THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
Yuba County Government Center, Board Chambers
915 Eighth Street, Suite 109A
Marysville, California

SPECIAL MEETING
SEPTEMBER 28, 2010 – 2:00 P.M.

No other business shall be conducted at this meeting. The public shall have an opportunity to address the Authority only with respect to items set forth in this agenda. Each individual or group will be limited to no more than five minutes. Prior to this time, speakers must fill out a “Request to Speak” card and submit it to the Clerk of the Board of Supervisors.

I  ROLL CALL – Directors Rick Brown, Jerry Crippen, Don Graham, Mary Jane Griego, John Nicoletti

II  CLOSED SESSION

A. Pending litigation pursuant to Government Code §54956.9(a) regarding:
   1. Nieschultz, S. YCSCCVED 08-0000289 GC 54956.9
   2. Nieschultz, L. YCSCCVED 08-0000290 GC 54956.9
   3. Foster YCSCVED 08-0000327, YCSCVED 08-0000326, YCSCVED 08-0000364

B. Conference with real property negotiator pursuant to Government Code §54956.8 - Negotiating Parties: TRLIA/Churchill/Morrison; Terms of Payment; regarding the following properties:
   1. Michele R. Barker - APN 016-150-035
   2. Henry P. Smith - APN 018-150-015, 018-190-001
   4. Michele R. Barker, et al - APN 018-190-104,
   5. Awtar S. Sohal and Sukhvir K Sohal, Co-Trustees of the Sohal Family Trust - APN 018-190-107
   6. Walbinder S. Sohal Living Trust - APN 018-190-110
   7. Daniel J. Luis - APN 018-200-008
   8. Anthony J. and Zelma B. Luis - APN 018-200-007, 018-200-005, 018-210-035
  10. Robert Glenn Wood - APN 018-210-029
  12. Orest and Irene Wesely - APN 021-500-001
  13. Humam Al Sharif - APN 021-042-027
  14. Steve and Denise Gilbert - APN 021-042-014, 021-041-012
  16. Lothar S. and Brigitta M. Klug - APN 021-041-010
  17. Bernard J. Perez - APN 021-041-007
  18. Ronnie C. Willis - APN 021-041-006
  19. Western Aggregates, LLC - APN 020-080-009
  21. Howard R. Miller - APN 018-220-007
  22. Naumes, Inc. - APN 018-140-041

III  ACTION ITEMS

A. Approve minutes of the meeting of August 3, 2010.
B. Adopt resolution of necessity for acquisition to acquire certain property interests of property identified as Assessor Parcel Nos. 018-200-001 and 018-220-030 (Bains, Ajit S. and Maria Del Carment) for the Upper Yuba River Levee Improvement Project.

C. Adopt resolution of necessity for acquisition to acquire certain property interests of property identified as Assessor Parcel Nos. 018-220-048 and 018-220-049 (COF Quail Hollow Land 148T, LLC) for the Upper Yuba River Levee Improvement Project.

D. Adopt resolution of necessity for acquisition to acquire certain property interests of property identified as Assessor Parcel Nos. 018-200-008, 018-200-007, 018-200-005, and 018-210-035 (Luis, Daniel and Luis, Anthony J. and Zelma B.) for the Upper Yuba River Levee Improvement Project.

E. Adopt resolution of necessity for acquisition to acquire certain property interests of property identified as Assessor Parcel No. 018-140-041 (Naumes, Inc.) for the Upper Yuba River Levee Improvement Project.

F. Adopt resolution of necessity for acquisition to acquire certain property interests of property identified as Assessor Parcel Nos. APN 018-140-040, 018-190-002, and 018-200-006 (Richard G. Wilbur Trust) for the Upper Yuba River Levee Improvement Project.

G. Adopt resolution of necessity for acquisition to acquire certain property interests of property identified as Assessor Parcel No. 018-210-029 (Robert Glenn Wood) for the Upper Yuba River Levee Improvement Project.

H. Adopt resolution amending and superseding Resolution No. 2010-3 and declaring necessity for acquisition to acquire certain property interests of property identified as Assessor Parcel Nos. 018-190-109 and 018-190-110 (Bhajan S. and Rajwant K. Sohal/ Walbinder S. Sohal Living Trust) for the Upper Yuba River Levee Improvement Project.

I. Approve adding Feather River Segment 1 V-Ditch Repair to the Feather River EIP Funding Agreement and delegate authority to the Executive Director to execute contract to accomplish work upon review and approval of Counsel.

J. Approve Amendment No. 2 to agreement with Kleinfleder West Inc. in the amount of $17,000 for geotechnical exploration services and authorize Executive Director to execute same.

K. Approve Amendment No. 15 to agreement with MBK Engineers in the amount of $661,887 for project management services and authorize Executive Director to execute same.

IV BOARD AND STAFF MEMBERS' REPORTS

V ADJOURN
A meeting of the Board of Directors of the Three Rivers Levee Improvement Authority (TRLIA) was held on the above date, commencing at 3:33 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 John Nicoletti. Also present were Executive Director Paul Brunner, Special Counsel Joe Schofield, and Secretary/Clerk of the Board of Supervisors Donna Stottlemeyer. Chair Griego presided.

I  ROLL CALL – Directors Rick Brown, Jerry Crippen, Don Graham, Mary Jane Griego, John Nicoletti – All Present

II  CLOSED SESSION: The Board retired into closed session at 3:33 p.m. to discuss the following except Director Crippen:

A. Pending litigation pursuant to Government Code §54956.9(a) regarding:

1. Nieschultz, S. YCSCVED 08-0000289
2. Nieschultz, L. YCSCCVED 08-0000290

The Board returned from closed session at 4:03 p.m. There was no announcement.

III  PUBLIC COMMUNICATIONS: No one came forward.

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

MOTION: Move to approve    MOVED: Rick Brown    SECOND: Jerry Crippen
AYES: Rick Brown, Jerry Crippen, Don Graham, Mary Jane Griego, John Nicoletti
NOES: None    ABSTAIN: None    ABSENT: None

A. Approve minutes of the meetings of June 20, 2010.

V  ACTION ITEMS

A. Authorize travel expenses for Director Nicoletti to attend the annual Floodplain Management Association (FMA) conference in Henderson, Nevada from November 2 through 5, 2010. Approved

MOTION: Move to approve    MOVED: Jerry Crippen    SECOND: Rick Brown
AYES: Rick Brown, Jerry Crippen, Don Graham, Mary Jane Griego, John Nicoletti
NOES: None    ABSTAIN: None    ABSENT: None

B. Approve Amendment No. 1 to agreement with CTA Engineering and Surveying in the amount of $14,500 for engineering services and authorize the Executive Director to execute same. Approved
C. Approve request for qualifications for film-video documentary and authorize Executive Director to release upon review and approval of Counsel. Executive Director Paul Brunner recapped funding sources for the cost of the documentary, selection process, and responded to Board inquiries.

MOTION: Move to approve
MOVED: Jerry Crippen
SECOND: John Nicoletti
AYES: Rick Brown, Jerry Crippen, Don Graham, Mary Jane Griego, John Nicoletti
NOES: None
ABSTAIN: None
ABSENT: None

D. Provide staff direction on security road system and public access gate as part of the Feather River Setback Area and take action as appropriate. Executive Director Paul Brunner recapped the following and responded to Board inquiries:

- Management area of 1600 acres
- Funding mechanism for management area
- Security road location within setback area
- Costs of security road approximately $600,000 and State share of costs
- Maintenance of the security road
- Public access to setback area
  - Broadway gate location for entrance
  - Access not open for specific recreational purposes
  - Sign placement at all levee gates indicating public access at the Broadway Gate
- Risk analysis associated with access

Construction Manager Doug Handen responded Board inquiries regarding use of recycled concrete for the security road.

Counsel Joe Schofield recapped criteria for a dangerous condition and liability risks.

MOTION: Move to approve the following:
1. Build security road system as part of the Feather River EIP project; and
2. Open setback area to all general public access via the Broadway gate entrance pending approval of plan to reduce liability risk.

MOVED: John Nicoletti
SECOND: Rick Brown
AYES: Rick Brown, Jerry Crippen, Don Graham, Mary Jane Griego, John Nicoletti
NOES: None
ABSTAIN: None
ABSENT: None

VI BOARD AND STAFF MEMBERS’ REPORTS

Executive Director Paul Brunner:
- Central Valley Flood Protection Board meeting held July 29, 2010 the Board authorized encroachment permit for Upper Yuba River Project
- Addendum to request for proposal and bid schedule for Upper Yuba River Project
- 408 Permit approval process and 108 credit process
- No change to Enterprise Rancheria cultural site
- FEMA accreditation letter approximate receipt August 18, 2010
- Received $8 million from State for the Upper Yuba River project for construction
VII  **ADJOURN**: 5:18 p.m. by Chair Griego.

__________________________________________
Chair

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

__________________________________________
Approved: ____________________________
September 28, 2010

TO: THREE RIVERS LEVEE IMPROVEMENT BOARD OF DIRECTORS
FROM: PAUL BRUNNER, EXECUTIVE DIRECTOR
       MICHAEL A. CHURCHILL, ESQ., SPECIAL COUNSEL
       BOB MORRISON, RIGHT-OF-WAY MANAGER
       LARRY DACUS, DESIGN MANAGER

SUBJECT: CONSIDER ADOPTING A RESOLUTION OF NECESSITY FOR
ACQUISITION OF PROPERTY INTERESTS OWNED BY AJIT S. BAINS
AND MARIA DEL CARMEN BAINS ON DANTONI ROAD FOR THE
UPPER YUBA RIVER LEVEE IMPROVEMENT PROJECT

RECOMMENDATION:

That the Board of Directors adopt the attached proposed Resolution of Necessity for the
acquisition of certain property interests in properties bearing Assessor's Parcel Numbers 018-200-001 and 018-200-030 for the Three Rivers Upper Yuba River Levee Improvement Project (the "Project"). The properties are currently owned by Ajit Bains and Maria del Carmen Bains.

The property interests proposed for acquisition are 5.227 acres in fee plus a 0.499 Temporary Construction Easement ("TCE") and a 0.934-acre Temporary Access Easement ("TAE"). The proposed duration of the TCE and TAE is 15 months during the 2011 and 2012 construction seasons. The proposed acquisitions are described, depicted, and defined in the following exhibits to the attached proposed Resolution of Necessity:

- 018-200-001 - A-1-1, A-1-2, B-1-1, B-1-2, B-1-3, C-1-1, and C-1-2, and C-1-3
- 018-200-030 - A-2-1, A-2-2, C-2-1, C-2-2, and C-2-3

BACKGROUND:

The Three Rivers Levee Improvement Authority (TRLIA) is preparing to carry out improvement and repair work along an approximately 3.9-mile section of the South Bank Yuba River flood protection levee from Simpson Lane to the Yuba Goldfields in Yuba County. The levee improvements will include geometry corrections, a seepage berm, and several miles of seepage cutoff wall varying in depth from approximately 45 to 70 feet below existing ground level. The Board approved the Project and adopted a Mitigated Negative Declaration pursuant to the California Environmental Quality Act for it on April 20, 2010.

The Upper Yuba River Levee Improvement Project is one of the final pieces of TRLIA's larger flood protection program that includes 29.3 miles of levee improvements in Yuba County. The
entire 29.3 mile improvement program is necessary to restore 100-year flood protection to the portion of the county within Reclamation District 784, but TRLIA’s goal for the upgrades is to meet a higher 200-year flood protection standard. The State is providing the majority of the funding for the Project as part of its Proposition 1E Early Implementation Program (“EIP”). As with other EIP projects, the Project must comply with State Department of Water Resources’ standards for project design and real estate acquisition. Those standards require the acquisition of fee title to levee areas currently held by the State as easements and the acquisition of operation and maintenance (“O&M”) corridors extending fifteen feet from the water side levee toe and 50 feet from the land side toe, except where existing structures or infrastructure render the acquisition of such width infeasible and adequate alternative access exists for operation and maintenance of the levee. The O&M corridors will provide the State and RD 784 room to maintain the levee and conduct future flood fights.

The Bains properties are located in Segment 3 of the Project, east of Dantoni Road. The levee runs along the southern edge of the properties except where it cuts across the southeastern corner of APN 018-200-030. Project improvements in this Segment will include removal of the top of the old levee, construction of a seepage cutoff wall, and reconstruction of the upper portion of the levee to current geometric standards. The improved levee will have a water-side slope of 3 to 1 horizontal to vertical and a land-side slope of 2 to 1 horizontal to vertical, a minimum of three feet of freeboard above the 200-year storm design water surface elevation, and a 20-foot wide crown. While most of Segment 3 of the Levee has sufficient freeboard at its current height, many areas are currently too narrow and/or too steeply sloped and must be widened.

The Bains properties are improved with mixed orchard plantings and irrigation lines. The proposed acquisition will remove the existing turn row area and irrigation lines adjacent to the levee. In order to maintain farming access and restore irrigation, one or two rows of trees will need to be removed to establish a new turn row. The proposed TCE area will provide the contractor with work space across from the barn on the Luis dairy farm. The TAE affects a farm road on the northern edge of the properties run east from Dantoni Road.

Project construction is scheduled to begin on April 15, 2011 and conclude before the construction season ends around the end of October. However, inclement weather or other contingencies could extend construction into 2012. Therefore, it is necessary to acquire 15-months of access rights during the 2011 and 2012 construction seasons beginning on April 15, 2011 or such other date ordered by the Yuba County Superior Court.

DISCUSSION:

The Bains parcels have a total area of approximately 123.54 acres. Only approximately 0.747-acres of the proposed 5.227-acre fee acquisition is not encumbered by the existing levee easements. The TCE and TAE areas were chosen after consultation with Mr. Bains in order to minimize their impacts on his farming operation. The proposed Resolution of Necessity includes maps depicting the properties and the portions subject to the proposed acquisition.

Based on an appraised value of $14,000 per acre for the fee ownership interest not encumbered by existing easements and $200 per acre per year for the TCE and TAE, TRLIA offered to purchase the required property interests for $21,500 on June 28, 2010. A copy of TRLIA’s offer letter (without exhibits) is attached. The property owners rejected that offer out of hand but has not provided a firm counter offer. More recently, the owners retained counsel who has focused discussion on certain non-monetary issues that are as yet unresolved.
The design of the Project is based on three technical documents prepared by TRLIA’s consultant team. The first is Kleinfelder, Inc.’s Problem Identification Report, dated September 29, 2009. Upper Yuba Levee Improvement Project, Yuba River South Levee Evaluation, Simpson Lane to Yuba Gold Fields, Reclamation District No. 784, Yuba County, California. This report contains the results of geotechnical investigations and provides preliminary repair recommendations. Kleinfelder subsequently prepared its Revised Geotechnical Basis of Design, dated June 11, 2010. Upper Yuba Levee Improvement Project, Yuba River South Levee Evaluation, Reclamation District 784, Yuba County, California. This report contains additional analysis on the final repair recommendations.

The third technical document on which the Project design is based is HDR’s Upper Yuba Levee Improvement Project, 90% Design Submittal Design Documentation Report, Upper Yuba Levee Improvement Project, Yuba River Basin, California (Sta. 102+00 to Sta. 303+59), dated May, 2010. This report identifies the standards used in the design of the Project, describes the design assumptions and design criteria, summarizes the methods and results of the hydraulic and geotechnical analyses of the Project, and describes the key features of the improved levee.

All three documents are available for review on TRLIA’s website.

The partial degradation of the existing levee for cutoff wall construction, subsequent reconstruction of the levee embankment after construction of the cutoff wall, and construction of the seepage berm will require a very significant grading and hauling operation. Over 300,000 cubic yards of material will be moved around the 3.9-mile long Project site during construction. Hauling such a large quantity of material a significant distance to the Project site would both be costly and create undesirable amounts of truck traffic on nearby roads, so a material borrow site is being acquired on the land side of the levee just west of Brophy Road to minimize both expense and traffic. However, even with most of the necessary material coming from this nearby site, constructing the Project efficiently will require multiple vehicular access points for movement of equipment and material to and from different parts of the Project area.

No public roads cross the approximately 2.7-mile portion of the Project levee east of Dantoni Road (Construction Segments 3 and 4). In addition, dairy cattle in the open-sided barn adjacent to the levee on the Luis family farm in the middle of Segment 3 are likely to be adversely impacted by construction traffic. Therefore, TRLIA must acquire TAEs across multiple farm roads for construction access to Segments 3 and 4 of the project. The proposed TAEs will provide access between widely separated areas on the Project and from the Project area to both Dantoni Road and Hammonton Smartville Road. The Final Environmental Assessment for the Project estimated that construction will require approximately 189 vehicle trips per day of construction activity. (See Section 3.12.2 at page 178.) The Final Environmental Assessment is available for review on TRLIA’s web site.

The proposed TAE covers the farm road on the northern border of the properties running east from Dantoni Road. It starts out 30 feet in width at Dantoni but soon narrows where the farm road runs partially on the adjacent Wilbur property (over which TRLIA is seeking corresponding easement rights). The TAE area is a necessary component of the haul route from Dantoni Road to the portion of Segment 3 east of the Luis dairy farm that is needed to construct the Project.

The Project design previously included another proposed TAE through the Bains property that was eliminated at Mr. Bains’ request based on the significant impacts that would result from construction traffic through the middle of the orchard.
The proposed TCE area will provide necessary work space for the contractor in an area where there is no space to work on the other side of the levee due to the Luis family’s dairy operation. After on-site meetings with Mr. Bains, the location of the TCE was modified to minimize interference with fruit loading and other harvest-related activities.

In the absence of a negotiated agreement for the purchase of the property, the lengthy time required to obtain possession of property via eminent domain will require TRLIA to commence condemnation proceedings in the very near future in order to obtain possession before the planned April 15, 2011 start of project construction. However, the commencement of litigation will not end TRLIA’s efforts to reach a negotiated agreement. Notably, TRLIA has made two previous property acquisitions from the Wilbur Trust for its levee improvement program, both of which were accomplished only after lengthy negotiations.

