil Procedure, State of California; and

WHEREAS, the Board of Directors of TRLIA adopts this resolution in compliance with Section 1245.230 of the Code of Civil Procedure.

NOW THEREFORE, THE BOARD OF DIRECTORS OF THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The Property to be acquired is for the repair, construction, installation and maintenance of the Project.

TRLIA is authorized to acquire property for the Project pursuant to, among others, the following statutes: Government Code section 25350.5, Code of Civil Procedure section 1240.125 and Water Code section 50930.

SECTION 2. The general location and extent of the Property to be acquired is as set forth in the legal description attached hereto as Exhibit A and accompanying map attached hereto as Exhibit B, and incorporated herein by reference.

SECTION 3. The Board of Directors declares that it has found and determined as follows:

a. The public interest and necessity require the proposed Project.

b. The proposed Project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury.

c. The Property described in Exhibits A and B is necessary for the proposed Project.

d. The offer of just compensation required by Government Code Section 7267.2 has been made to the owners of record of the Property.

c. The use of the property for its stated public use scheduled to begin within two years of its acquisition.
PASSED AND ADOPTED by the Board of Directors of the Three Rivers Levee Improvement Authority this 15th day of July 2008 by a two-thirds (2/3) or greater vote as follows:

AYES:
NOES:
ABSTAIN:
ABSENT:

__________________________
CHAIRPERSON

ATTEST:

__________________________
Donna Stottlemeyer, Secretary

APPROVED AS TO FORM
SCOTT L. SHAPIRO
GENERAL COUNSEL

By:
YUBA COUNTY ASSESSOR'S PARCEL 014-250-28

All that real property situate in the County of Yuba, State of California, being a portion of Parcel 4, as described in the grant deed from Di Giorgio Fruit Company to Naumes of Oregon, Inc. dated June 14, 1978 and recorded in Book 671, Page 302, Official Records of said County and being more particularly described as follows:

All that portion of said Parcel 4 lying West of the following described line:

Commencing at the Northwest corner of that certain parcel described in the decree quieting title in the matter of Earl Fruit Company vs. The Wolf Hop Company, recorded July 20, 1938 in Book 44, Page 469, Official Records of said County; thence along the Northerly line of said parcel, South 59°09'11" East, 244.51 feet more or less to the toe of an existing levee and the Point of Beginning; thence along the toe of levee the following nine (9) courses:

1. South 20°10'14" West, 418.11 feet; thence
2. South 14°10'14" West, 483.28 feet; thence
3. South 14°06'14" West, 505.75 feet; thence
4. South 10°28'14" West, 1666.75 feet; thence
5. South 11°21'14" West, 112.79 feet to a point on the Southerly line of that certain parcel of land described in the quit claim deed to Di Giorgio Fruit Company, recorded in Book 270, Page 366, Official Records of said County; thence
6. along said Southerly line, South 69°03'22" East, 1.73 feet; thence
7. South 10°13'34" West, 877.66 feet; thence
8. South 04°56'32" West, 424.72 feet; thence
9. South 05°01'33" West, 3.33 feet to a point on the South line of that certain parcel described in the deed to Di Giorgio Fruit Company, recorded in Book 270, Page 363, Official Records of said County, being the Southerly line of said Parcel 4 and the Southerly terminus of the line described herein.

EXCEPTING THEREFROM all that portion of the above lying West of the Yuba-Sutter County line.

The above described parcel contains 105.33 acres more or less.

SUTTER COUNTY ASSESSOR'S PARCEL 023-180-07

All that real property situate in the County of Sutter, State of California, being a portion of Parcel 4, as described in the grant deed from Di Giorgio Fruit Company to Naumes of Oregon, Inc. dated June 14, 1978 and recorded in Book 671, Page 302, Official Records of said County and being more particularly described as follows:
EXHIBIT 'A'

All that portion of said Parcel 4 lying West of the Yuba-Sutter County line and lying North of a line which extends North 86°06'44" West, from the Western most corner of that certain parcel described in the quit claim deed to Di Giorgio Fruit Company, recorded in Book 270, Page 366, Official Records of said County, to the top left bank of the Feather River, being the West line of said Parcel 4.

The above described parcel contains 69.96 acres more or less.

SUTTER COUNTY ASSESSOR’S PARCEL 023-180-09

All that real property situate in the County of Sutter, State of California, being a portion of Parcel 4, as described in the grant deed from Di Giorgio Fruit Company to Naumes of Oregon, Inc. dated June 14, 1978 and recorded in Book 671, Page 302, Official Records of said County and being more particularly described as follows:

All that portion of said Parcel 4 lying West of the Yuba-Sutter County line and lying South of a line which extends North 86°06'44" West, from the Western most corner of that certain parcel described in the quit claim deed to Di Giorgio Fruit Company, recorded in Book 270, Page 366, Official Records of said County, to the top left bank of the Feather River, being the West line of said Parcel 4.

The above described parcel contains 9.57 acres more or less.
RESOLUTION NO. __________

A RESOLUTION OF THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY DECLARING THE PUBLIC NECESSITY FOR THE TAKING OF CERTAIN PROPERTY FOR REPAIR, CONSTRUCTION, INSTALLATION AND MAINTENANCE OF THE THREE RIVERS LEVEE IMPROVEMENT PROJECT (CODE CIV. PROC. § 1245.230)

WHEREAS, Three Rivers Levee Improvement Authority ("TRLIA") proposes to repair, construct, install, and maintain the Three Rivers Phase 4 Levee Repair Project (the "Project") affecting a portion of Assessor's Parcel Nos. 013-010-013 and 013-010-016, in the County of Yuba, California (the "Property"); and

WHEREAS, after initiating litigation on Assessor's Parcel No. 013-010-013, TRLIA determined it needed to acquire permanent access easement across certain property also owned by the Property Owners and located across Assessor's Parcel No. 013-010-016 to gain ingress and egress from Ella Way to the Above Star Bend Levee; and

WHEREAS, after initiating litigation TRLIA also determined it needed to acquire a temporary construction easement on Assessor's Parcel No. 013-010-016 to relocate utility infrastructure; and

WHEREAS, TRLIA has advised the owners of the Property of the need for the Project and offered said owners an opportunity for a hearing before the TRLIA Board on July 15, 2008, pursuant to Section 1245.235 of the Code of Civil Procedure, State of California; and

WHEREAS, the Board of Directors of TRLIA adopts this resolution in compliance with Section 1245.230 of the Code of Civil Procedure.

NOW THEREFORE, THE BOARD OF DIRECTORS OF THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The Property to be acquired is for the repair, construction, installation and maintenance of the Project.

TRLIA is authorized to acquire property for the Project pursuant to, among others, the following statutes: Government Code section 25350.5 and Water Code section 50930.

SECTION 2. The general location and extent of the Property to be acquired is as set forth in the legal description attached hereto as Exhibit A-1 and A-2 and maps attached hereto as Exhibits B-1 and B-2, and incorporated herein by reference.

SECTION 3. The Board of Directors declares that it has found and determined as follows:

a. The public interest and necessity require the proposed Project.

b. The proposed Project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury.

c. The Property described in Exhibits A-1, A-2, B-1, and B-2, is necessary for the proposed Project.
d. The offer of just compensation required by Government Code Section 7267.2 has been made to the owners of record of the Property.

e. The use of the property for its stated public use scheduled to begin within two years of its acquisition.

PASSED AND ADOPTED by the Board of Directors of the Three Rivers Levee Improvement Authority this 15th day of July 2008 by a two-thirds (2/3) or greater vote as follows:

AYES:
NOES:
ABSTAIN:
ABSENT:

____________________________
CHAIRPERSON

ATTEST:

Donna Stottlemeyer, Secretary

APPROVED AS TO FORM
SCOTT L. SHAPIRO
GENERAL COUNSEL

By:  [Signature]

6/25/2008
EXHIBIT A-1

APN 013-010-016
LEGAL DESCRIPTION
PERMANENT ACCESS EASEMENT

All that real property situate in the County of Yuba, State of California, being a portion of real property conveyed by deed to Joga S. Mann and Hikki A.K. Mann, recorder in Document No. 2003-15484 of Deeds in said County and State, hereinafter referred to as "Mann Property", being a portion of Lot 15, Block 12 of "Fenn Land Colony No. 1", filed in the Office of the County Recorder in said County and State in Book 1 of Maps, at Page 23, situated in the West half of Section 12, Township 14 North, Range 3 East of the Mount Diablo Base and Meridian, being more particularly described as follows:

Beginning at the Southwest corner of said "Mann Property"; thence along the West line of said property, North 00°15'56" West, 12.00 feet; thence leaving the West line of said "Mann Property", North 89°45'45" East, 347.44 feet to a point on the West line of Ella Way; thence along the West line of Ella Way, North 08°00'55" West, 12.13 feet to a point on the South line of said "Mann Property"; thence along the South line of said property, South 89°45'45" West, 345.69 feet to the Point of Beginning, containing an area of 4,159 square feet, more or less.

See Exhibit B attached hereto and made a part of this description.

End of Description

The Basis of Bearing for this description is the California Coordinate System Zone 2.

This description was prepared by me or under my direct supervision.

Kevin A. Kieney, P.L.S. 5914

[Signature]

02-08-08

[Date]

[License Stamp]

[Seal of California]
EXHIBIT A-2

APN 013-010-016
LEGAL DESCRIPTION
Temporary Construction Easement

All that real property situate in the County of Yuba, State of California, being a portion of the real property conveyed by deed, dated September 9, 2003, to Joga S. Mann and Rikki A.K. Mann, recorded in Document No. 2003-15484 Records of said County, hereinafter referred to as "Mann Property", being a portion of Lot 15, Block 12 of "Farm Land Colony No. 1", filed in the Office of the County Recorder in said County and State in Book 1 of Maps, at Page 23, situated in the West half of Section 12, Township 14 North, Range 3 East of the Mount Diablo Base and Meridian, being more particularly described as follows:

A strip of land 100.00 feet wide, extending 776.40 feet Easterly from the West line of said "Mann Property", the North line of which being parallel, coincident and contiguous with the South line of that certain easement conveyed by deed to Pacific Gas & Electric, recorded on July 24, 1970 in Book 502, Page 9 Official Records of said county.

Said strip of land is further depicted on the exhibit prepared by Pacific Gas & Electric Company entitled "Attachment A" sheet 1 of 2, drawing number SE-095, dated 12-13-07 attached hereto and made part of this description.

End of Description

This description was prepared by me or under my direct supervision.

[Signature]

Kevi A. Heeney, P.L.S. 5914

[Date]

[License Seal]
RESOLUTION NO. __________

A RESOLUTION OF THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
DECLARING THE PUBLIC NECESSITY FOR THE TAKING OF CERTAIN PROPERTY
FOR REPAIR, CONSTRUCTION, INSTALLATION AND MAINTENANCE OF THE THREE
RIVERS LEVEE IMPROVEMENT PROJECT
(CODE CIV. PROC. § 1245.230)

WHEREAS, Three Rivers Levee Improvement Authority ("TRLIA") proposes to repair, construct, install, and maintain the Three Rivers Phase 4 Levee Repair Project (the "Project") affecting a portion of Assessor's Parcel No. 013-010-014, in the County of Yuba, California (the "Property"); and

WHEREAS, after initiating litigation TRLIA determined it needed to acquire a permanent access easement across certain property also owned by the Property Owners and located across Assessor's Parcel No. 013-010-014 to gain ingress and egress from Ella Way to the Above Star Bend Levee, and

WHEREAS, TRLIA has advised the owners of the Property of the need for the Project and offered said owners an opportunity for a hearing before the TRLIA Board on July 15, 2008 pursuant to section 1245.235 of the Code of Civil Procedure, State of California; and

WHEREAS, the Board of Directors of TRLIA adopts this resolution in compliance with Section 1245.230 of the Code of Civil Procedure.

NOW THEREFORE, THE BOARD OF DIRECTORS OF THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The Property to be acquired is for the repair, construction, installation and maintenance of the Project.

TRLIA is authorized to acquire property for the Project pursuant to, among others, the following statutes: Government Code section 25350.5 and Water Code section 50930.

SECTION 2. The general location and extent of the Property to be acquired is as set forth in the legal description attached hereto as Exhibit A and accompanying map attached hereto as Exhibit B, and incorporated herein by reference.

SECTION 3. The Board of Directors declares that it has found and determined as follows:

a. The public interest and necessity require the proposed Project.

b. The proposed Project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury.

c. The Property described in Exhibits A and B is necessary for the proposed Project.

d. The offer of just compensation required by Government Code Section 7267.2 has been made to the owners of record of the Property.

TRLIA/David
1092581v2 35662/3016
6.25/2008
e. The use of the property for its stated public use is scheduled to begin within two years of its acquisition.

PASSED AND ADOPTED by the Board of Directors of the Three Rivers Levee Improvement Authority this 15th day of July 2008 by a two-thirds (2/3) or greater vote as follows:

AYES:
NOES:
ABSTAIN:
ABSENT:

____________________________
CHAIRPERSON

ATTEST:

____________________________
Donna Stottlemyer, Secretary

APPROVED AS TO FORM
SCOTT L. SHAPIRO
GENERAL COUNSEL

By: ________________________
APN 013-010-014
LEGAL DESCRIPTION
PERMANENT ACCESS EASEMENT

All that Real property situated in the County of Yuba, State of California, being a portion of Real property conveyed by deed to Sahinder N. Davit and Saroj K. Davit, recorded in Document No. 2005R-031262 of deeds in said County and State, hereinafter referred to as "Davit Property", lying within a portion of Lots 11 and 14, Block 12 as shown upon that certain map entitled "Farmland Colony No. 1", filed in the Office of the Recorder in said County and State in Book 1 of maps at Page 23, situated in the West Half of Section 12 Township 14 North, Range 3 East of the Mount Diablo Base and Meridian, being more particularly described as follows:

Beginning at the Southeast corner of said "Davit Property"; thence along the South line of said property, South 89°45'45" West, 368.89 feet; thence leaving said South line of "Davit Property", North 15°20'46" East, 15.57 feet; thence North 89°45'45" East, 149.20 feet; thence South 88°44'59" East, 115.85 feet; thence North 89°45'45" East, 100.00 feet to a point on the East line of said "Davit Property"; thence along said East line, South 00°15'56" East, 12.00 feet to the Point of Beginning, containing an area of 5,031 square feet, more or less.

See Exhibit B attached hereto and made a part of this description.

End of description

The Basis of Bearings for this description is the California Coordinate System Zone 2.

This description has been prepared by me or under my direct supervision.

[Signature]

[License Number and Expiration Date]

[Date]
Exhibit 'B'

013-010-014
DAVIT

FARMLAND COLONY NO. 1
SM 4-28
PG&E EASEMENT
BOOK 67, PAGE 63

PERMANENT ACCESS EASEMENT
[AREA=5,031 SQUARE FEET]

N15°20'46"E
15.57'

51.91'

24' TOTAL WIDTH

POINT OF BEGINNING
S.E. CORNER DAVIT PROPERTY

O14-240-022
TERRY

POINT 13

O14-240-022

PERMANENT ACCESS EASEMENT
5,031 SQUARE FEET
5.12 ACRES

PHASE 4 FEATHER RIVER LEVEE
REPAIR PROJECT
RECLAMATION DISTRICT 784
PERMANENT ACCESS EASEMENT
RESOLUTION NO. —

A RESOLUTION OF THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
AMENDING RESOLUTION NO. 2007-25, DECLARING THE PUBLIC NECESSITY FOR THE
TAKING OF CERTAIN PROPERTY FOR REPAIR, CONSTRUCTION, INSTALLATION AND
MAINTENANCE OF THE THREE RIVERS LEVEE IMPROVEMENT PROJECT
(CODE CIV. PROC. § 1245 230)

WHEREAS, Three Rivers Levee Improvement Authority ("TRLIA") proposes to repair, construct, install, and maintain the Three Rivers Phase 4 Levee Repair Project (the "Project") affecting a portion ("Subject Property") of Assessor's Parcel No. 014-250-029, in the County of Yuba, California ("Property"); and

WHEREAS, TRLIA advised the owners of the Property ("Property Owners") of the need for the Project; and

WHEREAS, TRLIA's Board of Directors adopted Resolution No. 2007-25 on August 7, 2007, concerning a certain portion of the Property; and

WHEREAS, based thereon, TRLIA brought an action in eminent domain to acquire that certain portion of the Property; and

WHEREAS, after initiating the litigation, pursuant to the request of the Property Owners, TRLIA agreed to realign the Project; and

WHEREAS, such realignment necessitates the adoption of an amendment to Resolution No. 2007-25 to account for the revised Subject Property to be acquired; and

WHEREAS, pursuant to a stipulation executed by a court of law, the Property Owners have waived their rights to notice of the intent to adopt this amended resolution of necessity and for an opportunity to appear and be heard hereon pursuant to Section 1245.235 of the Code of Civil Procedure; and

WHEREAS, the use of the Subject Property to be acquired for its stated public use is scheduled to begin within two years of its acquisition; and

WHEREAS, the Board of Directors of TRLIA adopts this resolution in compliance with Section 1245.230 of the Code of Civil Procedure.

NOW THEREFORE, THE BOARD OF DIRECTORS OF THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY HEREBY RESOLVES AS FOLLOWS:

SECTION 1. Resolution No. 2007-25 adopted by this Board on August 7, 2007, is hereby amended as follows:

Exhibit A and Exhibit B attached thereto and incorporated therein are hereby deleted in their entirety and replaced with Exhibit A and Exhibit B attached hereto and incorporated herein.

SECTION 2. The remaining provisions and findings by the Board of Directors contained in Resolution No. 2007-25 shall remain in effect.
PASSED AND ADOPTED by the Board of Directors of the Three Rivers Levee Improvement Authority this _____ day of __________, 2008 by a two-thirds (2/3) or greater vote as follows:

AYES:
NOES:
ABSTAIN:
ABSENT:

______________________________
CHAIRPERSON

ATTEST:

______________________________
Donna Stottlemeyer, Secretary

APPROVED AS TO FORM
SCOTT L. SHAPIRO
GENERAL COUNSEL

By: ______________________

6/25/2008
APN 014-250-029

LEGAL DESCRIPTION

FEE TITLE ACQUISITION

All that Real property situated in the County of Yuba, State of California, being a portion of
Real property conveyed by deed to Thomas A. Rice and Jeanette L. Young, Recorded in
Document No. 200208953, Official Records of said County, lying within a portion of Parcel 1 of
that certain Parcel Map No. B.53, filed in the Office of the Recorder in said County and State in
Book 30 of Maps at Page 29, being a portion Lot 14, Block 13 as shown upon that certain map
entitled “Farmland Colony No. 1”, filed in the Office of the Recorder in said County and State in
Book 1 of maps at Page 23, and situated in the Southwest One Quarter of Section 13 Township
1° North, Range 3 East of the Mount Diablo Base and Meridian, being more particularly described
as follows:

Beginning at the Northwest corner of said Parcel 1; thence along the North line of said Parcel 1
North 89°45'45" East 331.71 feet; thence leaving said North line South 00°02'52" West 635.21
feet to a point on the South line of said Parcel 1; thence along the South line of said Parcel 1
South 89°15'15" West 328.77 feet to the Southwest corner thereof; thence along the West line of
said Parcel 1 North 00°14'15" West 635.10 feet to the Point of Beginning, containing an area
of 209,767 Square Feet or 4.82 acres, more or less.

See Exhibit B attached hereto and made a part of this description.

End of description

The Basis of bearings for this description is the California Coordinate System Zone 2.

This description has been prepared by me or
under my direct supervision.

Kevin A. Hoeny, P.L.S. 5914
July 15, 2008

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director
Anja Kelsey, Environmental Manager
SUBJECT: Mitigation Purchase Agreement between Wildland’s Inc. and TRLIA for Valley Elderberry Beetle (VELB) at River Ranch VELB Conservation Bank

**Recommended Action:** Approve a contract with Wildland’s Inc. in the amount of $31,500.00 for the purchase of VELB mitigation credits at River Ranch VELB Conservation Bank and authorize Chair to execute same.

**Background:** On September 27th, 2007, the U.S. Fish and Wildlife Service (Service) issued a modified Biological Opinion to TRLIA’s Phase 3, Bear River and WPIC Projects that included an additional mitigation requirement for the Valley Elderberry Beetle. This was due to a shrub encounter and habitat loss incurred by TRLIA’s contractor while performing construction operations on the WPIC. The contractor’s construction invoices were adjusted to reflect this cost.

TRLIA has made extreme efforts to provide ample VELB habitat during past restoration and mitigation efforts in the Bear setback, which were extremely numerous, yielding approximately 12,000 associate plantings. However, as stipulated by the Endangered Species Act (ESA), the project applicant is required to mitigate for each habitat loss separately and is therefore precluded from drawing existing mitigation and restoration enhancements associated with past project work, i.e., the Bear River Setback project.

**Discussion:** This purchase is simplistic in that the requirement is only for the loss of one shrub and should not necessitate further acquisitions from the River Ranch Bank. Future VELB mitigation requirements for upcoming and present projects will be handled separately and most likely be contained within TRLIA’s acquired property.

**Fiscal Impact:** This contract is in the amount of $31,500.00 and will come from (e.g., Prop 13 F&G funds or other local funding) that are currently contained in the TRLIA overall program cash flow.
AGREEMENT FOR SALE OF CONSERVATION CREDITS
RIVER RANCH VELB CONSERVATION BANK
SERVICE File No. 1-1-05-F-0106 and 1-1-07-F-0331

This Agreement is entered into this _____ day of __________, 2008, by and between SACRAMENTO RIVER RANCH, LLC (Bank Owner) and the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY (Project Applicant), jointly referred to as the “Parties,” as follows:

RECITALS

A. The Bank Owner has developed the River Ranch VELB Conservation Bank located in Yolo County, California; and

B. The Bank was approved by the United States Fish and Wildlife Service (Service) on June 9, 2005, and is currently in good standing with this agency; and

C. The Bank Owner has received approval from the Service to offer Valley Elderberry Longhorn Beetle conservation credits (Conservation Credits) for sale as compensation for the loss of the federally listed Valley Elderberry Longhorn Beetle’s habitat as specified in the Conservation Bank Agreement through the River Ranch VELB Conservation Bank Agreement (Bank Agreement); and

D. Project Applicant is seeking to implement the project described on Exhibit “A” attached hereto (Project), which would unavoidably and adversely impact listed Valley Elderberry Longhorn Beetle habitat, seeks to compensate for the loss of Valley Elderberry Longhorn Beetle habitat by purchasing Conservation Credits from Bank Owner; and

E. Project Applicant has been authorized by the Service, Service File No. 1-1-05-F-0106 dated August 10, 2005 and amendment File No. 1-1-07-F-0331 dated September 27, 2007, to purchase from the Bank Owner 9 Valley Elderberry Longhorn Beetle credits upon confirmation by the Bank Owner of credit availability/adequate balance of credits remaining for sale; and

F. Project Applicant desires to purchase from Bank Owner and Bank Owner desires to sell to Project Applicant 9 Valley Elderberry Longhorn Beetle credits.