**FISCAL IMPACT:**

The approved appraised values for this property is within the TRLIA Board approved (March 16, 2010) land acquisition plan for the Upper Yuba River Levee Improvement Project. The funding to acquire this property is in the TRLIA cash flow and is available to be deposited to the State Treasurer's Condemnation Fund. The State will pay 70% of this expense as part of the Upper Yuba River Levee Improvement EIP funding agreement.

Attachments:
1. Letter of Offer
2. Resolution of Necessity
June 28, 2010

Ajit S. Bains & Maria Del Carmen Bains  
1232 S. George Washington Blvd  
Yuba City, CA 95993

RE: Upper Yuba Levee Improvement Project  
APN: 018-200-001 & 018-220-030  

Dear Mr. & Mrs. Bains:

As you may be aware, the Three Rivers Levee Improvement Authority (TRLIA) is in the final planning stages of the Upper Yuba Levee Improvement Project. The Project will increase the Linda area’s protection against flooding by upgrading several miles of the Yuba River South Bank Levee to meet current standards for resistance to underseepage. In order to complete the Project, however, TRLIA will need to acquire ownership of a small portion of your property located near the Yuba River in Yuba County, Temporary Construction Easement (TCE), and a Temporary Access Easement (TAE) over a small part of your parcel. The area TRLIA needs to acquire in fee ownership is approximately 5.227 acres, the TCE area is approximately 0.499 acres and the TAE area is approximately 0.934 acres in size.

Bender Rosenthal, Inc. has been retained by TRLIA to acquire the various property rights required for this Project. I have been asked to contact you to discuss the Project, the terms of the proposed acquisition, and the documents and procedures necessary to complete the transaction. As required by California law, TRLIA has obtained a valuation of the required property interest, which is summarized in the enclosed document titled Statement and Summary of the Basis for Appraisal.

This letter, along with the enclosed Summary Statement Relating to Purchase of Real Property or an Interest Therein, Statement and Summary of the Basis for Appraisal, proposed Agreement for Purchase of Real Property, proposed Grant Deed, proposed Temporary Construction Easement, proposed Temporary Access Easement, proposed Escrow Instructions, Title Report, and Information Brochure, constitutes TRLIA’s offer to purchase the required real property interests for $21,500.00.

If the amount and terms of the offer are satisfactory, please sign the proposed Grant Deed, proposed Temporary Construction Easement and proposed Temporary Access Easement with a notary’s acknowledgement, the proposed Escrow Instructions, plus two copies of the proposed Agreement for Purchase, and return them to me in the envelope provided at your earliest convenience for processing at TRLIA. Upon acceptance, a completely executed copy of the Purchase Agreement will be returned to you for your records. Of course, this offer is conditioned on TRLIA’s ratification of the offer by execution of the Purchase Agreement as approved by the TRLIA Board of Directors.
The proposed TCE would extend from August 1, 2010 to October 31, 2011. TRLIA would have exclusive use of the easement area for construction activities including ingress and egress, staging areas, storage of machinery and equipment, vehicle parking and any other activities in connection with the Project.

The proposed TAE would also extend from August 1, 2010 to October 31, 2011. Owner use of the TAE area for access and farming operations will be allowed and coordinated by the construction contractors.

Please note that you are eligible to receive reimbursement of up to $5,000 for the reasonable costs associated with retaining the services of a qualified real estate appraiser, licensed by the State Office of Real Estate Appraisers, to prepare an appraisal report for the same property rights for which this offer is being made.

TRLIA realizes that it may take you some time to evaluate its purchase offer, particularly if you decide to obtain an appraisal of your own. As an alternative, TRLIA would like to enter into an Agreement for Possession and Use of Real Property with you on the following terms:

- TRLIA would immediately pay you the $21,500.00 appraised value of the property interests it needs to acquire.
- TRLIA would have the right to take possession of that property on August 1, 2010 and begin construction of the Project.
- TRLIA will continue to negotiate with you regarding the total price to be paid for the property it is acquiring and other terms of the purchase. If you and TRLIA do not reach an agreement on price and other terms before December 31, 2010. TRLIA will promptly file an eminent domain lawsuit to have the amount of just compensation for the property determined by the Yuba County Superior Court.

A proposed Agreement for Possession and Use of Real Property is also enclosed for your review and consideration. If the price and terms of the Agreement for Possession and Use of Real Property are acceptable, please sign that agreement and return it to me in the enclosed envelope. The proposed Agreement for Possession and Use of Real Property is also subject to approval by the TRLIA Board of Directors.

You are welcome to contact me at (916) 419-0406 or at the address above to discuss this proposed transaction, or the Project, further.

Thank you for your kind and careful consideration to this matter.

Sincerely,

Deryl L. Neal
Right of Way Consultant

Enclosures
RESOLUTION NO. 2010-__

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 UPPER YUBA RIVER LEVEE IMPROVEMENT PROJECT
(CODE CIV. PROC. § 1245.230)

WHEREAS, Three Rivers Levee Improvement Authority ("TRLIA") proposes to repair, construct, install, and maintain the Upper Yuba River Levee Improvement Project (the "Project"); and

WHEREAS, TRLIA has determined that it needs to acquire certain property interests from the parcels currently bearing Assessor's Parcel No.'s 018-200-001 and 018-220-030 (the "Property") in order to complete the Project; and

WHEREAS, TRLIA has advised the owners of the Property of the need for the Project and offered the owners an opportunity for a hearing before the TRLIA Board on September 28, 2010, pursuant to Section 1245.235 of the California Code of Civil Procedure; 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 is to be acquired for 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 set forth in the legal descriptions attached hereto as Exhibit A-1-1, Exhibit A-2-1, Exhibit B-1-1, Exhibit C-1-1 and Exhibit C-2-1, the accompanying parcel maps attached hereto as Exhibit A-1-2, Exhibit A-2-2, Exhibit B-1-2, Exhibit C-1-2 and Exhibit C-2-2, and the accompanying definitions attached hereto as Exhibit B-1-3, Exhibit C-1-3 and Exhibit C-2-3, which are incorporated herein by this reference.

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

a. The public interest and necessity require the Project.

b. The 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 Exhibit A-1-1, Exhibit A-2-1, Exhibit B-1-1, Exhibit C-1-1 and Exhibit C-2-1, depicted in Exhibit A-1-2, Exhibit A-2-2, Exhibit B-1-2, Exhibit C-1-2 and Exhibit C-2-2, and defined in Exhibit B-1-3, Exhibit C-1-3 and Exhibit C-2-3, 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. All conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Property described herein have been complied with by TRLIA.

f. TRLIA possesses the statutory authority to acquire the Property by eminent domain.

PASSED AND ADOPTED by the Board of Directors of the Three Rivers Levee Improvement Authority this 28th day of September, 2010, 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: ________________________
EXHIBIT "A-3-1"

All that real property situate in the County of Yuba, State of California, lying within a portion of the Southwest One-quarter of Section 15, Township 15 North, Range 4 East, M.D.M., and being a portion of Lots 3 and 5 of the plat of Boyer Tract 2, filed in the office of the County Recorder of Yuba County in Book 3 of Maps, Page 31; being all that portion of Parcel 3, as described in the deed to Richard G. Wilbur, Trustee of the Richard G. Wilbur Revocable Trust Dated November 2, 1994, recorded in Document No. 2009R-018277, and being that portion of said Parcel 3 lying within the following described strip or parcel of land:

Beginning at a point on the North line of said Boyer Tract 2, from which a 1-1/2" capped iron pipe stamped LS 3341, marking the center of said Section 15 bears North 89°59'50" East, 762.30 feet, and from which a 3/4" iron pipe, marking the Southwest corner of said Section 15 bears South 35°10'25" West, 3310.94 feet; thence from said Point of Beginning, leaving said North line, South 39°58'42" West, 208.34 feet; thence South 54°18'24" West, 13.22 feet; thence South 38°51'23" West, 91.19 feet; thence South 09°50'53" West, 97.10 feet; thence South 74°29'35" West, 63.15 feet more or less to a point on the Westerly line of said Lot 5; thence leaving said West line South 74°29'35" West, 62.06 feet; thence South 56°28'51" West, 12.72 feet; thence South 42°28'12" West, 74.41 feet; thence South 38°53'53" West, 63.19 feet; thence South 40°45'57" West, 452.17 feet; thence South 41°16'47" West, 38.17 feet; thence South 40°07'57" West, 79.99 feet; thence South 41°00'33" West, 79.99 feet; thence South 41°13'23" West, 63.70 feet; thence South 41°38'50" West, 38.00 feet; thence South 41°11'54" West, 40.01 feet; thence South 40°49'00" West, 42.01 feet; thence South 40°31'19" West, 78.01 feet; thence South 38°38'23" West, 62.28 feet; thence North 87°57'00" West, 53.14 feet; thence South 40°38'31" West, 82.48 feet; thence South 43°28'07" West, 35.17 feet; thence South 44°32'11" West, 219.33 feet; thence South 47°10'26" West, 34.72 feet more or less to a point on the West line of said Lot 2; thence along said West line, North 01°55'26" East, 76.15 feet more or less to the Northwest corner of said Lot 2; thence along the North line of said Lot 2, North 41°00'50" East, 194.17 feet; thence North 40°35'50" East, 167.12 feet more or less to the Northeast corner of said Lot 2 and the Northwest corner of Lot 3 of said Boyer Tract 2; thence along the North line of said Lot 3, North 40°35'50" East, 760.00 feet more or less to a point on the North line of said Boyer Tract 2; thence along said North line, North 89°59'50" East, 121.37 feet to the Point of Beginning. The area within said Parcel 3 contains 1.974 acres, more or less.

See Exhibit 'A-3-2' attached hereto and made a part of this description.

The basis of bearings for this description is the California Coordinate System, Zone II, NAD 83. Distances contained herein are ground distances. To obtain grid distances, multiply the distance by 0.9999115.

End of Description

Prepared by CTA Engineering & Surveying under the supervision of the undersigned

Kevin A. Heaney, PLS 5914

Portion of:
APN 018-200-006

07/20/2010 Date
I N 018-200-009
FOUND 1 1/2" IRON PIPE TAGGED LS3341 CENTER OF SECTION 15

018-200-001
BAINS, AJIT S./MARIA DEL CARMEN
PORTION OF LOT 1
BOYER TRACT 2
RS 3–31

P.G.& E. POLE LINE EASEMENT PER
BK.106 PG. 95 O.R., NO WIDTH GIVEN

018-200-007
LUIS FAMILY
REVOCABLE LIVING TRUST
PORTION OF LOT 2
BOYER TRACT 2
RS 3–31

THE BASIS FOR BEARINGS SHOWN HEREON IS THE CALIFORNIA COORDINATE SYSTEM, ZONE II, NAD 83.
DISTANCES SHOWN HEREON ARE GROUND DISTANCES.
MULTIPLY GROUND DISTANCE BY 0.9999115 TO OBTAIN GRID DISTANCES.

EXHIBIT "B-1-2" DATE: 04/16/2010 DRAWN BY: KAH SHEET 1 OF 1
OWNER: Bains, Ajit S. & Maria Del Carmen A.P.N.: 018-200-001
AREA: TEMPORARY CONSTRUCTION ESMT. = 0.499 Ac.

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
Proposed Acquisition for Upper Yuba Levee Improvement Project

ct Engineering & Surveying
COUNTY OF YUBA, STATE OF CALIFORNIA

DATE: 04/16/2010

4/16/2010 8:28:17 AM, kheenel
EXHIBIT "B-1-3"

TEMPORARY CONSTRUCTION EASEMENT

An exclusive temporary construction easement for ingress and egress, construction staging areas, storage of machinery and equipment, parking of vehicles and all other activities whatsoever in nature incidental to the construction of the Upper Yuba Levee Improvement Project, on, over, and across certain real property owned by AJIT S. BAINS AND MARIA DEL CARMEN BAINS ("OWNERS"), located in Yuba County, California and as more particularly described on Exhibits "B-1-1" and "B-1-2" ("TCE Area"), attached hereto for the purpose of installing, constructing and/or improving certain levee and other public facilities located on adjacent and nearby property, and demolition of structures thereon, and accomplishing all necessary incidents and appurtenances thereto ("Project"). THREE RIVERS LEVEE IMPROVEMENT AUTHORITY ("TRLIA") shall move structures and fences and replace "in like kind" all fences, gates, irrigation facilities, and driveways that are destroyed or damaged. TRLIA, from time to time, may erect and maintain temporary fences and may exclude persons or other uses of all or a portion of the TCE Area if, in TRLIA's sole discretion, the presence of said persons or other uses would be hazardous or would hinder TRLIA’s activities related to the Project. The construction easement herein described on Exhibits "B-1-1" and "B-1-2", shall extend for a period of fifteen months, limited to periods of time consisting of the annual construction season which spans from April 1 through November 15 of each year, beginning on the date so ordered by the Court.
A non-exclusive temporary access easement for ingress and egress on, over, and across certain real property owned by AJIT S. BAINS AND MARIA DEL CARMEN BAINS ("OWNERS"), located in Yuba County, California and as more particularly described on Exhibits "C-1-1" and "C-1-2" ("TAE Area"), attached hereto for the purpose of installing, constructing and/or improving certain levee and other public facilities located on adjacent and nearby property, and demolition of structures thereon, and accomplishing all necessary incidents and appurtenances thereto ("Project"). THREE RIVERS LEVEE IMPROVEMENT AUTHORITY ("TRLIA") shall move structures and fences and replace "in like kind" all fences, gates, irrigation facilities, driveways, and private roadways that are destroyed or damaged. The access easement herein described on Exhibits "C-1-1" and "C-1-2", shall extend for a period of fifteen months, limited to periods of time consisting of the annual construction season which spans from April 1 through November 15 of each year, beginning on the date so ordered by the Court.
EXHIBIT “C-2-1”

All that real property situate in the County of Yuba, State of California, being a portion of Lot 37 of “Part of the New Helvetia Rancho” as described in the deed to Ajit S. Bains and Maria Del Carmen Bains, recorded in Document No. 2008-014771, Official Records of Yuba County, herein refered to as the “Bains” property, and lying within a portion of the South half of projected Sections 15 and 16, Township 15 North, Range 4 East, M.D.M. and being more particularly described as follows:

Beginning at the Northwest corner of Lot 1, as shown on the plat of the Boyer Tract 2, filed in the office of the County Recorder of Yuba County in Book 3 of Maps, Page 31 and from which a 1 ½” iron pipe tagged LS 3341, marking the center of said Section 15 bears North 89°59'50" East, 2536.35 feet; thence along the West line of said Lot 1, South 01°55'26" West, 16.04 feet; thence leaving said West line, South 89°44'37" West, 435.21 feet; thence North 89°29'19" West, 1009.64 feet; thence South 82°00'05" West, 298.30 feet; thence North 88°55'36" West, 64.19 feet to a point on the Southeasterly line of that certain road as described in the deed to Yuba County, recorded in Book 81 of Deeds, Page 46, Official Records of Yuba County; thence along said Southeasterly line, North 20°44'40" East, 37.17 feet; thence leaving said Southeasterly line, South 88°55'36" East, 48.90 feet; thence North 82°00'05" East, 111.45 feet; thence South 89°59'50" East, 1632.50 feet to the Point of Beginning, containing 0.713 acres, more or less.

See Exhibit ‘C-2-2’ attached hereto and made a part of this description.

The basis of bearings for this description is the California Coordinate System, Zone II, NAD 83. Distances contained herein are ground distances. To obtain grid distances, multiply the distance by 0.9999115.

End of Description

Prepared by CTA Engineering & Surveying under the supervision of the undersigned

Kevin A. Heenen, PLS 5914

Portion of APN 848-220-030

Date

F:10-CTA OFFICE\06-008-004 Yuba River Phase 4 for Bender Rosenthal\Word\Legal Descriptions\2010-018-220-030-TAE-2.doc
TO A FOUND 1 1/2" IRON PIPE TAGGED LS3341
CENTER OF SECTION 15
P.O.B.
N89'59'50"E
2536.35'
S89'59'50"E
1632.50'
N89'29'19"W
1009.64'
S89'44'37"W
435.21'

L1 S82'00'05"W 288.30
L2 S82'00'05"W 111.45'
L3 S85'55'36"W 48.90'
L4 S85'55'36"W 37.17'
L5 N88'55'36"W 54.19'

THE BASIS FOR BEARINGS SHOWN HEREON IS THE CALIFORNIA COORDINATE SYSTEM, ZONE II, NAD 83.
MULTIPLY GROUND DISTANCE BY 0.9999115 TO OBTAIN GRID DISTANCES.

EXHIBIT "C-2-2"
OWNER: Bains, Ajit S. & Maria Del Carmen
A.P.N.: 018-220-030
AREA: TEMPORARY ACCESS EASEMENT = 0.713 Ac.

ct Engineering & Surveying
COUNTY OF YUBA
STATE OF CALIFORNIA

KHEENY
4/22/2010
9:33:25 AM
3322/30-018-220-001
PORTION OF LOT 1, TRACT 2

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<td>L4</td>
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<td>111.45'</td>
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EXHIBIT "C-2-3"

TEMPORARY ACCESS EASEMENT

A non-exclusive temporary access easement for ingress and egress on, over, and across certain real property owned by AJIT S. BAINS AND MARIA DEL CARMEN BAINS ("OWNERS"), located in Yuba County, California and as more particularly described on Exhibits "C-2-1" and "C-2-2" ("TAE Area"), attached hereto for the purpose of installing, constructing and/or improving certain levee and other public facilities located on adjacent and nearby property, and demolition of structures thereon, and accomplishing all necessary incidents and appurtenances thereto ("Project"). THREE RIVERS LEVEE IMPROVEMENT AUTHORITY ("TRLIA") shall move structures and fences and replace "in like kind" all fences, gates, irrigation facilities, driveways, and private roadways that are destroyed or damaged. The access easement herein described on Exhibits "C-2-1" and "C-2-2", shall extend for a period of fifteen months, limited to periods of time consisting of the annual construction season which spans from April 1 through November 15 of each year, beginning on the date so ordered by the Court.
September 23, 2010

HAND DELIVERED

Three Rivers Levee Improvement Authority
915 - 8th Street, Suite 109
Marysville, CA 95901

ATTENTION: DONNA STOTTLMEYER

RE: PORTION OF ASSESSOR'S PARCEL 018-200-001
and 018-220-030
AJIT S. BAINS & MARIA DEL CARMEN BAINS
REQUEST TO BE HEARD

Gentlemen:

This office represents Ajit S. Bains and Maria Del Carmen Bains with respect to the above identified parcel numbers.