NOW, THEREFORE, THE PARTIES AGREE AS follows:

1. Bank Owner hereby sells to Project Applicant and Project Applicant hereby purchases from Bank Owner 9 Valley Elderberry Longhorn Beetle credits for the purchase price of $31,500.00. The Bank Owner will then deliver to Project Applicant an executed Bill of Sale in the manner and form as attached hereto and marked Exhibit “B”. The purchase price for said credits shall be paid by wire transfer of funds according to written instructions by Bank Owner to Project Applicant, or, at the option of Bank Owner, by cashier’s check payable to Sacramento River Ranch, LLC.

2. The sale and transfer herein is not intended as a sale or transfer to Project Applicant of a security, license, lease, easement, or possessory or non-possessor interest in real property, nor the granting of any interest of the foregoing.

3. Project Applicant shall have no obligation whatsoever by reason of the purchase of the Conservation Credits, to support, pay for, monitor, report on, sustain, continue in perpetuity, or otherwise be obligated or liable for the success or continued expense or maintenance in perpetuity of the credits sold,
or the Bank. Pursuant to the Bank Agreement and any amendments thereto, Bank Owner shall monitor and make reports to the appropriate agency or agencies on the status of any Conservation Credits sold to Project Applicant. Bank Owner shall be fully and completely responsible for satisfying any and all conditions placed on the Bank or the Conservation Credits by all state or federal jurisdictional agencies.

4. The Conservation Credits sold and transferred to Project Applicant shall be non-transferable and non-assignable, and shall not be used as compensatory mitigation for any other Project or purpose, except as set forth herein.

5. Project Applicant must exercise his/her/its right to purchase the Conservation Credits within 30 days of the date of this Agreement. After the 30 day period this Agreement will be considered null and void.

6. Upon purchase of the credits specified in paragraph E above, the Bank Owner shall submit to the parties listed in the Notices section of the Bank Agreement copies of the: a) Agreement for Sale of Conservation Credits; b) Bill of Sale; c) Payment Receipt; and d) an updated inventory ledger. The updated inventory ledger must detail: i) Project Applicant; ii) Project Name; iii) Status (sale complete/sale not complete); iv) Credit Sale Date; v) Service File Number; vi) U.S. Army Corps of Engineers File Number (if applicable); vii) Total Number of Credits Authorized to Sell; viii) Total Number of Credits Sold to Date (inclusive); and ix) Balance of all Credits Available. The inventory ledger should include all sales data from Bank opening/establishment to the present.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

BANK:

River Ranch VELB Conservation Bank
SACRAMENTO RIVER RANCH, LLC

By: ___________________________ Date: ___________________________
Name: _________________________
Its: ____________________________

PROJECT APPLICANT:

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

By: ___________________________ Date: ___________________________
Name: _________________________
Its: ____________________________

Approved as to form by:

Andrea P. Buck for Scott Shapiro
General Counsel, TRLIA
This Agreement fulfills the compensation requirement of 0.37 acre of credits (9 credits) for direct effects to a single elderberry shrub with 3 stems between 1-inch and 3-inches damaged by construction equipment, as specified under Service Biological Opinion amendment File No. 1-1-07-F-0331 dated September 27, 2007 (original Biological Opinion File No. 1-1-05-F-0106 dated August 10, 2005).
Exhibit "A"

DESCRIPTION OF PROJECT TO BE MITIGATED

The Feather River, Bear River, and Western Pacific Interceptor Canal Levee Improvements Project is a multi-phased enhancement of flood protection capabilities located within the Three Rivers Levee Improvement Authorities' service area, in Yuba County.

*****
BILL OF SALE

Contract # RRVCB-08-

Service File # 1-1-1-05-F-0106, 1-1-07-F-0331

In consideration of $31,500.00, receipt of which is hereby acknowledged, SACRAMENTO RIVER RANCH, LLC (Bank Owner) does hereby bargain, sell and transfer to the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, 9 credits in the River Ranch VELB Conservation Bank in Yolo County, California, developed, and approved by the U. S. Fish and Wildlife Service.

Bank Owner represents and warrants that it has good title to the credits, has good right to sell the same, and that they are free and clear of all claims, liens, or encumbrances.

Bank Owner covenants and agrees with the buyer to warrant and defend the sale of the credits hereinbefore described against all and every person and persons whomsoever lawfully claiming or to claim the same.

DATED: ________________________________

River Ranch VELB Conservation Bank
SACRAMENTO RIVER RANCH, LLC

By: ________________________________
Name: ________________________________
Its: ________________________________
PARTICIPANT INFORMATION
Name: THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
Address: 915 8\textsuperscript{th} Street, Suite 125
Marysville, CA 95901
Telephone: 916-325-4800
Contact: Anja Kelsey, EIP Associates/PBS&J

PROJECT INFORMATION
Project Description: Three Rivers Levee Improvement Project
Service File Number: 1-1-05-F-0106, 1-1-07-F-0331
Species/Habitat Affected: 1 elderberry shrub
Credits to he Purchased: 9
Payment Amount: $31,500.00

PAYMENT INFORMATION
Payee: SACRAMENTO RIVER RANCH, LLC
Payer: THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
Amount: $31,500.00
Method of payment: Cash [ ] Check No. ______ Money Order No. ______
Received by: _______________________________ Date: __________________
(Signature)
Name: _______________________________ Title: _______________________________
AGREEMENT FOR SALE OF CONSERVATION CREDITS
RIVER RANCH VELB CONSERVATION BANK
SERVICE File No. 1-1-05-F-0106 and 1-1-07-F-0331

This Agreement is entered into this _____ day of __________, 2008, by and between SACRAMENTO RIVER RANCH, LLC (Bank Owner) and the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY (Project Applicant), jointly referred to as the “Parties,” as follows:

RECITALS

A. The Bank Owner has developed the River Ranch VELB Conservation Bank located in Yolo County, California; and

B. The Bank was approved by the United States Fish and Wildlife Service (Service) on June 9, 2005, and is currently in good standing with this agency; and

C. The Bank Owner has received approval from the Service to offer Valley Elderberry Longhorn Beetle conservation credits (Conservation Credits) for sale as compensation for the loss of the federally listed Valley Elderberry Longhorn Beetle’s habitat as specified in the Conservation Bank Agreement through the River Ranch VELB Conservation Bank Agreement (Bank Agreement); and

D. Project Applicant is seeking to implement the project described on Exhibit “A” attached hereto (Project), which would unavoidably and adversely impact listed Valley Elderberry Longhorn Beetle habitat, and seeks to compensate for the loss of Valley Elderberry Longhorn Beetle habitat by purchasing Conservation Credits from Bank Owner; and

E. Project Applicant has been authorized by the Service, Service File No. 1-1-05-F-0106 dated August 10, 2005 and amendment File No. 1-1-07-F-0331 dated September 27, 2007, to purchase from the Bank Owner 9 Valley Elderberry Longhorn Beetle credits upon confirmation by the Bank Owner of credit availability/adequate balance of credits remaining for sale; and

F. Project Applicant desires to purchase from Bank Owner and Bank Owner desires to sell to Project Applicant 9 Valley Elderberry Longhorn Beetle credits.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Bank Owner hereby sells to Project Applicant and Project Applicant hereby purchases from Bank Owner 9 Valley Elderberry Longhorn Beetle credits for the purchase price of $31,500.00. The Bank Owner will then deliver to Project Applicant an executed Bill of Sale in the manner and form as attached hereto and marked Exhibit “B”. The purchase price for said credits shall be paid by wire transfer of funds according to written instructions by Bank Owner to Project Applicant, or, at the option of Bank Owner, by cashier’s check payable to Sacramento River Ranch, LLC.

2. The sale and transfer herein is not intended as a sale or transfer to Project Applicant of a security, license, lease, easement, or possessory or non-possessory interest in real property, nor the granting of any interest of the foregoing.

3. Project Applicant shall have no obligation whatsoever by reason of the purchase of the Conservation Credits, to support, pay for, monitor, report on, sustain, continue in perpetuity, or otherwise be obligated or liable for the success or continued expense or maintenance in perpetuity of the credits sold,
or the Bank. Pursuant to the Bank Agreement and any amendments thereto, Bank Owner shall monitor and make reports to the appropriate agency or agencies on the status of any Conservation Credits sold to Project Applicant. Bank Owner shall be fully and completely responsible for satisfying any and all conditions placed on the Bank or the Conservation Credits by all state or federal jurisdictional agencies.

4. The Conservation Credits sold and transferred to Project Applicant shall be non-transferable and non-assignable, and shall not be used as compensatory mitigation for any other Project or purpose, except as set forth herein.

5. Project Applicant must exercise his/her/its right to purchase the Conservation Credits within 30 days of the date of this Agreement. After the 30 day period this Agreement will be considered null and void.

6. Upon purchase of the credits specified in paragraph E above, the Bank Owner shall submit to the parties listed in the Notices section of the Bank Agreement copies of the: a) Agreement for Sale of Conservation Credits; b) Bill of Sale; c) Payment Receipt; and d) an updated inventory ledger. The updated inventory ledger must detail: i) Project Applicant; ii) Project Name; iii) Status (sale complete/sale not complete); iv) Credit Sale Date; v) Service File Number; vi) U.S. Army Corps of Engineers File Number (if applicable); vii) Total Number of Credits Authorized to Sell; viii) Total Number of Credits Sold to Date (inclusive); and ix) Balance of all Credits Available. The inventory ledger should include all sales data from Bank opening/establishment to the present.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

BANK:
River Ranch VELB Conservation Bank
SACRAMENTO RIVER RANCH, LLC

By: ___________________________ Date: ____________
Name: _______________________
 Its: VP

PROJECT APPLICANT:

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

By: ___________________________ Date: ____________
Name: _______________________
 Its: _______________________

Approved as to form by:
Andrea P. Clark for Scott Smolin
General Counsel, TRUA
This Agreement fulfills the compensation requirement of 0.37 acre of credits (9 credits) for direct effects to a single elderberry shrub with 3 stems between 1-inch and 3-inches damaged by construction equipment, as specified under Service Biological Opinion amendment File No. 1-1-07-F-0331 dated September 27, 2007 (original Biological Opinion File No. 1-1-05-F-0106 dated August 10, 2005).
EXHIBIT “A”

DESCRIPTION OF PROJECT
TO BE
MITIGATED

The Feather River, Bear River, and Western Pacific Interceptor Canal Levee Improvements Project is a multi-phased enhancement of flood protection capabilities located within the Three Rivers Levee Improvement Authorities' service area, in Yuba County.
Exhibit “B”

BILL OF SALE

Contract # RRVCB-08-

Service File # 1-1-05-F-0106, 1-1-07-F-0331

In consideration of $31,500.00, receipt of which is hereby acknowledged, SACRAMENTO RIVER RANCH, LLC (Bank Owner) does hereby bargain, sell and transfer to the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, 9 credits in the River Ranch VELB Conservation Bank in Yolo County, California, developed, and approved by the U. S. Fish and Wildlife Service.

Bank Owner represents and warrants that it has good title to the credits, has good right to sell the same, and that they are free and clear of all claims, liens, or encumbrances.

Bank Owner covenants and agrees with the buyer to warrant and defend the sale of the credits hereinbefore described against all and every person and persons whomsoever lawfully claiming or to claim the same.

DATED: ________________________________

River Ranch VELB Conservation Bank
SACRAMENTO RIVER RANCH, LLC

By: ______________________________________
Name: 
Its:
Exhibit “C”

RIVER RANCH VELB CONSERVATION BANK
VALLEY ELDERBERRY LONGHORN BEETLE CREDITS: PAYMENT RECEIPT

PARTICIPANT INFORMATION

Name: THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
Address: 915 8th Street, Suite 125
Marysville, CA 95901
Telephone: 916-325-4800
Contact: Anja Kelsey, EIP Associates/PBS&J

PROJECT INFORMATION

Project Description: Three Rivers Levee Improvement Project
Service File Number: 1-1-05-F-0106, 1-1-07-F-0331
Species/Habitat Affected: 1 elderberry shrub
Credits to be Purchased: 9
Payment Amount: $31,500.00
Project Location:
County/Address: Yuba

PAYMENT INFORMATION

Payee: SACRAMENTO RIVER RANCH, LLC
Payer: THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
Amount: $31,500.00
Method of payment: Cash □ Check No. _____ Money Order No. _____
Received by: __________________________________________ Date: __________________
(Signature)
Name: __________________________________________ Title: ____________________
July 15, 2008

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director
       Anja Kelsey, Environmental Manager

SUBJECT: Mitigation Purchase Agreement between Wildland’s Inc. and TRLIA for Vernal Pool Crustaceans (VPC) Preservation at the Daley Ranch Preserve

**Recommended Action:** Approve contract with Wildland’s Inc., in the amount of $121,500 for the purchase of an additional 0.81 acres of VPC preservation credits at Daley Ranch Preserve and authorize the Executive Director to sign and then execute contract.

**Background:**

The U.S. Fish and Wildlife Service (Service) in its Biological Opinion for the Bear River Setback and WPIC construction modifications required the purchase of the equivalent of 27.42 preservation acres and 9.14 creation acres of VPC habitat. Under U.S. Fish and Wildlife Service habitat conservation banking protocols for species survival, project proponents are required to provide mitigation credits for actions affecting VPC in two forms, preservation credits and creation credits. Preservation credits are land areas that are naturally abundant with native vernal pool habitat which the mitigation provider sets aside in perpetuity for non-development. Creation credits are land areas that must be developed into viable vernal pool habitat.

TRLIA has previously contracted (August 28, 2007 and June 17, 2008) with Wildland’s Inc to purchase VPC creation credits at the Best Slough Preserve. In a separate contract action on September 15, 2005 with Wildland’s Inc. TRLIA purchased VPC preservation credits at the Daley Ranch Bank. TRLIA cannot use the existing Daley Ranch contract due to the finalization of a conservation easement for the property, as required by the Service’s regulations for VPC preservation habitat. Therefore, a new contract is necessary.

**Discussion:**

This new contract with Daley Ranch is needed to address additional Service requirements, which were disseminated in a modification to the original Biological Opinion. These additional requirements are a result of TRLIA’s inability to gain access to a property containing vernal pools in order to reconstruct them after construction. Therefore, a direct habitat take was incurred and additional mitigation was required, raising the original amount of preservation acres by 0.81.

**Fiscal Impact:** The additional 0.81 acres costs $121,500.00. This expense will be paid from interest that has accrued in the environmental escrow account established in 2005.
AGREEMENT FOR SALE OF CONSERVATION CREDITS
DALEY RANCH VERNAL POOL CONSERVATION BANK
USFWS File No. 1-1-05-F-0106 and 1-1-07-F-0331

This Agreement is entered into this ______ day of __________, 2008, by and between WILDLANDS, INC. (Bank Manager/Operator) and the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY (Project Applicant), jointly referred to as the “Parties,” as follows:

RECIPIENT

A. The Bank Manager/Operator has developed the Daley Ranch Vernal Pool Conservation Bank located in Butte County, California; and

B. The Bank was approved by the United States Fish and Wildlife Service (USFWS) on January 19, 2007 and is currently in good standing with this agency; and

C. The Bank Manager/Operator has received approval from the USFWS to offer vernal pool preservation credits for sale as specified in the Conservation Bank Agreement through the Daley Ranch Vernal Pool Conservation Bank Agreement (Bank Agreement); and

D. Project Applicant is seeking to implement the project described on Exhibit “A” attached hereto (Project), which would unavoidably and adversely impact habitat thereon, and seeks to compensate for the loss of habitat by purchasing credits from Bank; and

E. Project Applicant has been authorized by the USFWS, File No. 1-1-05-F-0106 dated August 10, 2005 and amendment File No. 1-1-07-F-0331 dated September 27, 2007, to purchase from the Bank Manager/Operator an additional 0.81 vernal pool preservation credits upon confirmation by the Bank Manager/Operator of credit availability/adequate balance of credits remaining for sale; and

F. Project Applicant desires to purchase from Bank Manager/Operator and Bank Manager/Operator desires to sell to Project Applicant 0.81 vernal pool preservation credits.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Bank Manager/Operator hereby sells to Project Applicant and Project Applicant hereby purchases from Bank Manager/Operator 0.81 vernal pool preservation credits for the purchase price of $121,500.00. The Bank Manager/Operator will then deliver to Project Applicant an executed Bill of Sale in the manner and form as attached hereto and marked Exhibit “B”. The purchase price for said credits shall be paid by wire transfer of funds according to written instructions by Bank Manager/Operator to Project Applicant, or at the option of Bank Manager/Operator, by cashier’s check payable to Wildlands, Inc.
2. The sale and transfer herein is not intended as a sale or transfer to Project Applicant of a security, license, lease, easement, or possessory or non-possessory interest in real property, nor the granting of any interest of the foregoing.

3. Project Applicant shall have no obligation whatsoever by reason of the purchase of the preservation credits, to support, pay for, monitor, report on, sustain, continue in perpetuity, or otherwise be obligated or liable for the success or continued expense or maintenance in perpetuity of the credits sold, or the Bank. Pursuant to the Bank Agreement and any amendments thereto, Bank Manager/Operator shall monitor and make reports to the appropriate agency or agencies on the status of any preservation credits sold to Project Applicant. Bank Manager/Operator shall be fully and completely responsible for satisfying any and all conditions placed on the Bank or the preservation credits by all state or federal jurisdictional agencies.

4. The preservation credits sold and transferred to Project Applicant shall be non-transferable and non-assignable, and shall not be used as compensatory mitigation for any other Project or purpose, except as set forth herein.

5. Project Applicant must exercise his/her/its right to purchase the preservation credits within 30 days of the date of this Agreement. After the 30-day period this Agreement will be considered null and void.

6. Upon purchase of the credits specified in paragraph E above, the Bank Manager/Operator shall submit to the parties listed in the Notices section of the Bank Agreement, copies of the: a) Agreement for Sale of Conservation Credits; b) Bill of Sale; c) Payment Receipt; and d) an updated inventory ledger. The updated inventory ledger must detail: i) Project Applicant; ii) Project Name; iii) Status (sale complete/sale not complete); iv) Credit Sale Date; v) Service File Number; vi) U.S. Army Corps of Engineers File Number (if applicable); vii) Total Number of Credits Authorized to Sell; viii) Total Number of Credits Sold to Date (inclusive); and ix) Balance of all Credits Available. The inventory ledger should include all sales data from bank opening/establishment to the present.
IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

BANK:

WILDLANDS, INC., a Delaware corporation

By: ___________________________ Date: 6-4-2008

(Signature)

Name: Mark Heintz Title: V.P. – General Counsel

PROJECT APPLICANT:

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

By: ___________________________ Date: _______________________

(Signature)

Name: ___________________________ Title: _______________________

(Printed Name)

APPROVED

USFWS:

Approved as to form by:

Andrea P. Clark for Scott Shapiro

General Counsel, TRUA

This Agreement fulfills the compensation requirement for direct and indirect effects to the habitat of listed vernal pool branchiopods as specified under USFWS File No. 1-1-05-F-0106 dated August 10, 2005 and by amendment File No. 1-1-07-F-0331 dated September 27, 2007.

UNITED STATES DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE

By: ___________________________ Date: _______________________

(Signature)

Name: ___________________________ Title: _______________________

3
EXHIBIT "A"

DESCRIPTION OF PROJECT TO BE MITIGATED

The Feather River, Bear River, and Western Pacific Interceptor Canal Levee Improvements Project is a multi-phased enhancement of flood protection capabilities located within the Three Rivers Levee Improvement Authorities' service area, in Yuba County.
EXHIBIT “B”

BILL OF SALE

Contract # DVPCB-08-

Service File # 1-1-05-F-0106, 1-1-07-F-0331

In consideration of $121,500.00, receipt of which is hereby acknowledged, Wildlands, Inc. (Bank Manager/Operator) does hereby bargain, sell and transfer to the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, 0.81 vernal pool preservation credits in the Daley Ranch Vernal Pool Conservation Bank in Butte County, California, developed and approved by the U.S. Fish and Wildlife Service.

Bank Manager/Operator represents and warrants that it has good title to the credits, has good right to sell the same, and that they are free and clear of all claims, liens, or encumbrances.

Bank Manager/Operator covenants and agrees with the buyer to warrant and defend the sale of the credits hereinbefore described against all and every person and persons whomsoever lawfully claiming or to claim the same.

WILDLANDS, INC., a Delaware Corporation

By: _______________________________ Date: _______________________________

(Signature)

(Printed Name)

(Title)
EXHIBIT “C”

DALEY RANCH VERNAL POOL CONSERVATION BANK
VERNAL POOL CREDITS: PAYMENT RECEIPT

PARTICIPANT INFORMATION

Name: THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
Address: 114 Yuba Street, Suite 218
Marysville, CA 95901
Telephone: 916-325-4800
Contact: Anja Kelsey, EIP Associates/PBS&J

PROJECT INFORMATION

Project Description: Three Rivers Levee Improvement Project
Service File Number: 1-1-05-F-0106, 1-1-07-F-0331
Species/Habitat Affected: Vernal Pool Crustacean
Credits to be Purchased: 0.81
Payment Amount: $121,500.00
Project Location:
County/Address: Yuba

PAYMENT INFORMATION

Payee: WILDLANDS, INC.
Payer: THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
Amount: $121,500.00
Method of payment: Cash [ ] Check No. _____ Wire Transfer [ ]

Received by: _____________________________ Date: ________________
(Signature)
Name: ________________________________ Title: ____________________
AGREEMENT FOR SALE OF CONSERVATION CREDITS
DALEY RANCH VERNAL POOL CONSERVATION BANK
USFWS File No. 1-1-05-F-0106 and 1-1-07-F-0331

This Agreement is entered into this __________ day of __________, 2008, by and between WILDLANDS, INC. (Bank Manager/Operator) and the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY (Project Applicant), jointly referred to as the “Parties,” as follows:

RECITALS

A. The Bank Manager/Operator has developed the Daley Ranch Vernal Pool Conservation Bank located in Butte County, California; and

B. The Bank was approved by the United States Fish and Wildlife Service (USFWS) on January 19, 2007 and is currently in good standing with this agency; and

C. The Bank Manager/Operator has received approval from the USFWS to offer vernal pool preservation credits for sale as specified in the Conservation Bank Agreement through the Daley Ranch Vernal Pool Conservation Bank Agreement (Bank Agreement); and

D. Project Applicant is seeking to implement the project described on Exhibit “A” attached hereto (Project), which would unavoidably and adversely impact habitat thereon, and seeks to compensate for the loss of habitat by purchasing credits from Bank; and

E. Project Applicant has been authorized by the USFWS, File No. 1-1-05-F-0106 dated August 10, 2005 and amendment File No. 1-1-07-F-0331 dated September 27, 2007, to purchase from the Bank Manager/Operator an additional 0.81 vernal pool preservation credits upon confirmation by the Bank Manager/Operator of credit availability/adequate balance of credits remaining for sale; and

F. Project Applicant desires to purchase from Bank Manager/Operator and Bank Manager/Operator desires to sell to Project Applicant 0.81 vernal pool preservation credits.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Bank Manager/Operator hereby sells to Project Applicant and Project Applicant hereby purchases from Bank Manager/Operator 0.81 vernal pool preservation credits for the purchase price of $121,500.00. The Bank Manager/Operator will then deliver to Project Applicant an executed Bill of Sale in the manner and form as attached hereto and marked Exhibit “B”. The purchase price for said credits shall be paid by wire transfer of funds according to written instructions by Bank Manager/Operator to Project Applicant, or at the option of Bank Manager/Operator, by cashier’s check payable to Wildlands, Inc.
2. The sale and transfer herein is not intended as a sale or transfer to Project Applicant of a security, license, lease, easement, or possessory or non-possessory interest in real property, nor the granting of any interest of the foregoing.