In response to that certain “Notice of Hearing regarding intent of the Three Rivers Levee Improvement Authority to adopt a Resolution of Necessity to Acquire Property by Eminent Domain” dated September 10, 2010, please be advised that our clients request a right to be heard and object to the proposed Resolution of Necessity on all grounds, including those grounds set forth in Paragraphs 2a through 2f delineated in the September 10, 2010 Notice.

Very truly yours,

BRANT J. BORDSEN

9/24/10: Distributed with agenda packet/ds
September 28, 2010

TO: THREE RIVERS LEVEE IMPROVEMENT BOARD OF DIRECTORS
FROM: PAUL BRUNNER, EXECUTIVE DIRECTOR
       MICHAEL A. CHURCHILL, ESQ., SPECIAL COUNSEL
       BOB MORRISON, RIGHT-OF-WAY MANAGER
       LARRY DACUS, DESIGN MANAGER

SUBJECT: CONSIDER ADOPTING A RESOLUTION OF NECESSITY FOR
         ACQUISITION OF PROPERTY INTERESTS OWNED BY COF QUAIL
         HOLLOW LAND 148T, LLC ON DANTONI ROAD FOR THE UPPER YUBA
         RIVER LEVEE IMPROVEMENT PROJECT

----------------------------------------

RECOMMENDATION:

That the Board of Directors adopt the attached proposed Resolution of Necessity for the
acquisition of certain property interests in properties bearing Assessor's Parcel Numbers 018-220-048 and 018-220-049 for the Three Rivers Upper Yuba River Levee Improvement Project (the "Project"). The properties are currently owned by COF Quail Hollow Land 148T, LLC. As described, depicted, and defined in Exhibits A-1-1, A-1-2, A-2-1, A-2-2, B-1, B-2, and B-3 to the attached proposed Resolution, the property interests proposed for acquisition are 2.177 acres in fee plus a 7.756-acre Temporary Construction Easement ("TCE"). The proposed duration of the TCE is 15 months during the 2011 and 2012 construction seasons.

BACKGROUND:

The Three Rivers Levee Improvement Authority (TRLIA) is preparing to carry out improvement and repair work along an approximately 3.9-mile section of the South Bank Yuba River flood protection levee from Simpson Lane to the Yuba Goldfields in Yuba County. The levee improvements will include geometry corrections, a seepage berm, and several miles of seepage cutoff wall varying in depth from approximately 45 to 70 feet below existing ground level. The Board approved the Project and adopted a Mitigated Negative Declaration pursuant to the California Environmental Quality Act for it on April 20, 2010.

The Upper Yuba River Levee Improvement Project is one of the final pieces of TRLIA’S larger flood protection program that includes 29.3 miles of levee improvements in Yuba County. The entire 29.3 mile improvement program is necessary to restore 100-year flood protection to the portion of the county within Reclamation District 784, but TRLIA’s goal for the upgrades is to meet a higher 200-year flood protection standard. The State is providing the majority of the funding for the Project as part of its Proposition 1E Early Implementation Program (“EIP”). As with other EIP projects, the Project must comply with State Department of Water Resources’
standards for project design and real estate acquisition. Those standards require the acquisition of fee title to levee areas currently held by the State as easements and the acquisition of operation and maintenance ("O&M") corridors extending fifteen feet from the water side levee toe and 50 feet from the land side toe, except where existing structures or infrastructure render the acquisition of such width infeasible and adequate alternative access exists for operation and maintenance of the levee. The O&M corridors will provide the State and RD 784 room to maintain the levee and conduct future flood fights.

The COF Quail Hollow Land 148T property is located in Segment 2 of the Project, on the west side of Dantoni Road. Project improvements in this Segment will include removal of the top of the old levee, construction of a seepage cutoff wall, and reconstruction of the upper portion of the levee to current geometric standards. The improved levee will have a water-side slope of 3 to 1 horizontal to vertical and a land-side slope of 2 to 1 horizontal to vertical, a minimum of three feet of freeboard above the 200-year storm design water surface elevation, and a 20-foot wide crown. In addition, the TCE area adjacent to Dantoni Road will be the contractor's primary staging and "lay down" area for the Project.

Project construction is scheduled to begin on April 15, 2011 and conclude before the construction season ends around the end of October. However, inclement weather or other contingencies could extend construction into 2012. Therefore, it is necessary to acquire 15-months of construction easement rights during the 2011 and 2012 construction seasons beginning on April 15, 2011 or such other date ordered by the Yuba County Superior Court.

DISCUSSION:

The two affected parcels owned by COF Quail Hollow Land 148T Land, LLC have a total area of 22.78 acres. The parcels are part of a larger holding intended for future residential development, but the portions to be acquired in fee and the TCE area are currently fallow ground adjacent to the levee and Dantoni Road. Existing levee easements encumber 0.605-acres of the 2.177-acre fee acquisition area. The proposed Resolution of Necessity includes maps depicting the properties and the portions subject to the proposed acquisition.

Based on an appraised value of $13,000 per acre for the fee ownership interest not encumbered by the existing levee easements and $200 per acre per year for the TCE, TRLIA offered to purchase the required property interests for $23,000 on July 8, 2010. A copy of TRLIA’s offer letter (without exhibits) is attached.

The design of the Project is based on three technical documents prepared by TRLIA’s consultant team. The first is Kleinfelder, Inc.'s Problem Identification Report, dated September 29, 2009. Upper Yuba Levee Improvement Project, Yuba River South Levee Evaluation, Simpson Lane to Yuba Gold Fields, Reclamation District No. 784, Yuba County, California. This report contains the results of geotechnical investigations and provides preliminary repair recommendations. Kleinfelder subsequently prepared its Revised Geotechnical Basis of Design, dated June 11, 2010. Upper Yuba Levee Improvement Project, Yuba River South Levee Evaluation, Reclamation District 784, Yuba County, California. This report contains additional analysis on the final repair recommendations.

The third technical document on which the Project design is based is HDR’s Upper Yuba Levee Improvement Project, 90% Design Submittal Design Documentation Report, Upper Yuba Levee Improvement Project, Yuba River Basin, California (Sta. 102+00 to Sta. 303+59), dated May, 2010. This report identifies the standards used in the design of the Project, describes the design
assumptions and design criteria, summarizes the methods and results of the hydraulic and geotechnical analyses of the Project, and describes the key features of the improved levee.

All three documents are available for review on TRLIA’s website.

As noted above, the TCE area will serve as the primary staging and lay down area for the contractor during construction. It is ideally suited for that purpose for several reasons. First, it is a large parcel of currently vacant land adjacent to the levee. Second, it is located on Dantoni Road, the only public street to cross the levee in the Project area, and provides convenient access to the street system as well as the Project. No alternative staging area of comparable size and utility is available in the area.

TRLIA’s Special Counsel has been discussing the proposed acquisition with the property owner for several months, but the owner only recently made a formal counter offer. Negotiations will continue, and will likely bear fruit in the near future, but the Project schedule should be protected in case they do not.

In the absence of a negotiated agreement for the purchase of the property, the lengthy time required to obtain possession of property via eminent domain will require TRLIA to commence condemnation proceedings in the very near future in order to obtain possession before the planned April 15, 2011 start of project construction. However, the commencement of litigation will not end TRLIA’s efforts to reach a negotiated agreement.

**FISCAL IMPACT:**

The approved appraised values for this property is within the TRLIA Board approved (March 16, 2010) land acquisition plan for the Upper Yuba River Levee Improvement Project. The funding to acquire this property is in the TRLIA cash flow and is available to be deposited to the State Treasurer’s Condemnation Fund. The State will pay 70% of this expense as part of the Upper Yuba River Levee Improvement EIP funding agreement.

Attachments:
1. Letter of Offer
2. Resolution of Necessity
July 8, 2010

VIA FEDERAL EXPRESS

COF Quail Hollow Land 148T, LLC
 c/o Tim Eppler
 6630 Sierra College Blvd., 400B
 Rocklin, CA 95677

Re: Upper Yuba Levee Improvement Project
 APNs: 018-220-048 and 018-220-049

Dear Mr. Eppler:

As you know, the Three Rivers Levee Improvement Authority (TRLIA) is moving forward with the Upper Yuba Levee Improvement Project. The Project will increase the Linda area’s protection against flooding by upgrading several miles of the Yuba River South Bank Levee to meet current standards for resistance to underseepage. In order to complete the Project, however, TRLIA will need to acquire ownership of a small portion of your two properties located near the intersection of Simpson-Dantoni Road and Dantoni Road in Yuba County and a Temporary Construction Easement (TCE) over a larger part of the parcel that is directly adjacent to Dantoni Road. The area TRLIA needs to acquire in fee ownership is approximately 2.168 acres under and adjacent to the existing levee and the TCE area is approximately 7.776 acres in size.

Bender Rosenthal, Inc. and Downey Brand LLP have been retained by TRLIA to acquire the various property rights required for this Project. I have been asked to contact you to discuss the Project, the terms of the proposed acquisition, and the documents and procedures necessary to complete the transaction. As required by California law, TRLIA has obtained valuations of the required property interests, which are summarized in the enclosed document titled Statement and Summary of the Basis for Appraisal.

This letter, along with the enclosed Summary Statement Relating to Purchase of Real Property or an Interest Therein, Statement and Summary of the Basis for Appraisal, proposed Agreement for Purchase of Real Property, proposed Grant Deed, proposed Temporary Construction Easement, proposed Escrow Instructions, Title Report, and Information Brochure, constitutes TRLIA’s offer to purchase the required real property interests for $23,000.00.
If the amount and terms of the offer are satisfactory, please execute the proposed Grant Deed and proposed TCE with a notary’s acknowledgement, the proposed Escrow Instructions, plus two copies of the proposed Agreement for Purchase, and return them to me in the envelope provided at your earliest convenience for processing at TRLIA. Upon acceptance, a completely executed copy of the Purchase Agreement will be returned to you for your records. Of course, this offer is conditioned on TRLIA’s ratification of the offer by execution of the Purchase Agreement as approved by the TRLIA Board of Directors.

The proposed TCE would extend from August 1, 2010 to October 15, 2011. TRLIA would have exclusive use of the easement area for construction activities including ingress and egress, staging areas, storage of machinery and equipment, vehicle parking and any other activities in connection with the Project.

Please note that you are eligible to receive reimbursement of up to $5,000 for the reasonable costs associated with retaining the services of a qualified real estate appraiser, licensed by the State Office of Real Estate Appraisers, to prepare an appraisal report for the same property rights for which this offer is being made.

TRLIA realizes that it may take you some time to evaluate its purchase offer, particularly if you decide to obtain an appraisal report of your own. As an alternative, TRLIA would like to enter into an Agreement for Possession and Use of Real Property with you on the following terms:

• TRLIA would immediately pay you the $23,000.00 appraised value of the property interests it needs to acquire.

• TRLIA would have the right to take possession of that property on August 1, 2010 and begin construction of the Project.

• TRLIA will continue to negotiate with you regarding the total price to be paid for the property it is acquiring and other terms of the purchase. If you and TRLIA do not reach an agreement on price and other terms before December 31, 2010. TRLIA will promptly file an eminent domain lawsuit to have the amount of just compensation for the property determined by the Yuba County Superior Court.

A proposed Agreement for Possession and Use of Real Property is also enclosed for your review and consideration. If the price and terms of the Agreement for Possession and Use of Real Property are acceptable, please sign that agreement and return it to me in the enclosed envelope. The proposed Agreement for Possession and Use of Real Property is also subject to approval by the TRLIA Board of Directors.

If you have not yet retained legal counsel to represent you regarding TRLIA’s proposed acquisition of your property, you are welcome to contact me at (916) 520-5250 or at the address

DOWNEY|BRAND
ATTORNEYS LLP
above to discuss this proposed transaction, or the Project, further. If you have retained an attorney to represent you regarding this matter, please provide these documents to your counsel and ask him or her to contact me.

Thank you for your kind and careful consideration to this matter.

Very truly yours,

DOWNEY BRAND LLP

Michael A. Churchill

MAC: amf
1085594.2
RESOLUTION NO. 2010—

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 UPPER YUBA RIVER LEVEE IMPROVEMENT PROJECT
(CODE CIV. PROC. § 1245.230)

WHEREAS, Three Rivers Levee Improvement Authority ("TRLIA") proposes to repair, construct, install, and maintain the Upper Yuba River Levee Improvement Project (the "Project"); and

WHEREAS, TRLIA has determined that it needs to acquire certain property interests from the parcels currently bearing Assessor's Parcel No.'s 018-220-048 and 018-220-049 (the "Property") in order to complete the Project; and

WHEREAS, TRLIA has advised the owners of the Property of the need for the Project and offered the owners an opportunity for a hearing before the TRLIA Board on September 28, 2010, pursuant to Section 1245.235 of the California Code of Civil Procedure; 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 is to be acquired for 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 set forth in the legal descriptions attached hereto as Exhibit A-1-1, Exhibit A-2-1 and Exhibit B-1, the accompanying parcel maps attached hereto as Exhibit A-1-2, Exhibit A-2-2 and Exhibit B-2, and the accompanying definition attached hereto as Exhibit B-3, which are incorporated herein by this reference.

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

a. The public interest and necessity require the Project.

b. The 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 Exhibit A-1-1, Exhibit A-2-1 and Exhibit B-1, and Exhibit C-1, depicted in Exhibit A-1-2, Exhibit A-2-2 and Exhibit B-2, and defined in Exhibit B-3, 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. All conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Property described herein have been complied with by TRLIA.
f. TRLIA possesses the statutory authority to acquire the Property by eminent domain.

PASSED AND ADOPTED by the Board of Directors of the Three Rivers Levee Improvement Authority this 28th day of September, 2010, 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: ___________________________
EXHIBIT “A-1-1”

All that real property situate in the County of Yuba, State of California, being a portion of Parcel 3, as shown on Parcel Map No. 91-28, filed in the office of the County Recorder of Yuba County in Book 59 of Maps, Page 31, and being more particularly described as follows:

Beginning at the Northeast corner of said Parcel 3, from which a railroad spike in the centerline of Dantoni Road, as shown on said Parcel Map bears North 47°13'45" East, 1134.86 feet, and from which a brass cap set in a monument well at the intersection of Dantoni Road and Hampton-Smartsville Road bears South 23°34'25" East, 2044.57 feet; thence from said Point of Beginning and along the Northeasterly line of said Parcel 3, South 38°12'31" East, 49.85 feet; thence leaving said Northeasterly line, South 52°45'14" West, 651.06 feet; thence South 54°13'48" West, 41.84 feet to a point on the West line of said Parcel 3; thence along said West line, North 00°35'54" West, 71.53 feet to the Northwest corner of said Parcel 3; thence along the North line of said Parcel 3, North 53°40'46" East, 620.34 feet to the Point of Beginning, containing 0.823 acres, more or less.

See Exhibit 'A-1-2' attached hereto and made a part of this description.

The basis of bearings for this description is the California Coordinate System, Zone II, NAD 83. Distances contained herein are ground distances. To obtain grid distances, multiply the distance by 0.9999115.

End of Description

Prepared by CTA Engineering & Surveying under the supervision of the undersigned

Kevin A. Heeney, PLS 5914

Portion of: APN 018-220-048

03/10/2010

Date

EXP. 12-31-2010

STATE OF CALIFORNIA

LICENSED LAND SURVEYOR

NO. 5914
EXHIBIT “A-2-1”

All that real property situate in the County of Yuba, State of California, being a portion of Parcel 4, as shown on Parcel Map No. 91-28, filed in the office of the County Recorder of Yuba County in Book 59 of Maps, Page 31, and being more particularly described as follows:

Commencing at a railroad spike in the centerline of Dantoni Road, as shown on said Parcel Map and from which a brass cap set in a monument well at the intersection of Dantoni Road and Hampton-Smartsville Road bears South 00°20'00" West, 2644.64 feet; thence along the centerline of Dantoni Road, South 00°20'00" West, 108.08 feet; thence North 89°40'00" West, 20.00 feet; thence South 51°13'46" West, 5.16 feet to the Northeast corner of said Parcel 4 and the Point of Beginning; thence along the Northerly line of said Parcel 4, South 51°13'46" West, 670.46 feet; thence South 50°00'46" West, 372.87 feet to the Southwesterly corner of said Parcel 4; thence along the Southwesterly line of said Parcel 4, South 38°12'31" East, 49.85 feet; thence leaving said Southwesterly line, North 52°45'14" East, 189.62 feet; thence North 50°23'57" East, 477.17 feet; thence North 52°09'37" East, 271.02 feet; thence North 54°17'54" East, 54.77 feet to a point on the East line of said Parcel 4; thence along said East line, North 00°20'00" East, 81.48 feet to the Point of Beginning, containing 1.354 acres, more or less.

See Exhibit 'A-2-2' attached hereto and made a part of this description.

The basis of bearings for this description is the California Coordinate System, Zone II, NAD 83. Distances contained herein are ground distances. To obtain grid distances, multiply the distance by 0.9999115.

End of Description

Prepared by CTA Engineering & Surveying under the supervision of the undersigned

Kevin A. Heeney, PLS 5914

Portion of APN 018-220-049

03/10/2010 Date

F:\0-CTA OFFICE\06-008-004 Yuba River Phase 4 for Bender Rosenthal\Word\Legal Descriptions\2010\018-220-049-Fee.doc
DETAIL A
018-220-033
WILBUR REVOCABLE TRUST
DOC. 1996-010501
PARCEL 6
RS 73-12

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EXHIBIT "A-2-2"

OWNER: COF Quail Hollow Land 148T, LLC
A.P.N.: 018-220-049
AREA: FEE TITLE = 1.354 AC.
AREA WITHIN SSJDD ESMT'S. = 0.407

 THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

Proposed Acquisition for
Upper Yuba Levee Improvement Project

county of Yuba
STATE OF CALIFORNIA

M:\06-008-004\Plots\018-220-049-FEE.dwg, SHT-1, 3/10/2010 8:56:46 AM, kheeney
Exhibit 'B-1'

All that real property situate in the County of Yuba, State of California, being a portion of Parcel 4, as shown on Parcel Map No. 91-28, filed in the office of the County Recorder of Yuba County in Book 59 of Maps, Page 31, and being more particularly described as follows:

Commencing at a railroad spike in the centerline of Dantoni Road, as shown on said Parcel Map and from which a brass cap set in a monument well at the intersection of Dantoni Road and Hampton-Smartsville Road bears South 00°20'00" West, 2644.64 feet; thence along the centerline of Dantoni Road, South 00°20'00" West, 108.08 feet; thence North 89°40'00" West, 20.00 feet; thence South 51°13'46" West, 5.16 feet to the Northeast corner of said Parcel 4; thence along the East line of said Parcel 4, South 00°20'00" West, 81.48 feet to the Point of Beginning; thence continuing along said East line, South 00°20'00" West, 897.22 feet; thence leaving said East line, North 89°55'13" West, 259.61 feet; thence North 51°00'56" West, 354.37 feet; thence North 00°42'16" West, 240.15 feet; thence North 50°23'57" East, 369.54 feet; thence North 52°09'37" East, 271.02 feet; thence North 54°17'54" East, 54.77 feet to the Point of Beginning, containing 7.756 acres, more or less.

See Exhibit ‘B-2’ attached hereto and made a part of this description.

The basis of bearings for this description is the California Coordinate System, Zone II, NAD 83. Distances contained herein are ground distances. To obtain grid distances, multiply the distance by 0.9999115.

End of Description

Prepared by CTA Engineering & Surveying under the supervision of the undersigned

Kevin A. Heeney, PLS 5914

Portion of APN 008-220-049

04/06/2010 Date

NO.5914
Exp.12-31-2010
FOUND BRASS CAP IN WELL AT INTX, OF DANTONI RD. AND HAMPTON-SMARLVILLE RD.

THE BASIS FOR BEARINGS SHOWN HEREON IS THE CALIFORNIA COORDINATE SYSTEM, ZONE II, NAD 83. DISTANCES SHOWN HEREON ARE GROUND DISTANCES, MULTIPLY GROUND DISTANCE BY 0.9999115 TO OBTAIN GRID DISTANCES.

Exhibit 'B-2' DATE: 04/06/2010 DRAWN BY: KAH SHEET 1 OF 1

OWNER: COF Quail Hollow Land 148T, LLC
A.P.N.: 018-220-049
AREA: TEMPORARY CONSTRUCTION ESMT. = 7.756 Ac. (STAGING AREA)

Proposed Acquisition for Upper Yuba Levee Improvement Project

ct Engineering & Surveying

COUNTY OF YUBA, STATE OF CALIFORNIA

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EXHIBIT “B-3”

TEMPORARY CONSTRUCTION EASEMENT

An exclusive temporary construction easement for ingress and egress, construction staging areas, storage of machinery and equipment, parking of vehicles and all other activities whatsoever in nature incidental to the construction of the Upper Yuba Levee Improvement Project, on, over, and across certain real property owned by COF QUAIL HOLLOW LAND 148T ("OWNERS"), located in Yuba County, California and as more particularly described on Exhibits "B-1" and "B-2" ("TCE Area"), attached hereto for the purpose of installing, constructing and/or improving certain levee and other public facilities located on adjacent and nearby property, and demolition of structures thereon, and accomplishing all necessary incidents and appurtenances thereto ("Project"). THREE RIVERS LEVEE IMPROVEMENT AUTHORITY ("TRLIA") shall move structures and fences and replace “in like kind” all fences, gates, irrigation facilities, and driveways that are destroyed or damaged. TRLIA, from time to time, may erect and maintain temporary fences and may exclude persons or other uses of all or a portion of the TCE Area if, in TRLIA’s sole discretion, the presence of said persons or other uses would be hazardous or would hinder TRLIA’s activities related to the Project. The construction easement herein described on Exhibits “B-1” and “B-2”, shall extend for a period of fifteen months, limited to periods of time consisting of the annual construction season which spans from April 1 through November 15 of each year, beginning on the date so ordered by the Court.
September 28, 2010

TO: THREE RIVERS LEVEE IMPROVEMENT BOARD OF DIRECTORS
FROM: PAUL BRUNNER, EXECUTIVE DIRECTOR
        MICHAEL A. CHURCHILL, ESQ., SPECIAL COUNSEL
        BOB MORRISON, RIGHT-OF-WAY MANAGER
        LARRY DACUS, DESIGN MANAGER

SUBJECT: CONSIDER ADOPTING A RESOLUTION OF NECESSITY FOR
ACQUISITION OF PROPERTY INTERESTS OWNED BY DANIEL J. LUIS
AND THE LUIS FAMILY REVOCABLE TRUST ALONG THE YUBA RIVER
SOUTH BANK LEVEE FOR THE UPPER YUBA RIVER LEVEE IMPROVEMENT PROJECT

RECOMMENDATION:

That the Board of Directors adopt the attached proposed Resolution of Necessity for the
acquisition of certain property interests in properties bearing Assessor's Parcel Numbers, 018-200-005, 018-200-007, 018-200-035, and 018-200-008 for the Three Rivers Upper Yuba River Levee Improvement Project (the "Project"). The properties are currently owned by Daniel J. Luis (parcel -008) and the Luis Family Revocable Trust (all other parcels). (The trustees and likely primary beneficiaries of the trust are Daniel Luis' parents, Anthony and Zelma Luis, who reside on APN 018-200-005.)

The property interests proposed for acquisition are 5.594 acres in fee from the Luis Trust properties, 1.004 acres in fee from Daniel Luis, plus a 0.771-acre Temporary Construction Easement ("TCE") and a 0.013-acre Temporary Access Easements ("TAE") from Daniel Luis’ property. The proposed duration of the TCE and TAE is 15 months during the 2011 and 2012 construction seasons. The proposed acquisitions are described, depicted, and defined in the following exhibits to the attached proposed Resolution of Necessity:

- 018-200-005 and -007 – A-1-1, A-1-2
- 018-200-035 – A-2-1, A-2-2
- 018-200-008 – A-1, A-2, B-1, B-2, B-3, C-1, C-2, and C-3

BACKGROUND:

The Three Rivers Levee Improvement Authority (TRLIA) is preparing to carry out improvement and repair work along an approximately 3.9-mile section of the South Bank Yuba River flood protection levee from Simpson Lane to the Yuba Goldfields in Yuba County. The levee improvements will include geometry corrections, a seepage berm, and several miles of seepage
cutoff wall varying in depth from approximately 45 to 70 feet below existing ground level. The Board approved the Project and adopted a Mitigated Negative Declaration pursuant to the California Environmental Quality Act for it on April 20, 2010.

The Upper Yuba River Levee Improvement Project is one of the final pieces of TRLIA’S larger flood protection program that includes 29.3 miles of levee improvements in Yuba County. The entire 29.3 mile improvement program is necessary to restore 100-year flood protection to the portion of the county within Reclamation District 784, but TRLIA’s goal for the upgrades is to meet a higher 200-year flood protection standard. The State is providing the majority of the funding for the Project as part of its Proposition 1E Early Implementation Program ("EIP"). As with other EIP projects, the Project must comply with State Department of Water Resources’ standards for project design and real estate acquisition. Those standards require the acquisition of fee title to levee areas currently held by the State as easements and the acquisition of operation and maintenance ("O&M") corridors extending fifteen feet from the water side levee toe and 50 feet from the land side toe, except where existing structures or infrastructure render the acquisition of such width infeasible and adequate alternative access exists for operation and maintenance of the levee. The O&M corridors will provide the State and RD 784 room to maintain the levee and conduct future flood fights.

The Daniel Luis and Luis Trust properties are located in Segment 3 of the Project, east of Dantoni Road. Mr. Luis’ property is on located on the water side of the levee with no direct access to any public road. The Luis Trust property is located on the land side of the levee on Griffith Road. Project improvements in Segment 3 will include removal of the top of the old levee, construction of a seepage cutoff wall, and reconstruction of the upper portion of the levee to current geometric standards. The improved levee will have a water-side slope of 3 to 1 horizontal to vertical and a land-side slope of 2 to 1 horizontal to vertical, a minimum of three feet of freeboard above the 200-year storm design water surface elevation, and a 20-foot wide crown. While most of Segment 3 of the Levee has sufficient freeboard at its current height, many areas are currently too narrow and/or too steeply sloped and must be widened.

Project construction is scheduled to begin on April 15, 2011 and conclude before the construction season ends around the end of October. However, inclement weather or other contingencies could extend construction into 2012. Therefore, it is necessary to acquire 15-months of access and construction easement rights during the 2011 and 2012 construction seasons beginning on April 15, 2011 or such other date ordered by the Yuba County Superior Court.

**DISCUSSION:**

The four Luis family parcels have a combined total area of approximately 94.03 acres and are operated jointly as a 250 head dairy farm with supporting feed crop land. Dan Luis’ 14.09-acre parcel is located in the floodplain and the only apparent legal access to it is by crossing the Luis Trust property and the levee. The primary use of Mr. Luis’ property is for growing corn silage for cattle feed, but he also stores farm equipment and vehicles on the property. The property also contains a mobile home located partially within the Project footprint that is rented to a tenant. (The tenant will be displaced by the Project next Spring as the mobile home will have to be relocated or removed. TRLIA is providing legally required relocation benefits to the tenant.) Prior to TRLIA moving forward with the Project, Mr. Luis received a cease and desist order from the Central Valley Flood Protection Board ordering him to remove the mobile home from the floodway because he has not obtained a required encroachment permit from the CBFPB.
The CVFPB has since decided to hold enforcement proceedings in abeyance pending completion of TRLIA’s property acquisition.

Roughly 0.34-acres of the proposed 1.004-acre fee acquisition from Mr. Luis’ property is encumbered by the existing levee easements. The fee acquisition outside the existing easements is for the water side O&M corridor. One purpose of the O&M corridor is to provide a buffer between farming operations and the toe of the levee so that the levee is not damaged by farm equipment making turns at the end of crop rows. In addition, existing utility poles in the area will be relocated from the levee toe to near the outside edge of the O&M corridor so that they will not interfere with levee maintenance or future flood fights.

The Project also requires the acquisition of a 0.771-acre TCE adjacent to the fee acquisition in the corn field portion of Mr. Luis’ parcel. The purpose of this TCE is to provide the contractor with working room and “lay down” space in a section of levee where working room on the other side of the levee is severely constrained by the presence of the Luis family dairy. In other words, it is necessary to acquire a slightly temporary property interest in Daniel Luis’ corn field in order to avoid causing significant negative impacts on his family’s dairy operation on the other side of the levee.

The very small (0.013-acre) TAE affects a corner of Mr. Luis’ property that is crossed by an adjacent farm road. As discussed below, TRLIA is acquiring TAEs across farm roads in the area for construction access and as “haul roads.” This particular haul road will also provide alternative access for Mr. Luis to his property during any times during Project construction when he will be unable to cross the levee from the Luis Trust property.

Based on an appraised value of $6500 per acre for the fee ownership interest outside the existing levee easements and $200 per acre per year for the TCE and TAE, TRLIA offered to purchase the required property interests from Daniel Luis for $8100 on September 1, 2010. A copy of TRLIA’s offer letter (without exhibits) is attached.

The three Luis Trust properties total 79.94 gross acres, of which TRLIA proposes to acquire 5.594 in fee. Of that area, 4.05 acres is already encumbered by existing levee easements. The proposed Resolution of Necessity includes maps depicting the properties and the portions subject to the proposed acquisition.

Based on an appraised value of $7000 per acre for the fee ownership interest outside the existing levee easements in parcel 018-200-005 and -007 and $9500 per acre for the same interest in parcel -035 (which is more valuable because it is within the East Linda Specific Plan), TRLIA offered to purchase the required property interests from the Luis Trust for $16,000 on September 1, 2010. A copy of TRLIA’s offer letter (without exhibits) is attached.

The Luis family dairy farm is one of the major constraints on the design and construction of the Project. One corner of the open-sided dairy barn is located within approximately a dozen feet of the toe of the existing levee and the barn is nearly parallel to it. The dairy operation requires daily truck access between the barn and the levee toe, as well as between the levee toe and the corral east of the barn, and dairy vehicles frequently drive on the levee crown, and dairy cattle are sensitive to loud noises and other disturbances.

Recognizing that a myriad of complex and potentially serious issues would arise regarding the dairy, TRLIA’s Special Counsel and consultants reached out to the Luis family and started a dialogue at the time of the initial request for access for environmental surveys in the Summer of
2009. The Luis family quickly retained counsel who served as the single point of contact for the family. Over the last year, multiple meetings with the Luis family and their counsel have occurred at the Luis properties involving TRLIA's Design Manager, project designers, Special Counsel, Executive Director, and other consultants. Numerous issues have been addressed at those meetings and a number of changes have been made in the design of the Project at the request of the Luis family. Those changes include modifications to the design of the access ramp at the east end of the dairy barn, changes in the acquisition boundary to the west of the dairy, and changes in Project specifications to require the contractor to maintain the ability of the adjacent property owners to cross the levee during as much of the work as much as possible. TRLIA's Executive Director and Special Counsel have also worked with RD 784 to clarify what use the Luises and other farmers will be able to make of the O&M corridors in the future. In addition, Special Counsel and Mr. Brunner have worked with the Luises and their counsel to explore creative deal structures that would provide TRLIA with the property rights it needs to build the Project while preserving the Luis family's ability to wait until construction is complete to seek appropriate compensation for any economic or property damage that results from construction activity in close proximity to the dairy barn.

The design of the Project is based on three technical documents prepared by TRLIA's consultant team. The first is Kleinfelder, Inc.'s *Problem Identification Report*, dated September 29, 2009. Upper Yuba Levee Improvement Project, Yuba River South Levee Evaluation, Simpson Lane to Yuba Gold Fields, Reclamation District No. 784, Yuba County, California. This report contains the results of geotechnical investigations and provides preliminary repair recommendations. Kleinfelder subsequently prepared its *Revised Geotechnical Basis of Design*, dated June 11, 2010. Upper Yuba Levee Improvement Project, Yuba River South Levee Evaluation, Reclamation District 784, Yuba County, California. This report contains additional analysis on the final repair recommendations.

The third technical document on which the Project design is based is HDR's *Upper Yuba Levee Improvement Project, 90% Design Submittal Design Documentation Report*, Upper Yuba Levee Improvement Project, Yuba River Basin, California (Sta. 102+00 to Sta. 303+59), dated May, 2010. This report identifies the standards used in the design of the Project, describes the design assumptions and design criteria, summarizes the methods and results of the hydraulic and geotechnical analyses of the Project, and describes the key features of the improved levee.

All three documents are available for review on TRLIA's website.

Sections of the existing levee adjacent to the Luis family dairy farm are too narrow and too steeply sloped to meet current levee standards. Therefore, geometry corrections in this area are an important part of the project.

The partial degradation of the existing levee for cutoff wall construction, subsequent reconstruction of the levee embankment after construction of the cutoff wall, and construction of the seepage berm will require a very significant grading and hauling operation. Over 300,000 cubic yards of material will be moved around the 3.9-mile long Project site during construction. Hauling such a large quantity of material a significant distance to the Project site would both be costly and create undesirable amounts of truck traffic on nearby roads, so a material borrow site is being acquired on the land side of the levee just west of Brophy Road to minimize both expense and traffic. However, even with most of the necessary material coming from this nearby site, constructing the Project efficiently will require multiple vehicular access points for movement of equipment and material to and from different parts of the Project area.
No public roads cross the approximately 2.7-mile portion of the Project levee east of Dantoni Road (Construction Segments 3 and 4). As noted above, dairy cattle in the open-sided barn adjacent to the levee on the Luis family farm in the middle of Segment 3 are likely to be adversely impacted by construction traffic. To minimize the amount of construction traffic that passes through the dairy farm, TRLIA is acquiring TAEs across multiple farm roads for construction access to Segments 3 and 4 of the project. The proposed TAEs will provide access between widely separated areas on the Project and from the Project area to both Dantoni Road and Hammonton Smartville Road. The Final Environmental Assessment for the Project estimated that construction will require approximately 189 vehicle trips per day of construction activity. (See Section 3.12.2 at page 178.) The Final Environmental Assessment is available for review on TRLIA’s web site.

It is important to note that the September 1, 2010 purchase offers were merely one step in the middle of a lengthy process of negotiation between TRLIA and the Luis family. On May 25, 2010, TRLIA offered the same amount of compensation to the Luis family to enter into Possession and Use Agreements instead of simple Purchase Agreements because prior discussions had revealed that too many non-monetary issues remained open at that time for a purchase agreement to be attractive to the Luis family. To date, the Luises have not made a firm counter offer.

In the absence of a negotiated agreement for the purchase of the property, the lengthy time required to obtain possession of property via eminent domain will require TRLIA to commence condemnation proceedings in the very near future in order to obtain possession before the planned April 15, 2011 start of project construction. However, the commencement of litigation will not end TRLIA’s efforts to reach a negotiated agreement.

**FISCAL IMPACT:**

The approved appraised values for this property is within the TRLIA Board approved (March 16, 2010) land acquisition plan for the Upper Yuba River Levee Improvement Project. The funding to acquire this property is in the TRLIA cash flow and is available to be deposited to the State Treasurer's Condemnation Fund. The State will pay 70% of this expense as part of the Upper Yuba River Levee Improvement EIP funding agreement.