3. Project Applicant shall have no obligation whatsoever by reason of the purchase of the preservation credits, to support, pay for, monitor, report on, sustain, continue in perpetuity, or otherwise be obligated or liable for the success or continued expense or maintenance in perpetuity of the credits sold, or the Bank. Pursuant to the Bank Agreement and any amendments thereto, Bank Manager/Operator shall monitor and make reports to the appropriate agency or agencies on the status of any preservation credits sold to Project Applicant. Bank Manager/Operator shall be fully and completely responsible for satisfying any and all conditions placed on the Bank or the preservation credits by all state or federal jurisdictional agencies.

4. The preservation credits sold and transferred to Project Applicant shall be non-transferable and non-assignable, and shall not be used as compensatory mitigation for any other Project or purpose, except as set forth herein.

5. Project Applicant must exercise his/her/its right to purchase the preservation credits within 30 days of the date of this Agreement. After the 30-day period this Agreement will be considered null and void.

6. Upon purchase of the credits specified in paragraph E above, the Bank Manager/Operator shall submit to the parties listed in the Notices section of the Bank Agreement, copies of the: a) Agreement for Sale of Conservation Credits; b) Bill of Sale; c) Payment Receipt; and d) an updated inventory ledger. The updated inventory ledger must detail: i) Project Applicant; ii) Project Name; iii) Status (sale complete/sale not complete); iv) Credit Sale Date; v) Service File Number; vi) U.S. Army Corps of Engineers File Number (if applicable); vii) Total Number of Credits Authorized to Sell; viii) Total Number of Credits Sold to Date (inclusive); and ix) Balance of all Credits Available. The inventory ledger should include all sales data from bank opening/establishment to the present.
IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

BANK:

WILDLANDS, INC., a Delaware corporation

By: [Signature] Date: 6/1/2007

Name: Mark Heintz Title: V.P. – General Counsel

PROJECT APPLICANT:

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

By: [Signature] Date: 

Name: [Printed Name] Title: 

APPROVED

USFWS: [Signature]

Approved as to form by
Andrew P. Cicha for Scott Shapiro
Scott Shapiro, General Counsel, TEFLA

This Agreement fulfills the compensation requirement for direct and indirect effects to the habitat of listed vernal pool brachiopods as specified under USFWS File No. 1-1-05-F-0106 dated August 10, 2005 and by amendment File No. 1-1-07-F-0331 dated September 27, 2007.

UNITED STATES DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE

By: [Signature] Date: 

Name: [Printed Name] Title: 

[Handwritten Signature]
EXHIBIT "A"

DESCRIPTION OF PROJECT
TO BE
MITIGATED

The Feather River, Bear River, and Western Pacific Interceptor Canal Levee Improvements Project is a multi-phased enhancement of flood protection capabilities located within the Three Rivers Levee Improvement Authorities' service area, in Yuba County.

*****
EXHIBIT “B”

BILL OF SALE

Contract # DVPCB-08-

Service File # 1-1-05-F-0106, 1-1-07-F-0331

In consideration of $121,500.00, receipt of which is hereby acknowledged, Wildlands, Inc. (Bank Manager/Operator) does hereby bargain, sell and transfer to the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, 0.81 vernal pool preservation credits in the Daley Ranch Vernal Pool Conservation Bank in Butte County, California, developed and approved by the U.S. Fish and Wildlife Service.

Bank Manager/Operator represents and warrants that it has good title to the credits, has good right to sell the same, and that they are free and clear of all claims, liens, or encumbrances.

Bank Manager/Operator covenants and agrees with the buyer to warrant and defend the sale of the credits hereinbefore described against all and every person and persons whomsoever lawfully claiming or to claim the same.

WILDLANDS, INC., a Delaware Corporation

By: _______________________________ Date: _______________________________

(Signature)

______________________________
(Printed Name)

______________________________
(Title)
EXHIBIT “C”

DALEY RANCH VERNAL POOL CONSERVATION BANK
VERNAL POOL CREDITS: PAYMENT RECEIPT

PARTICIPANT INFORMATION

Name: THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
Address: 114 Yuba Street, Suite 218
         Marysville, CA 95901
Telephone: 916-325-4800
Contact: Anja Kelsey, EIP Associates/PBS&J

PROJECT INFORMATION

Project Description: Three Rivers Levee Improvement Project
Service File Number: 1-1-05-F-0106, 1-1-07-F-0331
Species/Habitat Affected: Vernal Pool Crustacean
Credits to be Purchased: 0.81
Payment Amount: $121,500.00
Project Location:
County/Address: Yuba

PAYMENT INFORMATION

Payee: WILDLANDS, INC.
Payee: THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
Amount: $121,500.00
Method of payment: Cash □   Check No. ___   Wire Transfer ___

Received by: ___________________________   Date: ________________
(Signature)

Name: ___________________________   Title: ___________________________
July 15, 2008

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director
        Anja Kelsey, Environmental Manager
SUBJECT: FRLRP National Historic Preservation Act (NHPA), Section 106 Memorandum of Agreement between the U.S. Army Corps of Engineers, TRLIA, and the California State Historic Preservation Officer

Recommended Action: Approve a Memorandum of Agreement (MOA) between the U.S. Army Corps of Engineers (Corps), TRLIA, and the California State Historic Preservation Office (SHPO) to address effects from the Feather River Levee Repair Project, Segment 2 construction activity to CA-YUB-5, a prehistoric archaeological site and authorize Executive Director to sign and execute once General Counsel has reviewed and approved.

Background: As part of the TRLIA’s 404 permit application under the Clean Water Act, there is a requirement for consultation under Section 106 of the National Historic Preservation Act for the project proponent to address cultural resources. Within the project area, a prehistoric site to the west of Feather River Boulevard, north of Country Club Avenue, known as CA-YUB-5 was known to exist and currently lies within the affected inundation area of the new setback levee. After research by TRLIA’s consultants, it was confirmed that this site was eligible for inclusion in the National Register of Historic Places and therefore an MOA for its preservation between all affected parties was allowable and warranted. Based on collection findings and geographic locality, the Corp of Engineers as lead Agency determined that Enterprise Rancheria (Enterprise) was the best federally recognized tribal entity considered to have the greatest cultural interest in the site and was invited for consultation and to be a concurring party to this MOA.

Discussion: The Corp of Engineers has completed the consultation process and prepared the attached MOA for signature. The American Council on Historic Preservation (ACHP) has declined to participate in the Section 106/MOA process for Segment 2 (see attached letter). The Corps indicated that they would like TRLIA to sign first. The Corp will obtain the remaining signatures. This MOA is the result of several rounds of all parties negotiating requirements.

As a result of this MOA, TRLIA will develop a Historic Property Treatment Plan (HPTP) in consultation with the SHPO, Corps, and Enterprise, to conduct additional investigations at the site and on the artifacts previously recovered. The goals of this HPTP are as follows:

1) Determine the Area of Potential Effect (APE);
2) Plan for data recovery of existing collections;
3) Plan for data recovery, and;
4) Protective measures for the site, which could include erosion control and vegetation.

The HPTP is designed to be flexible for the parties involved and is able to be amended warranting project conditions.
The MOA is a useful tool for TRLIA and other concerned agencies. Construction on Segment 2 is allowed to proceed provided that an archaeological monitor is present and a Native American monitor is present when construction activities near the site.

**Fiscal Impact:** The estimated cost of these requirements placed on TRLIA with this MOA are estimated to be $250,000.00. These requirements are part of the Prop 1E DWR/TRLIA Feather River project.
MEMORANDUM OF AGREEMENT
AMONG
THE U.S. ARMY CORPS OF ENGINEERS,
THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, AND
THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER
REGARDING SEGMENT 2 OF THE FEATHER RIVER LEVEE REPAIR PROJECT
YUBA COUNTY, CALIFORNIA

WHEREAS, the Applicant, the Three Rivers Levee Improvement Authority (TRl IA), proposes to construct the Feather River Levee Repair Project, Segment 2 (project), consisting of a setback levee along Segment 2 of the east bank of the Feather River and removal of portions of the existing levee in Segment 2 to improve flood control; and

WHEREAS, the construction of the setback levee and associated project work requires permits from the U. S. Army Corps of Engineers (Corps) to discharge fill into waters of the United States under the authority of Section 404 of the Clean Water Act and permission to alter a federal flood control structure (33 U.S. Code Section 408), and these permits are an undertaking within the meaning of Section 106 of the National Historic Preservation Act (NHPA), as defined at 36 CFR Section 800.16(y), and thus require satisfaction of Section 106; and

WHEREAS, the Corps finds that implementation of this undertaking will adversely affect the prehistoric archaeological site, CA-YUB-5, which the Corps has determined to be eligible for inclusion in the National Register of Historic Places (NRHP) under criterion D; and

WHEREAS, the Corps has consulted with the California State Historic Preservation Officer (SHPO) pursuant to the Part 800 regulation regarding the adverse effects of the undertaking on historic properties, and has notified the Advisory Council on Historic Preservation (Council) of the adverse effect finding pursuant to 36 CFR Section 800.6(a)(1); and

WHEREAS, the Corps has consulted with the Enterprise Rancheria (Enterprise) and has invited Enterprise to be a concurring party to this Memorandum of Agreement (MOA); and

WHEREAS, TRl IA participated in the consultation for the undertaking and has been made a signatory per 36 CFR Section 800.6(c) (iii) as a party that assumes responsibilities under this document; and

WHEREAS, this agreement addresses all phases of the project; and

WHEREAS, the definitions set forth in 36 CFR Section 800.16 are incorporated herein by reference and apply throughout this MOA;

NOW, THEREFORE, the Corps, the SHPO, and TRl IA agree that the Corps shall ensure that the undertaking is implemented in accordance with the following stipulations in order to take into account its effects on historic properties and to satisfy the Corps' Section 106 responsibilities for all individual aspects of the undertaking.
The Corps shall ensure that the following stipulations are implemented:

**STIPULATIONS**

I. **AREA OF POTENTIAL EFFECTS AND HISTORIC PROPERTIES TREATMENT PLAN**

A. **Area of Potential Effects**
   The area of potential effects (APE) for the undertaking is depicted in Attachment A. The APE encompasses all work in Segment 2 required for the construction of the setback levee, the removal of the existing levee, the use and restoration of soil borrow sites, replacement of Pump Station No. 3, and all other work that could adversely affect historic properties.