Attachments:
1. Letter of Offer
2. Resolution of Necessity
September 1, 2010

Daniel J. Luis
9709 Stern Lane
Browns Valley, CA 95918

In Care Of:

Letty Litchfield, Esq.
Law Offices of Letty Litchfield
716 D Street
Marysville, CA 95901

Re Upper Yuba Levee Improvement Project (APN: 018-200-008)
Offer to Purchase

Dear Ms. Litchfield:

As you know, the Three Rivers Levee Improvement Authority (TRLIA) is in the final planning, approval, and contracting stages of the Upper Yuba Levee Improvement Project. The Project will increase the Linda area’s protection against flooding by upgrading several miles of the Yuba River South Bank Levee to meet current standards for resistance to underseepage. In order to complete the Project, however, TRLIA will need to acquire ownership of a portion of your client’s property located near the Yuba River in Yuba County. TRLIA needs to acquire in fee ownership approximately 1.004 acres from parcel -008. In addition, TRLIA needs to acquire a temporary construction easement of 0.771 acres and a temporary access easement of 0.013 acres.

Downey Brand LLP has been retained by TRLIA to acquire various property rights required for this project. Mike Churchill, Paul Brunner and I have discussed with you over the past months many aspects of (1) the acquisition of the property; (2) the construction of the levee; and (3) the potential impacts of the project on your client’s farm property and operation. We have provided to you maps and aerials showing the areas to be acquired by TRLIA for both levee construction and the providing of an operation and maintenance corridor adjacent to the levee which is being required by Central Valley Flood Protection Board (“CVFPB”).

During the design phase of the project, the engineers made every effort to minimize the amount of land required for the project. As required by California law, TRLIA has obtained valuations of the required property interests, which are summarized in the enclosed document titled Statement and Summary of the Basis for Appraisal.
This letter, along with the enclosed Summary Statement Relating to Purchase of Real Property or an Interest Therein, Statement and Summary of the Basis for Appraisal, proposed Agreement for Purchase of Real Property, proposed Grant Deed, proposed Temporary Construction Easement, proposed Temporary Access Easement, proposed Escrow Instructions, Title Report, and Information Brochure, constitutes TRLIA's offer to purchase the required real property interests for $8,100.00.

If the amount and terms of the offer are satisfactory, please sign and have notarized the proposed Grant Deed, sign the proposed Escrow Instructions, plus two copies of the proposed Agreement for Purchase, and return them to me in the envelope provided at your earliest convenience for processing at TRLIA. Upon acceptance, a completely executed copy of the Purchase Agreement will be returned to you for your records. Of course, this offer is conditioned on TRLIA's ratification of the offer by execution of the Purchase Agreement as approved by the TRLIA Board of Directors.

Please note that your client is eligible to receive reimbursement of up to $5,000 for the reasonable costs associated with retaining the services of a qualified real estate appraiser, licensed by the State Office of Real Estate Appraisers, to prepare an appraisal report for the same property rights discussed in this letter.

As you know, the Project will require the removal or relocation of the mobile home that is currently on the property. Mike Churchill has previously advised you and your client that the residential tenant, Kim Fuller, is therefore eligible for relocation benefits as a displaced person under applicable law. TRLIA has notified Ms. Fuller of her legal rights in that regard as well.

It is our understanding that Ms. Fuller occupies the mobile home under an oral month-to-month lease. TRLIA's offer requires your client to deliver title to the property clear of any long-term leaseholds, so we request that Mr. Luis not alter his contractual relationship with Ms. Fuller.

As an alternative to an outright purchase, TRLIA had previously offered to enter into an Agreement for Possession and Use of Real Property with your client as an interim step (which would allow TRLIA to proceed with construction while the parties continue to negotiate regarding some issues and defer others for resolution after construction is completed). You recently advised us that your client is not interested in entering into such an agreement at this time. TRLIA remains willing to discuss a possession and use agreement should your client change his mind on that issue.

As you know, TRLIA has authorized mitigation and damage prevention activity in conjunction with the Possession and Use Agreement. That assistance would be available if your client decides to sign a Possession and Use Agreement.

The Luis family has made TRLIA, RD 784 and the CVFPB aware of the family's concerns that the levee project will alter or impede the family's ability to use areas on and around the levee for dairy operations and, in the case of Dan Luis, access to his property on the north side of the levee. As part of the levee project planning, TRLIA and RD 784 have agreed to allow continued access by the Luises as follows:

DOWNEY BRAND
ATTORNEYS AT LAW
I. A maintenance and use agreement will allow the Luises to use the O&M corridor (to the west of the dairy structures and along the land side of the levee). The agreement will require the Luises to maintain the area of their use. While the O&M corridor will be fenced adjacent to the agricultural field West of Griffith Road, as part of the construction process gates will be provided for the Luises’ access to their fields along the land side of the O&M corridor.

2. Similarly, while the O&M corridor has been reduced to the absolute minimum on the land side of the levee in the area of dairy structures, the line of possession is within a few feet of the dairy structures. A maintenance and use agreement will allow continued use of the O&M corridor for dairy and farm purposes in the area in which dairy structures are located on the land side of the levee.

3. In addition, a maintenance and use agreement will allow continued use by the Luises of the levee and levee ramps. The allowed uses will be for Dan Luis to access his property on the water side of the levee, and Luis Dairy’s moving feed and dairy materials through the dairy property.

RD 784 has recently adopted a policy that discusses these issues in paragraphs 1-3 and a copy is enclosed.

During construction of the levee, access to Dan Luis’ property across the levee will be maintained most of the time. In order to maintain access during those periods when construction of the slurry wall will result in temporary denials of direct access, temporary access will be provided to Dan Luis’ property from Dantoni Road via an easement to be obtained by TRLIA across the Wilbur Trust and Bains properties.

Finally, Mike Churchill has also recently informed you that all construction will be done in the 2011 season. The inconvenience to the Luises of the levee construction will not extend through two construction seasons.

You are welcome to contact me at (209) 473-6450 to discuss any aspect of this proposed transaction.

Thank you for your careful consideration of this matter.

Very truly yours,

MAX STEINHEIMER

cc: Paul Brunner—Three Rivers Levee Improvement Authority
    Mike Churchill—Firm
September 1, 2010

Anthony J. and Zelma B. Luis, Trustees for the Luis Family
Revocable Trust Dated April 19, 1997
6519 Griffith Avenue
Marysville, CA 95901

In Care Of:
Letty Litchfield, Esq.
Law Offices of Letty Litchfield
716 D Street
Marysville, CA 95901

Re Upper Yuba Levee Improvement Project (APN: 018-210-035; 018-200-005; 018-200-007)
Offer To Purchase

Dear Ms. Litchfield:

As you know, the Three Rivers Levee Improvement Authority (TRLIA) is in the final planning, approval, and contracting stages of the Upper Yuba Levee Improvement Project. The Project will increase the Linda area's protection against flooding by upgrading several miles of the Yuba River South Bank Levee to meet current standards for resistance to underseepage. In order to complete the Project, however, TRLIA will need to acquire ownership of a portion of your clients' property located near the Yuba River in Yuba County. TRLIA needs to acquire in fee ownership approximately 3.137 acres from parcels 005 and 007, and 2.457 acres from parcel 035. The total acreage to be acquired is approximately 5.594 acres.

Downey Brand LLP has been retained by TRLIA to acquire various property rights required for this project. Mike Churchill, Paul Brunner and I have discussed with you over the past months many aspects of (1) the acquisition of the property; (2) the construction of the levee, and (3) the potential impacts of the project on your clients’ dairy property and operation. We have previously provided to you maps and aerials showing the areas to be acquired by TRLIA for both levee construction and the providing of an operation and maintenance corridor adjacent to the levee which is being required by Central Valley Flood Protection Board (“CVFPB”).

During the design phase of the project, the engineers made every effort to avoid interfering with the Luis Dairy structures and operations and minimize the amount of land required for the project.
As required by California law, TRLIA has obtained valuations of the required property interests, which are summarized in the enclosed document titled Statement and Summary of the Basis for Appraisal.

This letter, along with the enclosed Summary Statement Relating to Purchase of Real Property or an Interest Therein, Statement and Summary of the Basis for Appraisal, proposed Agreement for Purchase of Real Property, proposed Grant Deed, proposed Escrow Instructions, Title Report, and Information Brochure, constitutes TRLIA's offer to purchase the required real property interests for $16,000.00.

If the amount and terms of the offer are satisfactory, please sign and have notarized the proposed Grant Deed, the proposed Escrow Instructions, plus two copies of the proposed Agreement for Purchase, and return them to me in the envelope provided at your earliest convenience for processing at TRLIA. Upon acceptance, a completely executed copy of the Purchase Agreement will be returned to you for your records. Of course, this offer is conditioned on TRLIA's ratification of the offer by execution of the Purchase Agreement as approved by the TRLIA Board of Directors.

Please note that your clients are eligible to receive reimbursement of up to $5,000 for the reasonable costs associated with retaining the services of a qualified real estate appraiser, licensed by the State Office of Real Estate Appraisers, to prepare an appraisal report for the same property rights discussed in this letter.

As an alternative to an outright purchase, TRLIA had previously offered to enter into an Agreement for Possession and Use of Real Property with your clients as an interim step (which would allow TRLIA to proceed with construction while the parties continue to negotiate regarding some issues and defer others for resolution after construction is completed). You recently advised us that your clients are not interested in entering into such an agreement at this time. TRLIA remains willing to discuss a possession and use agreement should your clients change their minds on that issue.

As you know, TRLIA had authorized mitigation and damage prevention activity in conjunction with the Possession and Use Agreement. That assistance would be available if your clients decide to sign a Possession and Use Agreement.

The Luis family has made TRLIA, RD 784 and the CVFPB aware of the family's concerns that the levee project will alter or impede the family's ability to use areas on and around the levee for dairy operations and, in the case of Dan Luis, access to his property on the north side of the levee. As part of the levee project planning, TRLIA and RD 784 have agreed to allow continued access by the Luises as follows:

1. A maintenance and use agreement will allow the Luises to use the O&M corridor (to the west of the dairy structures and along the land side of the levee). The agreement will require the Luises to maintain the area of their use. While the O&M corridor will be fenced, as
part of the construction process gates will be provided for the Luises' access to their fields along the land side of the O&M corridor.

2. Similarly, while the O&M corridor has been reduced to the absolute minimum on the land side of the levee in the area of dairy structures, the line of possession is within a few feet of the dairy structures. A maintenance and use agreement will allow continued use of the O&M corridor for dairy and farm purposes in the area in which dairy structures are located on the land side of the levee.

3. In addition, a maintenance and use agreement will allow continued use by the Luises of the levee and levee ramps. The allowed uses will be for Dan Luis to access his property on the water side of the levee, and Luis Dairy's moving feed and dairy materials through the dairy property.

4. During construction of the levee, temporary access will be provided to Dan Luis' property via an easement to be obtained by TRLIA across the Miller and Bains property.

RD 784 has recently adopted a policy that discusses these issues in paragraphs 1-3 and a copy is encosed.

Finally, Mike Churchill has also recently informed you that all construction will be done in the 2011 season. The inconvenience to the Luises of the levee construction will not extend through two construction seasons.

You are welcome to contact me at (209) 473-6450 to discuss any aspect of this proposed transaction.

Thank you for your careful consideration of this matter.

Very truly yours,

M. Max Steinheimer

cc: Paul Brunner—Three Rivers Levee Improvement Authority
    Mike Churchill—Firm
RESOLUTION NO. 2010-__

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 UPPER YUBA RIVER LEVEE IMPROVEMENT PROJECT
(CODE CIV. PROC. § 1245.230)

WHEREAS, Three Rivers Levee Improvement Authority ("TRLIA") proposes to repair, construct, install, and maintain the Upper Yuba River Levee Improvement Project (the "Project"); and

WHEREAS, TRLIA has determined that it needs to acquire certain property interests from the parcels currently bearing Assessor's Parcel No.'s 018-200-008, 018-200-005, 018-200-007 and 018-210-035 (the "Property") in order to complete the Project; and

WHEREAS, TRLIA has advised the owners of the Property of the need for the Project and offered the owners an opportunity for a hearing before the TRLIA Board on September 28, 2010, pursuant to Section 1245.235 of the California Code of Civil Procedure; 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 is to be acquired for 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 set forth in the legal descriptions attached hereto as Exhibit A-1, Exhibit B-1, Exhibit C-1, Exhibit A-1-1 and Exhibit A-1-2, the accompanying parcel maps attached hereto as Exhibit A-2, Exhibit B-2, Exhibit C-2, Exhibit A-2-1 and Exhibit A-2-2, and the accompanying definitions attached hereto as Exhibit B-3 and Exhibit C-3, which are incorporated herein by this reference.

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

a. The public interest and necessity require the Project.

b. The 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 Exhibit A-1, Exhibit B-1, Exhibit C-1, Exhibit A-1-1 and Exhibit A-2-1, depicted in Exhibit A-2, Exhibit B-2, Exhibit C-2, Exhibit A-1-2 and Exhibit A-2-2, and defined in Exhibit B-3 and Exhibit C-3, 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. All conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Property described herein have been complied with by TRLIA.

f. TRLIA possesses the statutory authority to acquire the Property by eminent domain.

PASSED AND ADOPTED by the Board of Directors of the Three Rivers Levee Improvement Authority this 28th day of September, 2010, 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: ______________________
All that real property situate in the County of Yuba, State of California, being a portion of Lot 1 as shown on the plat of Boyer Tract 2, filed in the office of the County Recorder of Yuba County in Book 3 of Maps, Page 31, and being more particularly described as follows:

**Beginning** at the Northeast corner of said Lot 1, from which a 1-1/2" iron pipe tagged LS 3341, marking the center of Section 15, Township 15 North, Range 4 East, M.D.M. bears North 89°59'50" East, 883.67 feet, and from which a 3/4" iron pipe marking the Southwest corner of said Section 15 bears South 33°25'14" West, 3242.54 feet; thence along the Southeasterly line of said Lot 1, South 40°35'50" West, 1350.02 feet; thence leaving said Southeasterly line, North 49°20'20" West, 13.76 feet; thence South 42°41'50" West, 320.14 feet; thence North 09°56'00" East, 17.49 feet; thence North 41°07'29" East, 304.48 feet; thence North 40°22'00" East, 168.61 feet; thence North 43°03'51" East, 69.69 feet; thence North 40°22'58" East, 238.97 feet; thence North 40°22'58" East, 167.59 feet; thence North 41°07'05" East, 50.61 feet; thence North 41°42'54" East, 106.84 feet; thence North 40°22'00" East, 364.59 feet; thence North 42°07'40" East, 133.74 feet; thence North 38°39'20" East, 17.50 feet more or less to a point on the North line of said Lot 1; thence along said North line, North 89°59'50" East, 34.99 feet to the **Point of Beginning**, containing 1.004 acres, more or less.

See Exhibit 'A-2' attached hereto and made a part of this description.

The basis of bearings for this description is the California Coordinate System, Zone II, NAD 83. Distances contained herein are ground distances. To obtain grid distances, multiply the distance by 0.9999115.

End of Description

Prepared by CTA Engineering & Surveying under the supervision of the undersigned.

[Signature]

Kevin A. Heaney, PLS 5914

Portion of APN 018-200-008

03/10/2010 Date
Exhibit ‘B-1’

All that real property situate in the County of Yuba, State of California, being a portion of Lot 1 as shown on the plat of Boyer Tract 2, filed in the office of the County Recorder of Yuba County in Book 3 of Maps, Page 31, and being more particularly described as follows:

Commencing at the Northeast corner of said Lot 1, from which a 1-1/2" iron pipe tagged LS 3341, marking the center of Section 15, Township 15 North, Range 4 East, M.D.M. bears North 89°59'50" East, 883.67 feet, and from which a 3/4" iron pipe marking the Southwest corner of said Section 15 bears South 33°25'14" West, 3242.54 feet; thence along the Southeasterly line of said Lot 1, South 40°35'50" West, 1350.02 feet; thence leaving said Southeasterly line, North 49°20'20" West, 13.76 feet; thence South 42°41'50" West, 320.14 feet; thence North 09°56'00" East, 17.49 feet to the Point of Beginning; thence continuing North 09°56'00" East, 82.88 feet; thence North 40°26'17" East, 661.61 feet; thence North 40°22'58" West, 238.97 feet; thence South 43°03'51" West, 69.69 feet; thence South 40°22'00" West, 168.61 feet; thence South 41°07'29" West, 304.48 feet; thence South 41°43'11" West, 9.68 feet to the Point of Beginning, containing 0.771 acres, more or less.

See Exhibit ‘B-2’ attached hereto and made a part of this description.

The basis of bearings for this description is the California Coordinate System, Zone II, NAD 83. Distances contained herein are ground distances. To obtain grid distances, multiply the distance by 0.9999115.

End of Description

Prepared by CTA Engineering & Surveying under the supervision of the undersigned

______________________________
Kevin A. Heaney, PLS 5914

Portion of:
APN 018-200-008

03/10/2010
Date

F:\00-CTA OFFICE\06-008-004 Yuba River Phase 4 for Bender Rosenthal\Word\Legal Descriptions\2010\018-200-008-TCE.doc
018-140-040
WILBUR, RICHARD G. TRUST

Point of Commencement

N09°59'50"E
883.67'

018-200-008
Luis, Daniel J.
PORTION OF LOT 1
BOYER TRACT 2
RS 3-31

(E) P.G. & E. POLE LINE EASEMENT
PER BK.106 PG. 95 O.R.,
NO WIDTH GIVEN

018-200-008
Luis, Daniel J.
PORTION OF LOT 1
BOYER TRACT 2
RS 3-31

found 1 1/2" iron
pipe tagged LS3341

center of section 15

WILBUR, RICHARD G. TRUST

PER BK.106 PG. 95 O.R.,

not width given

LUS FAMILY
REVOCABLE LIVING TRUST
PORTION OF LOT 2
BOYER TRACT 2
RS 3-31

found 3/4" iron pipe
SW. COR. SEC. 15

THE BASIS FOR BEARINGS SHOWN HEREON IS THE CALIFORNIA COORDINATE SYSTEM, ZONE II, NAD 83. DISTANCES SHOWN HEREON ARE GROUND DISTANCES. MULTIPLY GROUND DISTANCE BY 0.9999115 TO OBTAIN GRID DISTANCES.

LINE DATA TABLE

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<td>L10</td>
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<td>9.68'</td>
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M:\06-008-004\Plats\018-200-008-TCE.dwg, SHT-1, 3/1/2010 8:22:10 AM, kheeney
EXHIBIT "B-3"

TEMPORARY CONSTRUCTION EASEMENT

An exclusive temporary construction easement for ingress and egress, construction staging areas, storage of machinery and equipment, parking of vehicles and all other activities whatsoever in nature incidental to the construction of the Upper Yuba Levee Improvement Project, on, over, and across certain real property owned by DANIEL J. LUIS ("OWNER"), located in Yuba County, California and as more particularly described on Exhibits "B-1" and "B-2" ("TCE Area"), attached hereto for the purpose of installing, constructing and/or improving certain levee and other public facilities located on adjacent and nearby property, and demolition of structures thereon, and accomplishing all necessary incidents and appurtenances thereto ("Project").

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY ("TRLIA") shall move structures and fences and replace "in like kind" all fences, gates, irrigation facilities, and driveways that are destroyed or damaged. TRLIA, from time to time, may erect and maintain temporary fences and may exclude persons or other uses of all or a portion of the TCE Area if, in TRLIA's sole discretion, the presence of said persons or other uses would be hazardous or would hinder TRLIA's activities related to the Project. The construction easement herein described on Exhibits "B-1" and "B-2", shall extend for a period of fifteen months, limited to periods of time consisting of the annual construction season which spans from April 1 through November 15 of each year, beginning on the date so ordered by the Court.
Exhibit ‘C-1’

All that real property situate in the County of Yuba, State of California, being a portion of Lot 1 as shown on the plat of Boyer Tract 2, filed in the office of the County Recorder of Yuba County in Book 3 of Maps, Page 31, and being more particularly described as follows:

Beginning at a point on the North line of said Lot 1, from which a 1 ½” iron pipe tagged LS 3341, marking the center of Section 15, Township 15 North, Range 4 East, M.D.M. bears North 89°59'50" East, 1770.56 feet; thence from said Point of Beginning, along the North line of said Lot 1, North 89°59'50" East, 106.59 feet; thence leaving said North line, South 84°29'15" West, 93.69 feet; thence South 89°28'49" West, 14.93 feet; thence North 09°56'00" East, 9.27 feet to the Point of Beginning, containing 0.013 acres, more or less.

See Exhibit ‘C-2’ attached hereto and made a part of this description.

The basis of bearings for this description is the California Coordinate System, Zone II, NAD 83. Distances contained herein are ground distances. To obtain grid distances, multiply the distance by 0.9999115.

End of Description

Prepared by CTA Engineering & Surveying under the supervision of the undersigned

[Signature]

Kevin A. Heaney, PLS 5914
Portion of
APN 018-200-008

08/23/2010
Date
THE BASIS FOR BEARINGS SHOWN HEREON IS THE CALIFORNIA COORDINATE SYSTEM, ZONE II, NAD 83. DISTANCES SHOWN HEREON ARE GROUND DISTANCES. MULTIPLY GROUND DISTANCE BY 0.9999115 TO OBTAIN GRID DISTANCES.

Exhibit 'C-2'

DATE: 03/16/2010
DRAWN BY: KAH
SHEET 1 OF 1

OWNER: Luis, Daniel J.
A.P.N.: 018-200-008
AREA: TEMPORARY ACCESS EASEMENT = 0.013 Ac.

Proposed Acquisition for
Upper Yuba Levee Improvement Project

COUNTY OF YUBA, STATE OF CALIFORNIA
EXHIBIT “C-3”

TEMPORARY ACCESS EASEMENT

A non-exclusive temporary access easement for ingress and egress on, over, and across certain real property owned by DANIEL J. LUIS (“OWNER”), located in Yuba County, California and as more particularly described on Exhibits "C-1" and "C-2" ("TAE Area"), attached hereto for the purpose of installing, constructing and/or improving certain levee and other public facilities located on adjacent and nearby property, and demolition of structures thereon, and accomplishing all necessary incidents and appurtenances thereto (“Project”). THREE RIVERS LEVEE IMPROVEMENT AUTHORITY ("TRLIA") shall repair or replace “in like kind” all fences, gates, irrigation facilities, driveways, and private roadways that are destroyed or damaged. The access easement herein described on Exhibits “C-1” and “C-2”, shall extend for a period of fifteen months, limited to periods of time consisting of the annual construction season which spans from April 1 through November 15 of each year, beginning on the date so ordered by the Court.
EXHIBIT “A-1-1”

All that real property situate in the County of Yuba, State of California, being a portion of Lot 2, as shown on the plat of Boyer Tract 2, filed in the office of the County Recorder of Yuba County in Book 3 of Maps, Page 31, being all that portion of that portion of said Lot 2 described in the deed to Anthony J. and Zelma B. Lus, recorded in Book 4930, Page 523, Official Records of Yuba County lying within the following described strip or parcel of land:

Beginning at a point on the North line of said Boyer Tract 2, from which a 1-1/2" capped iron pipe stamped LS 3341, marking the center of said Section 15 bears North 89°59'50" East, 762.30 feet, and from which a 3/4" iron pipe, marking the Southwest corner of said Section 15 bears South 35°10'25" West, 3310.94 feet; thence from said Point of Beginning, leaving said North line, South 39°58'42" West, 208.34 feet; thence South 54°18'24" West, 13.22 feet; thence South 38°51'23" West, 91.19 feet; thence South 39°56'08" West, 522.31 feet; thence South 09°50'53" West, 97.10 feet; thence South 74°29'35" West, 63.15 feet more or less to a point on the Westerly line of said Lot 2; thence leaving said West line South 74°29'35" West, 62.06 feet; thence South 56°28'51" West, 12.72 feet; thence South 42°28'12" West, 74.41 feet; thence South 38°53'53" West, 63.19 feet; thence South 40°15'57" West, 452.17 feet; thence South 41°16'47" West, 38.17 feet; thence South 40°07'57" West, 79.99 feet; thence South 41°00'33" West, 79.99 feet; thence South 41°13'23" West, 63.70 feet; thence South 41°38'50" West, 38.00 feet; thence South 41°41'54" West, 40.01 feet; thence South 40°19'00" West, 42.01 feet; thence South 40°31'19" West, 78.01 feet; thence South 38°38'23" West, 62.28 feet; thence North 87°37'00" West, 53.14 feet; thence South 41°58'31" West, 82.48 feet; thence South 43°28'07" West, 35.17 feet; thence South 44°32'11" West, 219.33 feet; thence South 47°10'26" West, 34.72 feet more or less to a point on the West line of said Lot 2; thence along said West line, North 01°55'26" East, 761.15 feet more or less to the Northwest corner of said Lot 2; thence along the North line of said Lot 2, North 44°00'50" East, 194.17 feet; thence North 40°35'50" East, 1674.12 feet more or less to the Northwest corner of said Lot 2 and the Northwest corner of Lot 3 of said Boyer Tract 2; thence along the North line of said Lot 3, North 40°35'50" East, 760.90 feet more or less to a point on the North line of said Boyer Tract 2; thence along the North line, North 89°59'50" East, 121.37 feet to the Point of Beginning. The area within said Lot 2 contains 3.137 acres, more or less.

See Exhibit 'A-1-2' attached hereto and made a part of this description.

The basis of bearings for this description is the California Coordinate System, Zone II, NAD 83. Distances contained herein are ground distances. To obtain grid distances, multiply the distance by 0.9999115.

End of Description

Prepared by CTA Engineering & Surveying under the supervision of the undersigned

[Signature]

Kevin A. Heeney, PLS 5974

Portion of
APN 018-200-005 & 007

Date 07/20/2010

F:\19-CTA OFFICE:406-008-004 Yuba River Phase 4 for Bender Rosenthal;Word Legal Descriptions:201007018-200407-1.doc
THE BASIS FOR BEARINGS SHOWN HEREIN IS THE CALIFORNIA COORDINATE SYSTEM, ZONE II, HAD 83. DISTANCES SHOWN HEREIN ARE GROUND DISTANCES. MULTIPLY GROUND DISTANCE BY 0.999915 TO OBTAIN GRID DISTANCES.

EXHIBIT "A-1-2"

OWNER:
Luis Family Revocable Living Trust
A.P.N.:
018-200-005 & 007

AREA:
FEE TITLE = 3.137 Ac.
AREA WITHIN SSJDD ESMT'S. = 2.850 AC.

Proposed Acquisition for
Upper Yuba Levee Improvement Project

Engineering & Surveying

COUNTY OF YUBA STATE OF CALIFORNIA

M:\08-008-004\Plats\018-200-007-FEE-SHT1.dwg, SHT-1, 7/20/2010 9:03:16 AM, kheeney
EXHIBIT "A-2-1"

All that real property situate in the County of Yuba, State of California, being a portion of Lots 1 and 2, as shown on the plat of the "Boyer Tract 1", filed in the office of the County Recorder of Yuba County in Book 3 of Maps, Page 25 and being more particularly described as follows:

Commencing at a point on the North line of said Lot 1, from which a brass cap set in a monument well at the intersection of Dantoni Road and Hampton-Smartsville Road bears South 38°58'32" West, 4167.94 feet and from which a 3/4" iron pipe marking the corner common to Sections 15, 16, 21 and 22, Township 15 North, Range 4 East, M.D.M. bears South 00°42'39" East, 467.90 feet; thence along the North line of said Lot 1, South 76°02'50" West, 253.55 feet to the Point of Beginning; thence continuing along the North line of Lot 1, South 76°02'50" West, 403.45 feet; thence South 81°26'37" West, 666.34 feet more or less to the Northeast corner of said Lot 2; thence along the North line of said Lot 2, South 76°46'58" West, 131.35 feet; thence leaving said North line, South 00°36'46" East, 89.14 feet; thence North 81°43'03" East, 16.47 feet; thence North 81°04'28" East, 485.70 feet; thence North 79°11'18" East, 352.17 feet; thence North 73°50'11" East, 270.65 feet; thence North 67°56'08" East, 96.18 feet; thence North 12°49'21" West, 61.86 feet to the Point of Beginning, containing 2.457 acres, more or less.

See Exhibit 'A-2-2' attached hereto and made a part of this description.

The basis of bearings for this description is the California Coordinate System, Zone II, NAD 83. Distances contained herein are ground distances. To obtain grid distances, multiply the distance by 0.9999115.

End of Description

Prepared by CTA Engineering & Surveying under the supervision of the undersigned

[Signature]
Kevin A. Heeney, PLS 5914

Portion of:
APN 018-210-035

03/10/2010
Date

F:\0-CTA OFFICE\06-008-004 Yuba River Phase 4 for Bender Rosenthal\Word\Legal Descriptions\2010\018-210-035-Fee.doc
EXHIBIT “A-2-2”

OWNER: Luis Family Revocable Living Trust
A.P.N.: 018-210-035

THE BASIS FOR BEARINGS SHOWN HEREON IS THE CALIFORNIA COORDINATE SYSTEM, ZONE II, NAD 83. DISTANCES SHOWN HEREON ARE GROUND DISTANCES. MULTIPLY GROUND DISTANCE BY 0.9999115 TO OBTAIN GRID DISTANCES.

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<tr>
<td>L5</td>
<td>N12°49'21&quot;W</td>
<td>61.86'</td>
</tr>
</tbody>
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FOUND LIBRA CAP IN STANDARD COUNTY MONUMENT WELL AT INTX. OF DANTONI ROAD AND HAMPTON-SMARTSVILLE RD.

018-220-030
BAINS, AJIT S. & MARIA DEL CARMEN
018-210-035
LUIS FAMILY REVOCABLE LIVING TRUST
PORTION OF BOYER TRACT 1
RS 3-25
FIND 3/4" IRON PIPE
SE. COR. SEC. 16

Upper Yuba Levee Improvement Project
DEAR Mr. Brunner and Members of the Board of TRLIA:

Please find attached a copy of TRLIA'S attorney's September 20, 2010 letter to me noting my unavailability for the TRLIA hearing on 9/28/10.

As counsel for both Daniel Luis and Anthony & Zelma Luis, I have put TRLIA on notice that neither my clients nor I will be available to attend the TRLIA September 28, 2010 Board hearing. I have a pre-paid trip out of state that includes September 28, 2010 through September 30, 2010. (Tenderloin Housing Clinic, Inc. vs. Sparks (1992) 8 Cal.App.4th 299.)

My clients have an absolute right to appear and be heard at the California Code of Civil Procedure Section 1245.235 hearing on the matters referred to in California Code of Civil Procedure Section 1240.030.

At a recent meeting at the Luis properties, Mr. Churchill and Mr. Brunner agreed that by this letter to TRLIA, I can preserve all objections and legal arguments on behalf of Daniel Luis regarding his property that is affected, and Anthony and Zelma Luis regarding their property that is affected. You both agreed that my letters would be made part of the record at said hearing, as well as be read into the record.
It should be noted, that TRLIA's attempts at making Government Code Section 7267.2 offers to each of the property owners listed hereinabove, were just mailed to said property owners on September 10, 2010, simultaneously with TRLIA’S September 10, 2010 “Notice of Hearing Regarding Intent of the Three Rivers Levee Improvement Authority to Adopt a Resolution of Necessity to Acquire Property by Eminent Domain.” Therefore, said property owners have not been provided sufficient time, nor a “reasonable opportunity” to appear and be heard as required by California Code of Civil Procedure Section 1245.235(a), which prevents this governing body of the public entity from adopting a resolution of necessity at this time.

Please be apprised that my clients are requesting a right to appear and be heard at a time when we are available.

Please be further advised that my clients are not waiving any right to challenge TRLIA’s right to take their property by eminent domain, nor are they waiving any right to appear and be heard regarding compensation or any of the matters being considered in this proposed hearing and/or listed in the written notice for this hearing, and/or matters in CCP Section 1240.030, including, (a) whether the public interest and necessity require the project; (b) whether the project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; and (c) whether the property sought to be required is necessary for the project.

Please consider this letter both a written request to appear and be heard on a date on which the property owners listed herein and their legal counsel are available to appear.

Please also consider this letter as a preservation of said property owners’ rights and objections that all, if not some, of the criteria in CCP Sections 1240.030 and 1245.220 have not been met.

Sincerely,

Letty Litchenfield

Attachment
Cc: Daniel Luis
    Anthony & Zelma Luis
September 20, 2010

VIA EMAIL AND U.S. MAIL

Letty Litchfield, Esq.
Letty Litchfield Law Offices
716 D Street
Marysville, CA 95901-5319

Re: 28 TRLIA Board Hearing Regarding a Proposed Resolution of Necessity Concerning Portions of Properties owned by Dan Luis and Anthony & Zelma Luis

Dear Ms. Litchfield:

This letter is a follow up to our meeting of September 16 in which you advised me that neither you nor your clients would be able to attend the September 28 TRLIA Board hearing. As we discussed, TRLIA will accept a written submission from you on behalf of the Luises in lieu of a personal appearance as sufficient to preserve all objections and legal arguments raised therein. Please deliver your submission to the Board’s Secretary, Donna Stottlemeyer, at the address listed in the Notice of Hearing, with a copy to me.

I will read your submission to the Board during the hearing and make sure that it is included in the official record of the proceedings. (Please note, the Board will conduct a single hearing regarding the properties owned by both Dan Luis and Anthony and Zelma Luis, so you need only submit a single document.)

If you have any questions or wish to discuss this matter further, please do not hesitate to call me.

Very truly yours,

DOWNEY BRAND LLP

Michael A. Churchill

MAC: amf: gpf

cc: Paul Brunner, TRLIA
    Donna Stottlemeyer, TRLIA
    Max Steinheimer, firm
TO: THREE RIVERS LEVEE IMPROVEMENT BOARD OF DIRECTORS
FROM: PAUL BRUNNER, EXECUTIVE DIRECTOR
       MICHAEL A. CHURCHILL, ESQ., SPECIAL COUNSEL
       BOB MORRISON, RIGHT-OF-WAY MANAGER
       LARRY DACUS, DESIGN MANAGER

SUBJECT: CONSIDER ADOPTING A RESOLUTION OF NECESSITY FOR
          ACQUISITION OF A TEMPORARY ACCESS EASEMENT ACROSS
          PROPERTY OWNED BY NAUMES, INC. ON DANTONI ROAD FOR THE
          UPPER YUBA RIVER LEVEE IMPROVEMENT PROJECT

RECOMMENDATION:

That the Board of Directors adopt the attached proposed Resolution of Necessity for the
acquisition of a Temporary Access Easement ("TAE") across the property bearing Assessor's
Parcel Number 018-140-041 for the Three Rivers Upper Yuba River Levee Improvement Project
(the "Project"). The property is currently owned by Naumes, Inc. As described, depicted, and
defined in Exhibits A-1, A-2, and A-3 to the attached proposed Resolution, the proposed TAE
covers approximately 1.997 acres of existing private roadways. The proposed duration of the
TAE is 15 months during the 2011 and 2012 construction seasons.

BACKGROUND:

The Three Rivers Levee Improvement Authority (TRLIA) is preparing to carry out improvement
and repair work along an approximately 3.9-mile section of the South Bank Yuba River flood
protection levee from Simpson Lane to the Yuba Goldfields in Yuba County. The levee
improvements will include geometry corrections, a seepage berm, and several miles of seepage
cutoff wall varying in depth from approximately 45 to 70 feet below existing ground level. The
Board approved the Project and adopted a Mitigated Negative Declaration pursuant to the
California Environmental Quality Act for it on April 20, 2010.

The Upper Yuba River Levee Improvement Project is one of the final pieces of TRLIA'S larger
flood protection program that includes 29.3 miles of levee improvements in Yuba County. The
entire 29.3 mile improvement program is necessary to restore 100-year flood protection to the
portion of the county within Reclamation District 784, but TRLIA’s goal for the upgrades is to
meet a higher 200-year flood protection standard.