B. **Revisions to the APE**
   Because of the complex nature of this undertaking, it is possible that the APE will change before all work is completed. If modifications to the undertaking, subsequent to the execution of this MOA, necessitate the revision of the APE, the Corps shall consult with the SHPO on the adequacy of the subject revisions. If the Corps and the SHPO cannot reach agreement on the adequacy of the revisions, then the Corps and the SHPO shall resolve the dispute in accordance with Stipulation VIII Section C, below. If the Corps and the SHPO reach mutual agreement on the adequacy of the proposed revisions, then the Corps shall submit a final map of the revisions to the SHPO no later than 30 days following such agreement. Identification of historic properties in the expanded APE will be conducted pursuant to this MOA and the Historic Properties Treatment Plan (HPTP) prepared to implement this MOA, unless the signatories fail to resolve the APE.

II. **STIPULATION OF ADVERSE EFFECT AND TREATMENT OF HISTORIC PROPERTIES**

A. **Stipulation of Adverse Effect on CA-YUB-5**
   The undertaking will increase the frequency of inundation at CA-YUB-5 relative to existing conditions. The signatories stipulate that the increased inundation has the potential to cause adverse effects to CA-YUB-5. Such effects may include expedited decay of organic matter in the site that offers useful data, and possible erosion of the surface of the site. In order to minimize the adverse effect of the project on the site, the Corps will ensure performance of Stipulation II B.

B. **Development of an Historic Properties Treatment Plan**
   TRLIA, in consultation with the SHPO, the Corps, and Enterprise, shall develop an HPTP to conduct investigations at CA-YUB-5 and on the collections previously recovered from CA-YUB-5. This HPTP will have four primary goals for investigation of CA-YUB-5:

1. **Refining The Nature of the Adverse Effect**
The recovery of geomorphological data is necessary to evaluate the frequency and duration of prehistoric inundation of CA-YUB-5. This information shall be used as a baseline to assist in determining the nature of the adverse effect of the undertaking.

2. Data Recovery from Existing Collections
The HPTP will provide for cataloging and documentation of the collection previously recovered from CA-YUB-5, including metric data, to increase the utility of the collection for modern research and to provide information about the contents of the collection to Enterprise.

3. Plan for Data Recovery
The HPTP will include a plan for archaeological investigations at CA-YUB-5 to recover data, as needed to offset the loss and degradation of data available in organic material that may be present in the site.

4. Protective Measures
In order to protect the site from erosion, TRLIA will work in consultation with the Corps, the SHPO, and Enterprise to identify and implement appropriate methods for stabilizing the terrace that CA-YUB-5 occupies as well as the site itself. These methods may include vegetation plantings and/or riprap along the toe of the terrace, placement of additional soil on the surface of CA-YUB-5, vegetation plantings on the surface of CA-YUB-5, or hardscape. Monitoring construction around CA-YUB-5 is discussed under Stipulation III, below.

C. Phased Identification and Evaluation within the APE:
The majority of the APE has been inventoried for historic properties, but sections of the APE remain that have not been surveyed due to rights of entry issues (Attachment A). TRLIA shall inventory the remaining APE and shall provide the Corps and SHPO with documentation that the efforts to identify and evaluate historic properties in the entire APE are sufficient to comply with 36 CFR Section 800.4(b) and (c). This phased identification and evaluation of resources is incorporated into this MOA because the size of the APE and the limitations on access to all the parcels in the APE requires phased identification pursuant to 36 CFR Section 800.4(h)(2). This phased identification shall be conducted pursuant to provisions of the HPTP.

1. Professional Qualification Standards
The Corps shall ensure that the individuals conducting the identification and evaluation of historic properties under the MOA meet the Secretary of the Department of the Interior’s Professional Qualification Standards (48 Federal Register 44738-39).

2. Documentation Standards
The Corps shall ensure that written documentation prepared for phased identification and evaluation shall conform to the Secretary of the Interior’s Guidelines for Archaeology and Historic Preservation (48 FR 44716-44740), as well as to applicable standards and guidelines established by the SHPO.

D. Other Purposes of the Historic Properties Treatment Plan
TRLIA, in consultation with the Corps, SHPO and Enterprise will prepare a HPTP. In addition to the investigation of CA-YUB-5, the HPTP shall provide for:
Further surveys to complete 100% survey coverage of the APE, and
Methods of evaluation and treatment of cultural resources identified in the APE.

1. Schedule for Preparation of the HPTP
TRLIA shall prepare an HPTP for the Corps to submit to SHPO via e-mail no later than 30 days following the execution of this MOA. The SHPO shall have 15 calendar days from the receipt of the draft HPTP to comment. Failure of the SHPO to respond within the 15-day time frame shall not preclude TRLIA and the Corps from finalizing the draft HPTP. Before finalizing the draft HPTP, the Corps will provide the SHPO with documentation indicating how comments will be addressed and incorporated into the final HPTP. Upon the receipt of comments or the expiration of the 15-day time frame, the Corps may finalize and ensure that the plan is implemented in a manner that includes the responses to SHPO comments.

2. Implementation
The Corps shall be responsible for ensuring that TRLIA implements the HPTP including compliance of TRLIA and its agents with the conditions and measures specified in the HPTP. The HPTP may also be prepared and reviewed concurrently with the development of this MOA. In its final form, the HPTP shall be appended to this MOA as Attachment B.

3. Amendment of the HPTP
Any signatory to this document may propose amendments to the HPTP. Such amendments become effective upon the written consensus of the signatories to this MOA but do not require amendment of the MOA itself. Disputes regarding amendments proposed hereunder shall be resolved pursuant to Stipulation VIII, Section C.

III. MONITORING OF CONSTRUCTION
TRLIA and the Corps shall ensure the following measures are implemented to minimize the impact of the undertaking on CA-YUB-5 and any previously unidentified historic properties that may occur in the APE.

A. Monitoring
TRLIA shall ensure that a professional archaeological monitor who is supervised by a person subject to the standards set forth in Stipulation II(C)(1) above, is present for all construction subject to monitoring as described in this stipulation, sections C and D. TRLIA may include a Native American monitor, as appropriate. Areas where Native American monitoring is recommended include locations sensitive for the discovery of prehistoric human remains and in the vicinity of recorded resources such as CA-Yub-5.

B. Monitor's Authorities
The archaeological monitor shall be given the authority to request that ground-disturbing activity is temporarily halted:

1. Where new cultural resources are found that may be historic properties, and
2. Where known historic properties become subject to unanticipated effects.

The archaeologist shall have the discretion to determine, in the field, whether TRLIA, inclusive of TRLIA's contractors and subcontractors, is complying with avoidance and monitoring conditions, whether new historic properties may have been found, and whether known historic properties have become subject to unanticipated effects. The archaeological monitor shall also have the authority to request that ground-disturbing activities are temporarily redirected away from any area where effects may occur on historic properties. The ultimate determination of where construction may occur, and where monitoring should take place, shall be made in consultation with TRLIA and the Corps, by an archaeologist who meets the Secretary of the Interior's professional qualification standards for archaeology.

C. Locations Subject to Monitoring
Older alluvial surfaces characterized by the Riverbank and Modesto Formations are present within the proposed setback levee right-of-way within one-quarter mile of CA-Yub-5, north of Star Bend and south of Ella Avenue. Where these surfaces are exposed in cut banks, they are overlain by up to 3 feet of sand and silt sediments deposited during seasonal flooding of the Feather River prior to construction of the existing levee. This depositional pattern may obscure archaeological deposits from identification during surface surveys. These areas provide conditions similar to those found at CA-YUB-5 in that they are located at the transition between stream channel deposits and the older formations, and have a high probability of containing sites of prehistoric occupation. Because of the potential for buried sites to be present within this portion of the APE, ground-disturbing activities associated with construction of the setback levee will be monitored by a professional archaeologist and a Native American monitor as appropriate.

D. Monitoring of Work in the Vicinity of CA-YUB-5
The archaeological and Native American monitors shall monitor ground disturbing activity that occurs in the vicinity of CA-YUB-5. Should the archaeological monitor identify cultural deposits outside of the previously identified boundaries of CA-YUB-5 where the artifact density (in number of artifacts or ecofacts/m³, or pieces/m³) reveals a portion of the site or other significant deposit, work shall be temporarily halted immediately in the vicinity of the discovery. TRLIA, in consultation with the Corps, shall determine whether the deposit has sufficient integrity to require further treatment or avoidance. If the deposit cannot be avoided and has the potential to contribute to the eligibility of CA-YUB-5, TRLIA, in consultation with the Corps, shall treat the deposit in accordance with Stipulation III, Section E below.

E. Discoveries
TRLIA, in consultation with the Corps, shall evaluate cultural resources identified as part of the phased identification process or during construction, and recommend a finding of effect (FOE) to the Corps for all eligible resources pursuant to the HPTP. If this evaluation identifies adverse effects on additional historic properties the Corps shall forward by e-mail the evaluation documents to SHPO, with recommendations for further treatment including all necessary mitigation measures. The SHPO shall respond within 15 calendar days. If the SHPO, the Corps, and TRLIA agree on treatment of identified historic properties, TRLIA, in consultation with the Corps, shall ensure execution of the specified measures, and incorporate these measures into the
HPTP that will be appended to this MOA. If the SHPO fails to respond within 15 calendar days, TRUA may proceed with the treatment identified in the FOE document. If the Corps and SHPO disagree, the dispute will be resolved pursuant to Stipulation VIII Section C.

F. Preparation of a Monitoring Plan
TRUA, in consultation with the Corps, shall prepare a brief monitoring and inadvertent discovery plan (monitoring plan) to completely articulate the purposes and functions of the monitoring program; the regulatory context for the program; the roles, authority, and responsibilities of the monitors, and the procedural protocols for monitor responsibilities, including the reporting structure of the monitors and their authority in the field. The plan will also provide procedures for cultural resources discovered during construction. The monitoring plan shall adhere to the broad outline of the monitoring program as set forth in this MOA. In its final form, the monitoring plan shall be incorporated into the HPTP.

1. Schedule for Preparation of the Monitoring Plan
TRUA shall prepare a draft monitoring plan for the Corps to submit to the SHPO no later than 30 days following the execution of this MOA. The SHPO shall have 15 calendar days from the receipt of the draft to comment. Failure of the SHPO to respond within the 15-day time frame shall not preclude TRUA and the Corps from finalizing the draft monitoring plan. Before finalizing the draft plan, the Corps will provide the SHPO with documentation indicating how comments will be addressed and incorporated into the final monitoring plan. Upon the receipt of comments or the expiration of the 15-day time frame, TRUA, in consultation with the Corps, may finalize and execute the plan, including responses to SHPO comments.

2. Amendments to the Monitoring Plan
Any signatory to this document may propose amendments to the monitoring plan. Such amendments become effective upon the written consensus of the signatories to this MOA but do not require amendment of the MOA itself. Disputes regarding amendments proposed hereunder shall be addressed pursuant to Stipulation VIII, Section C.

IV. REPORTING REQUIREMENTS

A. Monthly Reports
TRUA shall produce a monthly progress report on the results of the implementation of this MOA. A copy of each report shall be sent to each MOA party. The monthly progress reports may be brief and summary in nature, provided that they adequately inform the signatories of all the steps taken to manage known historic properties and any unanticipated finds.