The larger Naumes, Inc. property is a very large mixed orchard property in the Yuba River flood
plain. The public portion of Dantoni Road ends at the property but the pavement turns east and
continues onto the property as a private road, eventually curving north towards the river. An unpaved farm road continues east and intersects dirt roads owned by other landowners. The proposed TAE would extend from the end of the public portion of Dantoni Road east across Naumes’ paved and unpaved farm roads approximately 2900 feet. The TAE is 30 feet wide at Dantoni Road and approximately 27 feet wide at its eastern end. The attached proposed Resolution of Necessity includes maps depicting the proposed TAE.

Project construction is scheduled to begin on April 15, 2011 and conclude before the construction season ends around the end of October. However, inclement weather or other contingencies could extend construction into 2012. Therefore, it is necessary to acquire 15-months of access rights during the 2011 and 2012 construction seasons beginning on April 15, 2011 or such other date ordered by the Yuba County Superior Court.

DISCUSSION:

The partial degradation of the existing levee for cutoff wall construction, subsequent reconstruction of the levee embankment after construction of the cutoff wall, and construction of the seepage berm will require a very significant grading and hauling operation. Over 300,000 cubic yards of material will be moved around the 3.9-mile long Project site during construction. Hauling such a large quantity of material a significant distance to the Project site would both be costly and create undesirable amounts of truck traffic on nearby roads, so a material borrow site is being acquired on the land side of the levee just west of Brophy Road to minimize both expense and traffic. However, even with most of the necessary material coming from this nearby site, constructing the Project efficiently will require multiple vehicular access points for movement of equipment and material to and from different parts of the Project area.

No public roads cross the approximately 2.7-mile portion of the Project levee east of Dantoni Road (Construction Segments 3 and 4). In addition, dairy cattle in the open-sided barn adjacent to the levee on the Luis family farm in the middle of Segment 3 are likely to be adversely impacted by construction traffic. Therefore, TRLIA must acquire TAEs across multiple farm roads for construction access to Segments 3 and 4 of the project. The proposed TAEs will provide access between widely separated areas on the Project and from the Project area to both Dantoni Road and Hammonton Smartville Road. The Final Environmental Assessment for the Project estimated that construction will require approximately 189 vehicle trips per day of construction activity. (See Section 3.12.2 at page 178.) The Final Environmental Assessment is available for review on TRLIA’s web site.

The proposed TAE across Naumes’ private portion of Dantoni Road and a connecting farm road will provide access to roads on other farms over which TRLIA has obtained negotiated TAEs connecting to the levee. Together, they will provide one of two haul routes from Dantoni Road to Segment 4 and the portion of Segment 3 east of the Luis dairy farm that are needed to construct the Project.

Based on a Non-Complex Valuation of the TAE by Bender-Rosenthal, Inc., TRLIA offered to purchase the 15-month TAE for $500.00 on June 21, 2010. A copy of TRLIA’s offer letter (without exhibits) is attached.

Naumes recently made a significantly higher counter offer. Negotiations are continuing.

In the absence of a negotiated agreement for the purchase of the property, the lengthy time required to obtain possession of property via eminent domain will require TRLIA to commence
condemnation proceedings in the very near future in order to obtain possession before the
planned April 15, 2011 start of project construction. However, the commencement of litigation
will not end TRLIA’s efforts to reach a negotiated agreement.

**FISCAL IMPACT:**

The approved appraised values for this property is within the TRLIA Board approved (March 16,
2010) land acquisition plan for the Upper Yuba River Levee Improvement Project. The funding
to acquire this property is in the TRLIA cash flow and is available to be deposited to the State
Treasurer's Condemnation Fund. The State will pay 70% of this expense as part of the Upper
Yuba River Levee Improvement EIP funding agreement.

Attachments:
1. Letter of Offer
2. Resolution of Necessity
June 21, 2010

Naumes, Inc.
Attn: Robert Boggess
P.O. Box 996
Medford, OR 97501-0071

RE: Upper Yuba Levee Improvement Project
    APN: 018-140-041

Offer to Purchase – Government Code §7267.2

Dear Mr. Boggess:

As you may be aware, the Three Rivers Levee Improvement Authority (TRLIA) is in the final planning stages of the Upper Yuba Levee Improvement Project. The Project will increase the Linda area’s protection against flooding by upgrading several miles of the Yuba River South Bank Levee to meet current standards for resistance to under seepage. In order to complete the Project, however, TRLIA will need to acquire a Temporary Access Easement (TAE) over a small portion of your property located near the Yuba River in Yuba County. The area TRLIA needs for the TAE area is approximately 1.997 acres in size.

Bender Rosenthal, Inc. has been retained by TRLIA to acquire the various property rights required for this Project. I have been asked to contact you to discuss the Project, the terms of the proposed acquisition, and the documents and procedures necessary to complete the transaction. As required by California law, TRLIA has obtained a valuation of the required property interest, which is summarized in the enclosed document titled Statement and Summary of the Basis of Non-Complex Valuation.

This letter, along with the enclosed Statement and Summary of the Basis of Non-Complex Valuation, Summary Statement Relating to the Purchase of Real Property or an Interest Therein, proposed Temporary Access Easement, and Information Brochure, constitutes TRLIA’s offer to purchase the required real property interests for $500.00.
If the amount and terms of the offer are satisfactory, please sign the proposed Temporary Access Easement with a notary’s acknowledgement and return to me in the envelope provided at your earliest convenience for processing at TRLIA. Of course, this offer is conditioned on TRLIA’s ratification of the offer as approved by the TRLIA Board of Directors.

The proposed TAE would extend from August 1, 2010 to October 31, 2011 unless the Project is not completed in 2011, in which case the TAE would extend to August 31, 2012 and you would receive additional compensation of $332.80. TRLIA would have non-exclusive use of the easement area for construction activities including ingress and egress, staging areas, storage of machinery and equipment, vehicle parking and any other activities in connection with the Project.

Please note that you are eligible to receive reimbursement of up to $5,000 for the reasonable costs associated with retaining the services of a qualified real estate appraiser, licensed by the State Office of Real Estate Appraisers, to prepare an appraisal report for the same property rights for which this offer is being made.

You are welcome to contact me at (916) 978-4900 or at the address above to discuss this proposed transaction, or the Project, further.

Thank you for your kind and careful consideration to this matter.

Sincerely,

Bill Kouris

Enclosures
RESOLUTION NO. 2010—___

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 UPPER YUBA RIVER LEVEE IMPROVEMENT PROJECT
(CODE CIV. PROC. § 1245.230)

WHEREAS, Three Rivers Levee Improvement Authority ("TRLIA") proposes to repair, construct, install, and maintain the Upper Yuba River Levee Improvement Project (the "Project"); and

WHEREAS, TRLIA has determined that it needs to acquire a Temporary Access Easement across the parcel currently bearing Assessor's Parcel No. 018-140-041 (the "Property") in order to complete the Project; and

WHEREAS, TRLIA has advised the owner of the Property of the need for the Project and offered the owner an opportunity for a hearing before the TRLIA Board on September 28, 2010, pursuant to Section 1245.235 of the California Code of Civil Procedure; 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 is to be acquired for 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 set forth in the legal description attached hereto as Exhibit A-1, the accompanying parcel map attached hereto as Exhibit A-2, and the accompanying definition attached hereto as Exhibit A-3, which are incorporated herein by this reference.

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

a. The public interest and necessity require the Project.

b. The 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 Exhibit A-1, depicted in Exhibit A-2, and defined in Exhibit A-3, is necessary for the proposed Project.

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

e. All conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Property described herein have been complied with by TRLIA.
f. TRLIA possesses the statutory authority to acquire the Property by eminent domain.

PASSED AND ADOPTED by the Board of Directors of the Three Rivers Levee Improvement Authority this 28th day of September, 2010, 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: ______________________
Exhibit ‘A-1’

All that real property situate in the County of Yuba, State of California, being a portion of the North One-half of Section 10, Township 15 North, Range 4 East, M.D.M. and being more particularly described as follows:

Commencing at a 1½” iron pipe tagged LS 3341 marking the center of said Section 10; thence along the North line of said Southwest One-quarter, North 89°50’19” West, 238.26 feet to the Point of Beginning; thence continuing along said North line, North 89°50’19” West, 46.44 feet to a point on the Southeasterly line of that certain road described in the deed to the County of Yuba recorded in Book 81 of Deeds, Page 46; thence along said Southeasterly line, North 37°52’47” East, 44.41 feet; thence leaving said Southeasterly line, South 89°40’51” East, 1499.54 feet; thence North 88°38’08” East, 199.33 feet; thence South 89°23’17” East, 1199.74 feet to a point on the East line of said Section 10; thence along said East line, South 00°13’40” East, 26.88 feet to the Southeast corner of said North One-half of Section 10; thence along the South line of said North One-half, North 89°50’19” West, 397.75 feet; thence leaving said South line, North 89°23’17” West, 801.88 feet; thence South 88°38’08” West, 199.25 feet; thence North 89°40’51” West, 1452.99 feet; thence South 79°54’13” West, 28.08 feet to the Point of Beginning, containing 1.997 acres, more or less.

See Exhibit ‘A-2’ attached hereto and made a part of this description.

The basis of bearings for this description is the California Coordinate System, Zone II, NAD 83. Distances contained herein are ground distances. To obtain grid distances, multiply the distance by 0.9999115.

End of Description

Prepared by CTA Engineering & Surveying under the supervision of the undersigned

Kevin A. Heaney, PLS 3914

Portion of
APN 018-140-041

03/23/2010 Date

F:\O-CTA OFFICE\06-008-004 Yuba River Phase 4 for Bender Rosenthal\Word\Legal Descriptions\2010\018-140-041-TAE.doc
EXHIBIT “A-3”

TEMPORARY ACCESS EASEMENT

A non-exclusive temporary access easement for ingress and egress on, over, and across certain real property owned by NAUMES, INC. (“OWNER”), located in Yuba County, California and as more particularly described on Exhibits "A-1" and "A-2" ("TAE Area"), attached hereto for the purpose of installing, constructing and/or improving certain levee and other public facilities located on adjacent and nearby property, and demolition of structures thereon, and accomplishing all necessary incidents and appurtenances thereto (“Project”). THREE RIVERS LEVEE IMPROVEMENT AUTHORITY ("TRLIA") shall repair or replace “in like kind” all fences, gates, irrigation facilities, driveways, and private roadways that are destroyed or damaged. The access easement herein described on Exhibits "A-1" and "A-2", shall extend for a period of fifteen months, limited to periods of time consisting of the annual construction season which spans from April 1 through November 15 of each year, beginning on the date so ordered by the Court.
TO: THREE RIVERS LEVEE IMPROVEMENT BOARD OF DIRECTORS
FROM: PAUL BRUNNER, EXECUTIVE DIRECTOR
      MICHAEL A. CHURCHILL, ESQ., SPECIAL COUNSEL
      BOB MORRISON, RIGHT-OF-WAY MANAGER
      LARRY DACUS, DESIGN MANAGER

SUBJECT: CONSIDER ADOPTING A RESOLUTION OF NECESSITY FOR
ACQUISITION OF PROPERTY INTERESTS OWNED BY THE RICHARD G.
WILBUR TRUST ALONG THE YUBA RIVER SOUTH BANK LEVEE FOR
THE UPPER YUBA RIVER LEVEE IMPROVEMENT PROJECT

RECOMMENDATION:

That the Board of Directors adopt the attached proposed Resolution of Necessity for the
acquisition of certain property interests in properties bearing Assessor's Parcel Numbers 018-
140-040, 018-190-020 and 018-200-006 for the Three Rivers Upper Yuba River Levee
Improvement Project (the "Project"). The properties are currently owned by the Richard G.
Wilbur Trust.

The property interests proposed for acquisition are 5.615 acres in fee plus two Temporary Access
Easements ("TAEs") totaling 1.841 acres. The proposed duration of the TAEs is 15 months
during the 2011 and 2012 construction seasons. The proposed acquisitions are described,
depicted, and defined in the following exhibits to the attached proposed Resolution of Necessity:

- 018-140-040 - A-1-1, A-1-2, B-1, B-2, C-1, and C-2
- 018-200-006 - A-3-1, A-3-2

BACKGROUND:

The Three Rivers Levee Improvement Authority (TRLIA) is preparing to carry out improvement
and repair work along an approximately 3.9-mile section of the South Bank Yuba River flood
protection levee from Simpson Lane to the Yuba Goldfields in Yuba County. The levee
improvements will include geometry corrections, a seepage berm, and several miles of seepage
cutoff wall varying in depth from approximately 45 to 70 feet below existing ground level. The
Board approved the Project and adopted a Mitigated Negative Declaration pursuant to the
California Environmental Quality Act for it on April 20, 2010.
The Upper Yuba River Levee Improvement Project is one of the final pieces of TRLIA’s larger flood protection program that includes 29.3 miles of levee improvements in Yuba County. The entire 29.3 mile improvement program is necessary to restore 100-year flood protection to the portion of the county within Reclamation District 784, but TRLIA’s goal for the upgrades is to meet a higher 200-year flood protection standard. The State is providing the majority of the funding for the Project as part of its Proposition 1E Early Implementation Program (“EIP”). As with other EIP projects, the Project must comply with State Department of Water Resources’ standards for project design and real estate acquisition. Those standards require the acquisition of fee title to levee areas currently held by the State as easements and the acquisition of operation and maintenance (“O&M”) corridors extending fifteen feet from the water side levee toe and 50 feet from the land side toe, except where existing structures or infrastructure render the acquisition of such width infeasible and adequate alternative access exists for operation and maintenance of the levee. The O&M corridors will provide the State and RD 784 room to maintain the levee and conduct future flood fights.

The Wilbur Trust properties are located in Segment 3 of the Project, east of Dantoni Road, on both sides of the levee. Project improvements in this Segment will include removal of the top of the old levee, construction of a seepage cutoff wall, and reconstruction of the upper portion of the levee to current geometric standards. The improved levee will have a water-side slope of 3 to 1 horizontal to vertical and a land-side slope of 2 to 1 horizontal to vertical, a minimum of three feet of freeboard above the 200-year storm design water surface elevation, and a 20-foot wide crown. While most of Segment 3 of the Levee has sufficient freeboard at its current height, many areas are currently too narrow and/or too steeply sloped and must be widened.

Project construction is scheduled to begin on April 15, 2011 and conclude before the construction season ends around the end of October. However, inclement weather or other contingencies could extend construction into 2012. Therefore, it is necessary to acquire 15-months of access rights during the 2011 and 2012 construction seasons beginning on April 15, 2011 or such other date ordered by the Yuba County Superior Court.

DISCUSSION:

The three affected Wilbur Trust parcels have a total area of approximately 392.64 acres and all are currently fallow. The property owner is in the process of preparing all three properties for the planting of orchards. Roughly 2.35 acres of the proposed 5.615-acre fee acquisition is encumbered by the existing levee. The proposed Resolution of Necessity includes maps depicting the properties and the portions subject to the proposed acquisition.

Based on an appraised value of $6500 per acre for the fee ownership interest and $200 per year for the TAEs, TRLIA offered to purchase the required property interests for $23,000 on June 21, 2010. A copy of TRLIA’s offer letter (without exhibits) is attached. The property owner recently retained counsel who advised TRLIA’s attorney that the owner would not be ready to negotiate for some time.

The design of the Project is based on three technical documents prepared by TRLIA’s consultant team. The first is Kleinfelder, Inc.’s Problem Identification Report, dated September 29, 2009. Upper Yuba Levee Improvement Project, Yuba River South Levee Evaluation, Simpson Lane to Yuba Gold Fields, Reclamation District No. 784, Yuba County, California. This report contains the results of geotechnical investigations and provides preliminary repair recommendations. Kleinfelder subsequently prepared its Revised Geotechnical Basis of Design, dated June 11, 2010. Upper Yuba Levee Improvement Project, Yuba River South Levee Evaluation,
Reclamation District 784, Yuba County, California. This report contains additional analysis on the final repair recommendations.

The third technical document on which the Project design is based is HDR’s *Upper Yuba Levee Improvement Project, 90% Design Submittal Design Documentation Report*, Upper Yuba Levee Improvement Project, Yuba River Basin, California (Sta. 102+00 to Sta. 303+59), dated May, 2010. This report identifies the standards used in the design of the Project, describes the design assumptions and design criteria, summarizes the methods and results of the hydraulic and geotechnical analyses of the Project, and describes the key features of the improved levee.

All three documents are available for review on TRLIA’s website.

The partial degradation of the existing levee for cutoff wall construction, subsequent reconstruction of the levee embankment after construction of the cutoff wall, and construction of the seepage berm will require a very significant grading and hauling operation. Over 300,000 cubic yards of material will be moved around the 3.9-mile long Project site during construction. Hauling such a large quantity of material a significant distance to the Project site would both be costly and create undesirable amounts of truck traffic on nearby roads, so a material borrow site is being acquired on the land side of the levee just west of Brophy Road to minimize both expense and traffic. However, even with most of the necessary material coming from this nearby site, constructing the Project efficiently will require multiple vehicular access points for movement of equipment and material to and from different parts of the Project area.

No public roads cross the approximately 2.7-mile portion of the Project levee east of Dantoni Road (Construction Segments 3 and 4). In addition, dairy cattle in the open-sided barn adjacent to the levee on the Luis family farm in the middle of Segment 3 are likely to be adversely impacted by construction traffic. Therefore, TRLIA must acquire TAEs across multiple farm roads for construction access to Segments 3 and 4 of the project. The proposed TAEs will provide access between widely separated areas on the Project and from the Project area to both Dantoni Road and Hammonton Smartville Road. The Final Environmental Assessment for the Project estimated that construction will require approximately 189 vehicle trips per day of construction activity. (See Section 3.12.2 at page 178.) The Final Environmental Assessment is available for review on TRLIA’s web site.

The proposed TAEs cover two separate areas. One affects a very small—0.016 acres—area adjacent to the end of the public portion of Dantoni Road where the private portion of Dantoni curves across the northwest corner of APN 018-140-040. The other TAE affects approximately 3270 feet of a farm road on the south side of the same parcel, extending from near Dantoni Road to the levee. That TAE is 30 feet in width near the levee and narrower to the west, where the farm road runs partially on the adjacent Bains property (over which TRLIA is seeking corresponding easement rights). Each TAE area is a necessary component of one of the two haul routes from Dantoni Road to Segment 4 and the portion of Segment 3 east of the Luis dairy farm that are needed to construct the Project.