B. Final Reporting Requirements
Within twelve months of the Corps and TRUA determining that all required fieldwork is complete, the Corps will ensure that TRUA has completed the preparation and concurrent distribution of draft technical reports for review and comment by the SHPO that document the results of implementing and completing the HPTP, including the monitoring plan. The SHPO will be afforded 30 calendar days following receipt of each draft technical report to submit written comments to the Corps. Failure of the SHPO to respond within this time frame shall not preclude TRUA, in consultation with the Corps, from revising and finalizing the technical
reports. The Corps will provide the SHPO with documentation indicating whether and how each
draft technical report will incorporate any of the comments received from the SHPO.

C. Report Distribution
Copies of the final technical reports documenting the results of the implementation of the
treatment and monitoring plans will be distributed by the Corps to the SHPO and to the North
Central Information Center of the California Historical Resources Information System.

The Corps shall maintain all records referenced in this Memorandum. Requests for copies of
these documents shall be directed to the District Engineer, Sacramento District, U. S. Army
Corps of Engineers.

V. NATIVE AMERICAN CONSULTATION

A. Enterprise Rancheria
The Corps has consulted with Enterprise regarding the undertaking and its effects on historic
properties, has invited Enterprise to concur in this MOA, will continue to consult with
Enterprise, and will give Enterprise the opportunity to voice concerns regarding implementation
of the MOA and the undertaking. The Corps will forward copies of all final reports prepared
pursuant to this MOA to Enterprise Rancheria, even if the tribe declines to sign as a consulting
party.

VI. TREATMENT OF HUMAN REMAINS

A. California Law
The MOA parties agree that human remains and associated grave goods discovered during the
implementation of the project will be treated in accordance with the requirements of Section
7050.5(b) of the California Health and Safety Code. If, pursuant to Section 7050.5(c) of the
Code, the county coroner or medical examiner determines that the human remains are or may be
of Native American origin, then the discovery shall be treated in accordance with the provisions
of Section 5097.98(a)-(d) of the California Public Resources Code.

VII. WHEN CONSTRUCTION MAY BEGIN

A. Commencement of Construction and Project Work
Project activities may commence within a particular portion of the APE after an inventory of
historic properties has been completed for that portion of the APE pursuant to the HPTP and
prior to treatment of adverse effects on historic properties within the APE provided that:

1. A monitoring and inadvertent discovery plan as part of the HPTP has been prepared by
   TRLIA and submitted to the Corps, as described in Stipulation III, Section F;

2. Project development activities in the vicinity of site CA-YUB-5 do not approach closer to the
   site than identified and allowed for in the HPTP.
3. Project development activities do not encroach within 30 meters (100 feet) of the known boundaries of any additional historic property that may be discovered as determined from archaeological site record forms, other documentation, or as otherwise defined in consultation with the SHPO; and

4. An archaeological monitor is present during any ground disturbing activities in areas identified as requiring monitoring in this MOA, the HPTP, and monitoring plan.

VIII. ADMINISTRATIVE STIPULATIONS

A. Standards

1. Professional Qualification Standards
   All activities prescribed by this MOA shall be carried out under the authority of the Corps by or under the direct supervision of a person meeting the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738-39) (PQS) in the appropriate disciplines. However, nothing in this stipulation may be interpreted to preclude the Corps or TRLIA or any agent or contractor from using properly supervised persons who do not meet the PQS.

2. Documentation Standards
   Technical survey and excavation reports prescribed under the HPTP of this MOA shall conform to the Secretary of the Interior’s Guidelines for Archaeology and Historic Preservation (48 FR 44716-44740), as well as to applicable standards and guidelines established by the SHPO.

3. Curation Standards
   The Corps shall ensure that the materials and records resulting from the historic preservation work prescribed by this MOA are curated at an appropriate facility and that TRLIA pays the cost of curation of all materials recovered. The Corps will also ensure that, to the extent permitted by applicable law and regulation, the views of Enterprise and Most Likely Descendant(s) are taken into consideration when decisions are made about the disposition of Native American archaeological materials. The stipulations for curation do not include human remains and associated grave goods that may be re-interred to comply with California Public Resources Code Section 5097.98 and 5097.99.

B. Confidentiality
   The MOA parties acknowledge that historic properties covered by this MOA are subject to the provisions of Section 304 of the NHPA and Section 6254.10 of the California Government Code (Public Records Act), relating to the disclosure of archaeological site information and, having so acknowledged, will ensure that all actions and documentation prescribed by this MOA are consistent with said sections. This provision does not bar the MOA parties from ongoing access to all documents, reports, maps, and archaeological and cultural data produced in the course of implementing this MOA. It is the intent of the MOA parties that such access shall survive the ultimate termination of this MOA.
C. Resolving Objections

1. Should any MOA party object to the manner in which the terms of this MOA are implemented, to any action carried out or proposed with respect to the implementation of the MOA, or to any documentation prepared in accordance with and subject to the terms of this MOA, the Corps shall immediately notify the SHPO of the objection and consult with the SHPO for no more than 15 days to resolve the objection. The Corps shall reasonably determine when this consultation will commence and may extend this consultation period. If the objection is resolved through such consultation, the action in dispute may proceed in accordance with the terms of that resolution. If, after initiating such consultation, the Corps determines that the objection cannot be resolved through consultation, then the Corps shall forward all documentation relevant to the objection to the Council, including the Corps' proposed response to the objection, with the expectation that the Council will, within thirty days after receipt of such documentation:

   a. Advise the Corps that the Council concurs in the Corps' proposed response to the objection, whereupon the Corps will respond to the objection accordingly. The objection shall thereby be resolved; or

   b. Provide the Corps with recommendations, which the Corps will take into account in reaching a final decision regarding its response to the objection. The objection shall thereby be resolved; or

   c. Notify the Corps that the objection will be referred for comment pursuant to 36 CFR Section 800.7(a)(4), and proceed to refer the objection and comment. The Corps shall take the resulting comments into account in accordance with 36 CFR Section 800.7(c)(4). The objection shall thereby be resolved.

2. Should the Council not exercise one of the following options within 30 days after receipt of all pertinent documentation, the Corps may assume the Council's concurrence in its proposed response to the objection. The objection shall thereby be resolved.

3. The Corps shall take into account any Council recommendation or comment provided per Stipulation VIII Section C, with reference only to the subject of the objection. The Corps' responsibility to carry out all actions under this MOA that are not the subject of the objection will remain unchanged.

4. At any time during implementation of the measures stipulated in this MOA, should an objection pertaining to such implementation be raised by a member of the public, the Corps shall notify the MOA parties in writing of the objection and take the objection into consideration. The Corps shall consult with the objecting party and, if the objecting party so requests, with the other MOA parties for no more than 15 days. Within 10 days following closure of this consultation period, the Corps will render a decision regarding the objection and notify all consulting parties of its decision in writing. The objection will thereby be resolved. In reaching its decision, the Corps will take into account any comments from the consulting parties regarding the objection.
including the objecting party. The Corps’ decision regarding the resolution of the objection will be final.

5. The Corps shall provide all MOA parties, and the Council, when the Council has issued comments hereunder, and any parties that have objected pursuant to Stipulation VIII Section C, with a copy of its final written decision regarding any objection addressed pursuant to this stipulation.

6. The Corps may authorize any action subject to objection under Section C of this stipulation to proceed after the objection has been resolved in accordance with the terms of this Section.

D. Amendments

1. Any MOA signatory may propose that this MOA be amended, whereupon the MOA signatories will consult for no more than 30 days to consider such amendment. The Corps may extend this consultation period. The amendment process shall comply with 36 CFR Part 800.6(c)(1) and 800.6(c)(7). This MOA may be amended only upon the written agreement of the signatory parties. If it is not amended, any signatory party, in accordance with Section E of this stipulation, may terminate this MOA.

2. Attachments to this MOA may be amended separately from this MOA, as described in Stipulation II, Section D(3), and Stipulation III, Section F(2).

E. Termination

1. If this MOA is not amended as provided for in Stipulation VIII Section D, or if any signatory party proposes termination of this MOA for other reasons, the signatory party proposing termination shall, in writing, notify the other MOA parties explaining the reasons for proposing termination, and consult with the other MOA parties for at least 30 days to seek alternatives to termination. Such consultation shall not be required if the Corps proposes termination because the undertaking no longer meets the definition set forth in 36 CFR Section 800.16(y).

2. Should such consultation result in an agreement on an alternative to termination, then the MOA parties shall proceed in accordance with the terms of that agreement.

3. Should such consultation fail, the signatory party proposing termination may terminate this MOA by promptly notifying the other MOA parties in writing. Termination hereunder shall render this MOA without further force and effect.

4. If this MOA is terminated hereunder, and if the Corps determines that the undertaking will nonetheless proceed, then the Corps shall either consult in accordance with 36 CFR Section 800.6 to develop a new MOA, or request the comments of the Council, pursuant to 36 CFR Part 800.

F. Duration of the MOA
1. Unless terminated pursuant to Stipulation VIII. Section E, or an amended MOA supersedes it, this MOA will be in effect following execution by the signatory parties until the Corps, in consultation with the other parties, determines that all of its stipulations have been satisfactorily fulfilled. This MOA will terminate and have no further force or effect on the day that the Corps notifies the other MOA parties in writing of their determination that all stipulations of this MOA have been satisfactorily fulfilled, following consultation with the other signatory parties.

2. If the undertaking has not been implemented within five (5) years following execution of this MOA by the signatory parties, this MOA shall automatically terminate and have no further force or effect. In such event, the Corps shall notify the other MOA parties in writing and, if it chooses to continue with the undertaking, shall reinitiate review of the undertaking in accordance with 36 CFR Part 800.

G. Effective Date

1. This MOA will take effect on the date that it has been executed by TRUA, the Corps and the SHPO.

2. Execution and implementation of this MOA, pursuant to 36 CFR Section 800.6, including its transmittal by the Corps to the Council in accordance with 36 CFR Section 800.6 (b)(1)(iv), shall evidence that the Corps has taken into account the effects of this undertaking on historic properties in order to resolve (avoid, minimize or mitigate) any adverse effects on historic properties. Execution also provides a record that the Corps has afforded the Council an opportunity to comment on the undertaking and its effect on historic properties.
SIGNATORIES

United States Army Corps of Engineers, Sacramento District

By ____________________________ Date ______________

Thomas C. Chapman, DE
COL, Sacramento District, U.S. Army Corps of Engineers

California State Historic Preservation Officer

By ____________________________ Date ______________

Milford Wayne Donaldson, FAIA
State Historic Preservation Officer

Three Rivers Levee Improvement Authority

By ____________________________ Date ______________

Paul Brunner
Executive Director, Three Rivers Levee Improvement Authority

CONCURRING PARTY

Enterprise Rancheria

By ____________________________ Date ______________

Attachments:
ATTACHMENT A (APE map)
ATTACHMENT B (Historic Property Treatment Plan)
ATTACHMENT C (ACHP Letter dated July 3, 2008)
ATTACHMENT A

APE map
ATTACHMENT B

Historic Property Treatment Plan (HPTP)

(Intentionally left blank)
July 3, 2008

Mr. Francis C. Piccola  
Chief, Planning Division  
Department of the Army  
U.S. Army Engineer District, Sacramento  
Corps of Engineers  
1325 J Street  
Sacramento, California 95814-2922

Ref: Proposed Feather River Levee Repair Project  
Yuba County, California

Dear Mr. Piccola:

On June 16, 2008 the Advisory Council on Historic Preservation (ACHP) received your notification regarding the adverse effects of the referenced undertaking. Based upon the information you provided, we have concluded that Appendix A, Criteria for Council Involvement in Reviewing Individual Section 106 Cases, of our regulations, “Protection of Historic Properties” (36 CFR Part 800), does not apply to this undertaking. Accordingly, we do not believe that our participation in the consultation to resolve adverse effects is needed. However, if we receive a request for participation from the State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer, affected Indian tribe, a consulting party, or other party, we may reconsider this decision. Additionally, should circumstances change, and you determine that our participation is needed to conclude the consultation process, please notify us.

Pursuant to 36 CFR §800.6(b)(1)(iv), you will need to file the final Memorandum of Agreement (MOA), developed in consultation with the California SHPO, Indian tribes, and other consulting parties, and related documentation at the conclusion of the consultation process. The filing of the MOA with the ACHP and fulfillment of its stipulations are required to complete your compliance responsibilities under Section 106 of the National Historic Preservation Act.

Thank you for providing us with your notification of adverse effect. If you have any questions or require further assistance, please contact Tom McCulloch at 202-606-8554 or tmcculloch@achp.gov.

Sincerely,

LaShavio Johnson  
Historic Preservation Technician  
Federal Permitting, Licensing and Assistance Section  
Office of Federal Agency Programs

ADVISORY COUNCIL ON HISTORIC PRESERVATION  
1100 Pennsylvania Avenue NW, Suite 803 • Washington, DC 20004  
Phone: 202-606-8503 • Fax: 202-606-8647 • aachp@achp.gov • www.achp.gov  
Attachment C
July 15, 2008

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director Scott Shapiro, General Counsel

SUBJECT: Letter of Support for HR 6285 (Amending A99 Authorizing Legislation)

Recommended Action: Approve attached draft letter providing support for a federal bill which reforms the A99 FEMA designation to allow locally-funded levee repairs to qualify and authorize TRUA Chair to sign.

Background: FEMA is authorized to provide the A99 flood designation for projects that meet stringent criteria demonstrating adequate progress toward 100 year flood protection under 33 U.S.C. section 4014(e) which provides in relevant part:

The Director shall find that adequate progress on the construction of a flood control system as required herein has been only if (1) 100 percent of the project cost has been authorized, (2) at least 60 percent of the project cost of the system has been appropriated, (3) at least 50 percent of the project cost of the system has been expended, and (4) the system is at least 50 percent completed.

If these and other criteria imposed by 44 C.F.R. section 61.12(a) are met, FEMA can grant an A99 Special Flood Hazard Designation under which construction can continue and all homeowners are required to purchase flood insurance. However, under FEMA's regulations it appears that only communities with federally funded levee improvements, not state or locally funded improvements, are eligible for this designation.

Discussion: Three Rivers has been aggressively constructing levee improvements to assure the safety of its residents in south Yuba County, California. During this construction, Three Rivers and Yuba County have been forced to contend with the risk that the Federal Emergency Management Agency (FEMA) might remap south Yuba County into a special hazard flood zone which could disrupt the first economic resurgence in the County since the floods of 1986 and 1997. While this risk will not be realized due to the aggressive construction schedule implemented by Three Rivers, Three Rivers is nonetheless sensitive to this issue.

The proposed bill would create parity between communities with federal funding for flood protection improvements and communities with State or local funding for flood protection and remove a distinction in the law which is neither logical or equitable.

Fiscal Impact: None.
July 15, 2008

The Honorable Doris Matsui
222 Cannon House Office Building
1st and Independence Ave, SE
Washington, DC 20515

Re: Letter in Support of H.R. 6285

Dear Congresswoman Matsui:

The Board of Directors of the Three Rivers Levee Improvement Authority (Three Rivers) writes in support of H.R. 6285, a bill to amend the National Flood Insurance Act of 1968.

Three Rivers is a joint powers agency that has been aggressively constructing levee improvements to assure the safety of its residents in south Yuba County, California. During this construction, Three Rivers and Yuba County have been forced to contend with the risk that the Federal Emergency Management Agency (FEMA) might remap south Yuba County into a special hazard flood zone which could disrupt the first economic resurgence in the County since the floods of 1986 and 1997. While this risk will not be realized due to the aggressive construction schedule implemented by Three Rivers, Three Rivers is nonetheless sensitive to this issue. In particular, Three Rivers believes that such a construction program should make Yuba County eligible for an A99 designation, the designation designed by Congress and implemented by FEMA to apply to communities undergoing flood protection improvements with more than 50% of those improvements already completed. Unfortunately, it has not been clear under FEMA's existing regulations whether a community that funds its levee improvements with local and state dollars is eligible for an A99 zone.

We believe that your bill would create parity between communities with federal funding for flood protection improvements and communities with State or local funding for flood protection and remove a distinction in the law which is neither logical or equitable.

FEMA is authorized to provide the A99 flood designation for projects that meet stringent criteria demonstrating adequate progress toward 100 year flood protection under 33 U.S.C. section 4014(e) which provides in relevant part:

The Director shall find that adequate progress on the construction of a flood control system as required herein has been only if (1) 100 percent of the project cost has been authorized, (2) at least 60 percent of the project cost of the system has been appropriated, (3) at least 50 percent of the project cost of the system has been expended, and (4) the system is at least 50 percent completed.

If these and other criteria imposed by 44 C.F.R. section 61.12(a) are met, FEMA can grant an A99
Special Flood Hazard Designation under which construction can continue and all homeowners are required to purchase flood insurance. However, as noted above, under FEMA’s regulations it appears that only communities with federally funded levee improvements, not state or locally funded improvements are eligible for this designation. This distinction is not relevant and appears to be a relic of the era when the federal government was the only entity constructing flood protection projects. Now that States and local agencies also construct projects, the applicable rules should be changed. The proposed language would provide the needed change and would give parity to those flood protection projects that are being constructed by State and local governments.

Thank you for introducing this important legislation, and please let us know if we may assist you with its passage in any way.

Sincerely,

Mary Jane Griego
Chair, Three Rivers Levee Improvement Authority

cc: Congressman Wally Herger
    Three Rivers General Counsel Scott Shapiro
July 10, 2008

To: TRLIA Board Members
From: Paul Brunner, Executive Director
Subject: Impact of farming operations (e.g. orchards) on water flow within the setback Floodway

During the June 17, 2008 TRLIA Board meeting, Board members discussed with staff the impact on water flow within the Feather River floodway by allowing farming operations (e.g. orchards) to continue. Staff was asked to gather additional information for the Board to review. Attached is a memo prepared by MBK that provides the requested additional information.

Attachment:

MBK memorandum, dated June 19, 2008 subject: Hydraulic Assumptions for the Feather River Setback Floodway
DATE: June 19, 2008

TO: Paul Brunner, Executive Director Three Rivers Levee Improvement Authority

FROM: Larry Dacus, TRLLA Design Manager

SUBJECT: Hydraulic Assumptions for the Feather River Setback Floodway

A question was asked concerning the hydraulic assumptions used in the Feather Setback Floodway for design of the Feather Setback Levee. This memorandum will provide some concise details of the hydraulic analysis and Setback Levee crown elevation design. For a more complete and detailed description of the hydraulic analysis, the Hydraulic Basis of Design included as Appendix A to the January 2008 version of the Feather Setback Levee Design Report should be consulted. For details on setting the Setback Levee design elevation, consult section 4.4.2 of the Design Report.

At the time of design it was not precisely known what sort of land use would occur in the Setback Floodplain. It might continue in agricultural use, be converted to environmental restoration, or a mixture of these. To be conservative for design purposes, the most hydraulic restrictive of the possible land uses, environmental restoration, was assumed. Land use differences are reflected in the values assumed for the Manning’s n-value in the hydraulic analysis. Higher n-values reflect rougher more vegetated areas. The attached Figure 22 show the Manning’s n-values used for the hydraulic analysis and design of the Setback Levee. Orchard operations are considered to have similar or slightly lower n-values than riparian areas in a floodway. Therefore the continuation of agricultural practices in the floodway will not jeopardize the design values used for the Feather Setback levee and there is no need for restriction of agriculture in the widened floodway.

As additional information, the design elevation of the setback levee was determined by considering several different design objectives. The strictest of the following freeboard requirements were applied at each section of the levee to determine the final design crown elevation:

- Project Objective 1: Three feet of freeboard above the one-in-200 annual chance flood profile.
- Project Objective 2: The crown of the setback levee shall not be lower than the crown of the existing levee at the same latitude, except that, if a lower point exists in the existing levee crown at some section upstream of the section under consideration, that lower point is considered to be the controlling elevation for meeting this requirement.
- Reclamation Board Objective: Three feet of freeboard above the 1957 design flood profile.
- FEMA Objective: Three feet above the one-in-100 annual chance flood profile

At the two tie-in points to the existing levee, the setback levee design elevation was set to match the crown elevation of the existing levee. In most cases the existing levee elevation was the controlling design objective and therefore in most reaches the setback levee will provide greater than 3 feet of freeboard over the one-in-200 annual chance flood profile. The attached Figure 13 from the Design Report shows the adopted design levee elevations in reference to the different design objectives.

As described in this memorandum, continued agricultural operations in the setback floodway will not impact the design of the Setback Levee. Because of other design objectives the Setback levee should have more than the design goal of three feet of freeboard above the 200-year design event.
Figure 13
Feather River East Levee - Existing Crown Elevations, Proposed Crown Profile, and Water Surface Profiles
Segment 2 (Existing Levee Station 247+28 to 575+38, Setback Levee Station 0+00 to 303+05)

Start Segment 2
(Existing Station 247+28.2 = Setback Station 0+00)
Design Waterside Hinge = El. 66.2

End Segment 2
(Existing Station 575+38.84 = Setback Station 303+05.10)
Design Waterside Hinge = El. 76.9
July 10, 2008

To: TRLIA Board Members  
From: Paul Brunner, Executive Director  
Subject: Cost Breakout for GGS Habitat Mitigation Credits

During the June 17, 2008 TRLIA Board meeting, Board members discussed with staff the cost of creating offsite Giant Garter Snake (GGS) habitat. Staff was asked to gather additional information for the Board to review. Attached is a pie chart prepared by Wildlands that shows the approximate percentage of cost for the tasks needed to create GGS habitat.

Attachment:

Wildlands pie chart
Mitigation Credit Breakdown-GGS Habitat

- Land Cost
- Planning/Entitlement
- Construction
- Financial Assurances
- Interim Management
- Endowment
- Easement
- Profit
Memo to: TRLIA Board Members:
From: Paul Brunner, Executive Director

Subject: Upcoming visits to Levee being improved by TRLIA

The following visits have scheduled:

1. **July 30, 2008 - Afternoon:** General McMahon/Corp Division Commander and Elizabeth Lien/OMB will visit YCWA and TRLIA to get first hand information on levee improvements. Representatives from DWR will attend. The group size is between 15-20 people including local participants. This visit is part of larger itinerary over several days where they will be visiting other Northern California activities. It is planned for TRLIA to take them on a tour of Bear River Setback and show them all the work that is currently underway on the Feather River levee. This will provide TRLIA the opportunity to emphasize the need for quick issuance of (1) a record of decision (ROD) for the Feather River Segment 2 EIS, (2) approval under section 408, (3) issuance of a 404 permit, and (4) issuance of a Section 104 credit eligibility letter.

2. **August 14, 2008 - Morning:** Sally Ziolkowski, FEMA Region IX Mitigation Director will visit Yuba County and TRLIA to see the new levee improvements that are under construction. The group size is between 5-10 people including local participants. Ms Ziolkowski visited last year to view levee improvements done at that time as well as discuss the FEMA remapping efforts. It is planned for TRLIA to take Ms. Ziolkowski and her group on a tour showing them all the work that is currently underway on the Feather River levee.