In the absence of a negotiated agreement for the purchase of the property, the lengthy time required to obtain possession of property via eminent domain will require TRLIA to commence condemnation proceedings in the very near future in order to obtain possession before the planned April 15, 2011 start of project construction. However, the commencement of litigation will not end TRLIA’s efforts to reach a negotiated agreement. Notably, TRLIA has made two previous property acquisitions from the Wilbur Trust for its levee improvement program, both of which were accomplished only after lengthy negotiations.
FISCAL IMPACT:

The approved appraised values for this property is within the TRLIA Board approved (March 16, 2010) land acquisition plan for the Upper Yuba River Levee Improvement Project. The funding to acquire this property is in the TRLIA cash flow and is available to be deposited to the State Treasurer's Condemnation Fund. The State will pay 70% of this expense as part of the Upper Yuba River Levee Improvement EIP funding agreement.

Attachments:
1. Letter of Offer
2. Resolution of Necessity
RE: Upper Yuba Levee Improvement Project
APN: 018-140-040, 018-190-002, 018-200-006

Dear Mr. Wilbur:

As you may be aware, the Three Rivers Levee Improvement Authority (TRLIA) is in the final planning stages of the Upper Yuba Levee Improvement Project. The Project will increase the Linda area's protection against flooding by upgrading several miles of the Yuba River South Bank Levee to meet current standards for resistance to underseepage. In order to complete the Project, however, TRLIA will need to acquire ownership of a small portion of your property located near the Yuba River in Yuba County and a Temporary Access Easement (TAE) over a small part of your parcel. The area TRLIA needs to acquire in fee ownership is approximately 5.615 acres and the TAE area is approximately 1.841 acres in size.

Bender Rosenthal, Inc. has been retained by TRLIA to acquire the various property rights required for this Project. I have been asked to contact you to discuss the Project, the terms of the proposed acquisition, and the documents and procedures necessary to complete the transaction. As required by California law, TRLIA has obtained a valuation of the required property interest, which is summarized in the enclosed document titled Statement and Summary of the Basis for Appraisal.

This letter, along with the enclosed Summary Statement Relating to Purchase of Real Property or an Interest Therein, Statement and Summary of the Basis for Appraisal, proposed Agreement for Purchase of Real Property, proposed Grant Deed, proposed Temporary Access Easement, proposed Escrow Instructions, Title Report, and Information Brochure, constitutes TRLIA's offer to purchase the required real property interests for $23,000.00.

If the amount and terms of the offer are satisfactory, please sign the proposed Grant Deed and proposed Temporary Access Easement with a notary's acknowledgement, the proposed Escrow Instructions, plus two copies of the proposed Agreement for Purchase, and return them to me in the envelope provided at your earliest convenience for processing at TRLIA. Upon acceptance, a completely executed copy of the Purchase Agreement will be returned to you for your records. Of course, this offer is conditioned on TRLIA's ratification of the offer by execution of the Purchase Agreement as approved by the TRLIA Board of Directors.
The proposed TAE would extend from August 1, 2010 to October 31, 2011. Owner use of the TAE area for access and farming operations will be allowed and coordinated by the construction contractors.

Please note that you are eligible to receive reimbursement of up to $5,000 for the reasonable costs associated with retaining the services of a qualified real estate appraiser, licensed by the State Office of Real Estate Appraisers, to prepare an appraisal report for the same property rights for which this offer is being made.

TRLIA realizes that it may take you some time to evaluate its purchase offer, particularly if you decide to obtain an appraisal of your own. As an alternative, TRLIA would like to enter into an Agreement for Possession and Use of Real Property with you on the following terms:

- TRLIA would immediately pay you the $23,000.00 appraised value of the property interests it needs to acquire.
- TRLIA would have the right to take possession of that property on August 1, 2010 and begin construction of the Project.
- TRLIA will continue to negotiate with you regarding the total price to be paid for the property it is acquiring and other terms of the purchase. If you and TRLIA do not reach an agreement on price and other terms before December 31, 2010. TRLIA will promptly file an eminent domain lawsuit to have the amount of just compensation for the property determined by the Yuba County Superior Court.

A proposed Agreement for Possession and Use of Real Property is also enclosed for your review and consideration. If the price and terms of the Agreement for Possession and Use of Real Property are acceptable, please sign that agreement and return it to me in the enclosed envelope. The proposed Agreement for Possession and Use of Real Property is also subject to approval by the TRLIA Board of Directors.

You are welcome to contact me at (916) 419-0406 or at the address above to discuss this proposed transaction, or the Project, further.

Thank you for your kind and careful consideration to this matter.

Sincerely,

Deryl L. Neal
Right of Way Consultant

Enclosures
RESOLUTION NO. 2010—

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 UPPER YUBA RIVER LEVEE IMPROVEMENT PROJECT

(CODE CIV. PROC. § 1245.230)

WHEREAS, Three Rivers Levee Improvement Authority ("TRLIA") proposes to repair, construct, install, and maintain the Upper Yuba River Levee Improvement Project (the "Project"); and

WHEREAS, TRLIA has determined that it needs to acquire certain property interests from the parcels currently bearing Assessor's Parcel No. 018-140-040, 018-190-002 and 018-200-006 (the "Property") in order to complete the Project; and

WHEREAS, TRLIA has advised the owners of the Property of the need for the Project and offered the owners an opportunity for a hearing before the TRLIA Board on September 28, 2010, pursuant to Section 1245.235 of the California Code of Civil Procedure; 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 is to be acquired for 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 set forth in the legal descriptions attached hereto as Exhibit A-1-1, Exhibit A-2-1, Exhibit A-3-1, Exhibit B-1, and Exhibit C-1, the accompanying parcel maps attached hereto as Exhibit A-1-2, Exhibit A-2-2, Exhibit A-3-2, Exhibit B-2 and Exhibit C-2, and the accompanying definitions attached hereto as Exhibit B-3 and Exhibit C-3, which are incorporated herein by this reference.

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

a. The public interest and necessity require the Project.

b. The 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 Exhibit A-1-1, Exhibit A-2-1, Exhibit A-3-1, Exhibit B-1, and Exhibit C-1, depicted in Exhibit A-1-2, Exhibit A-2-2, Exhibit A-3-2, Exhibit B-2 and Exhibit C-2, and defined in Exhibit B-3 and Exhibit C-3, 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. All conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Property described herein have been complied with by TRLIA.

f. TRLIA possesses the statutory authority to acquire the Property by eminent domain.

PASSED AND ADOPTED by the Board of Directors of the Three Rivers Levee Improvement Authority this 28th day of September, 2010, 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: ________________________
EXHIBIT “A-1-1”

All that real property situate in the County of Yuba, State of California, being a portion of Lot 1 as shown on the plat of Boyer Tract 2, filed in the office of the County Recorder of Yuba County in Book 3 of Maps, Page 31, and being more particularly described as follows:

Beginning at a point on the Southerly line of said Lot 1, from which a 1-1/2” iron pipe tagged LS 3341, marking the center of Section 15, Township 15 North, Range 4 East, M.D.M. bears North 56°56'27" East, 2384.34 feet, and from which a 3/4” iron pipe marking the Southwest corner of said Section 15 bears South 25°31'29" West, 1557.80 feet; thence from said Point of Beginning, along said Southerly line, South 40°35'50" West, 722.10 feet; thence South 44°00'50" West, 194.17 feet to the Southwest corner of said Lot 1; thence along the West line of said Lot 1, North 01°55'26" East, 49.83 feet; thence leaving said West line, North 42°48'20" East, 47.72 feet; thence North 44°47'29" East, 98.39 feet; thence North 40°19'09" East, 257.07 feet; thence North 38°27'06" East, 68.82 feet; thence North 40°20'01" East, 106.62 feet; thence North 38°04'01" East, 131.26 feet; thence North 44°10'30" East, 78.66 feet; thence North 39°48'39" East, 58.64 feet; thence North 44°27'55" East, 73.74 feet; thence North 41°43'11" East, 14.95 feet; thence South 09°56'00" West, 67.48 feet to the Point of Beginning, containing 0.782 acres, more or less.

See Exhibit ‘A-1-2’ attached hereto and made a part of this description.

The basis of bearings for this description is the California Coordinate System, Zone II, NAD 83. Distances contained herein are ground distances. To obtain grid distances, multiply the distance by 0.9999115.

End of Description

Prepared by CTA Engineering & Surveying under the supervision of the undersigned

Kevin A. Heaney, PLS 5914

Portion of
APN 018-200-001

03/10/2018
Date

State of California

LICENSED LAND SURVEYOR
NO.5914
Exp:12-31-2010
EXHIBIT "A-1-1"

All that real property situate in the County of Yuba, State of California, being a portion of the Northwest One-quarter of Section 15, Township 15 North, Range 4 East, M.D.M. and being more particularly described as follows:

Beginning at a point on the East line of said Northwest One-quarter, said point being also the Northwest corner of Parcel 4, as shown on Parcel Map No. 95-11, filed in the office of the County Recorder of Yuba County in Book 66 of Maps, Page 45 and from which a 1/2" rebar with plastic cap stamped LS 3341, marking the Northeast corner of said Section 15 bears North 57°57'57" East, 3149.06 feet, and from which a 1-1/2" iron pipe tagged LS 3341, marking the center of said Section 15 bears South 00°08'00" West, 1013.82 feet; thence from said Point of Beginning, South 41°09'03" West, 1346.46 feet more or less to a point on the North line of the "Boyer Tract No. 2", as shown on the plat thereof, filed in the office of the County Recorder of Yuba County in Book 3 of Maps, Page 31; thence along said North line, South 35°58'48" East, 51.08 feet; thence North 40°09'05" East, 150.26 feet; thence North 39°03'31" East, 65.06 feet; thence North 40°55'00" East, 399.06 feet; thence North 40°04'29" East, 427.92 feet; thence North 41°37'02" East, 299.51 feet; thence North 02°35'32" East, 36.41 feet; thence North 65°17'42" East, 17.51 feet to a point on the East line of said Northwest One-quarter; thence along said East line, South 00°08'00" West, 89.44 feet to the Point of Beginning, containing 1.253 acres, more or less.

See Exhibit 'A-1-2' attached hereto and made a part of this description.

The basis of bearings for this description is the California Coordinate System, Zone II, NAD 83. Distances contained herein are ground distances. To obtain grid distances, multiply the distance by 0.9999115.

End of Description

Prepared by CTA Engineering & Surveying under the supervision of the undersigned

[Signature]

Kevin A. Herney, PLS 5914

03/10/2010 Date

F:\0-CTA OFFICE\06-008-004 Yuba River Phase 4 for Bender Rosenthal\Word\Legal Descriptions\2019\018-140-040-Fee.doc
EXHIBIT "B-1-1"

All that real property situate in the County of Yuba, State of California, being a portion of Lot 1 as shown on the plat of Boyer Tract 2, filed in the office of the County Recorder of Yuba County in Book 3 of Maps, Page 31, and being more particularly described as follows:

Commencing at a point on the Southerly line of said Lot 1, from which a 1-1/2" iron pipe tagged LS 3341, marking the center of Section 15, Township 15 North, Range 4 East, M.D.M. bears North 56°56'27" East, 2384.34 feet, and from which a 3/4" iron pipe marking the Southwest corner of said Section 15 bears South 25°31'29" West, 1557.80 feet; thence North 09°56'00" East, 67.48 feet to the Point of Beginning; thence from said Point of Beginning, continuing North 09°56'00" East, 82.88 feet; thence South 40°26'17" West, 37.91 feet; thence along the arc of a non-tangent curve, concave to the Northwest, having a radius of 100.00 feet, the chord of which bears South 39°10'33" West, 73.85 feet; thence South 60°50'45" West, 93.73 feet; thence along the arc of a curve to the left, having a radius of 100.00 feet, the chord of which bears South 44°13'31" West, 57.21 feet; thence South 27°36'18" West, 168.51 feet; thence South 23°18'02" West, 119.12 feet; thence North 40°20'01" East, 106.62 feet; thence North 38°04'01" East, 131.26 feet; thence North 44°10'30" East, 78.66 feet; thence North 39°48'39" East, 58.64 feet; thence North 44°27'55" East, 73.74 feet; thence North 41°43'11" East, 14.95 feet to the Point of Beginning, containing 0.499 acres, more or less.

See Exhibit "B-1-2" attached hereto and made a part of this description.

The basis of bearings for this description is the California Coordinate System, Zone II, NAD 83. Distances contained herein are ground distances. To obtain grid distances, multiply the distance by 0.9999115.

End of Description

Prepared by CTA Engineering & Surveying under the supervision of the undersigned

Kevin A. Heaney, PLS 5914

Portion of
APN 048-200-001

04/10/2010
Date
EXHIBIT "A-2-1"

All that real property situate in the County of Yuba, State of California, being a portion of the Northwest One-quarter of Section 15, Township 15 North, Range 4 East, M.D.M. and being more particularly described as follows:

Beginning at a point on the East line of said Northwest One-quarter, said point being also the Northwest corner of Parcel 4, as shown on Parcel Map No. 95-11, filed in the office of the County Recorder of Yuba County in Book 66 of Maps, Page 45 and from which a 1/2" rebar with plastic cap stamped LS 3341, marking the Northeast corner of said Section 15 bears North 57°57'57" East, 3149.06 feet, and from which a 1-1/2" iron pipe tagged LS 3341, marking the center of said Section 15 bears South 00°08'00" West, 1013.82 feet; thence from said Point of Beginning, along the East line of said Northwest One-quarter, South 00°08'00" West, 116.64 feet; thence leaving said East line, South 42°31'39" West, 30.16 feet; thence South 69°19'51" West, 1.93 feet; thence South 38°40'19" West, 29.71 feet; thence South 40°32'59" West, 669.46 feet; thence South 40°12'48" West, 201.36 feet; thence South 41°53'16" West, 18.91 feet; thence South 14°09'36" West, 1.05 feet; thence South 39°58'42" West, 226.49 feet more or less to a point on the North line of the "Boyer Tract No. 2", as shown on the plat thereof, filed in the office of the County Recorder of Yuba County in Book 3 of Maps, Page 31; thence along said North line, South 89°59'50" West, 121.37 feet; thence leaving said North line, North 41°09'03" East, 1346.46 feet to the Point of Beginning, containing 2.388 acres, more or less.

See Exhibit 'A-2-2' attached hereto and made a part of this description.

The basis of bearings for this description is the California Coordinate System, Zone II, NAD 83. Distances contained herein are ground distances. To obtain grid distances, multiply the distance by 0.9999115.

End of Description

Prepared by CTA Engineering & Surveying under the supervision of the undersigned

Kevin A. Heeney, PLS 5914

Portion of:

APN 018-190-002

03/10/2010
EXHIBIT "C-1-1"

All that real property situate in the County of Yuba, State of California, being a portion of Lot 1 as shown on the plat of Boyer Tract 2, filed in the office of the County Recorder of Yuba County in Book 3 of Maps, Page 31, and being more particularly described as follows:

Beginning at the Northwest corner of said Lot 1, from which a 1 1/2" iron pipe tagged LS 3341, marking the center of Section 15, Township 15 North, Range 4 East, M.D.M. bears North 89°59'50" East, 2536.35 feet; thence from said Point of Beginning, along the North line of said Lot 1, North 89°59'50" East, 765.79 feet; thence leaving said North line, South 09°56'00" West, 9.27 feet; thence South 89°28'49" West, 764.76 feet to a point on the West line of said Lot 1; thence along said West line, North 01°55'26" East, 16.04 feet to the Point of Beginning, containing 0.221 acres, more or less.

See Exhibit C-1-2 attached hereto and made a part of this description.

The basis of bearings for this description is the California Coordinate System, Zone II, NAD 83. Distances contained herein are ground distances. To obtain grid distances, multiply the distance by 0.9999115.

End of Description

Prepared by CTA Engineering & Surveying under the supervision of the undersigned

Kevin A. Heaney, PLS 5914

Portion of APN 018-200-001

08/23/2010

Date

LICENSED LAND SURVEYOR
NO.5914
Exp.12-31-2010
STATE OF CALIFORNIA
PROPOSED ACQUISITION FOR UPPER YUBA LEVEE IMPROVEMENT PROJECT

COUNTY OF YUBA
STATE OF CALIFORNIA

.squareup

FEE TITLE = 2.388 Ac.

EXHIBIT "A-2-Z"

OWNER:
Wilbur, Richard G. Trust

APN:
018-190-002

AREA:
FEE TITLE = 2.388 Ac.

DATE: 03/10/2010
DRAWN BY: KAHEL

SCALE: 1"=200'
JOB NO.: 06-006-004

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

Proposed Acquisition for
Upper Yuba Levee Improvement Project

STATE OF CALIFORNIA

LICENSED LAND SURVEYOR

NO. 9614

DATE: 03/10/2010

CTA® Engineering & Surveying

COUNTY OF YUBA
STATE OF CALIFORNIA
EXHIBIT “A-3-1”

All that real property situate in the County of Yuba, State of California, lying within a portion of the Southwest One-quarter of Section 15, Township 15 North, Range 4 East, M.D.M., and being a portion of Lots 3 and 5 of the plat of Boyer Tract 2, filed in the office of the County Recorder of Yuba County in Book 3 of Maps, Page 31; being all that portion of Parcel 3, as described in the deed to Richard G. Wilbur, Trustee of the Richard G. Wilbur Revocable Trust Dated November 2, 1994, recorded in Document No. 2009R-018277, and being that portion of said Parcel 3 lying within the following described strip or parcel of land:

Beginning at a point on the North line of said Boyer Tract 2, from which a 1-1/2" capped iron pipe stamped LS 3341, marking the center of said Section 15 bears North 89°59'50" East, 762.30 feet, and from which a 3/4" iron pipe, marking the Southwest corner of said Section 15 bears South 35°10'25" West, 3310.94 feet; thence from said Point of Beginning, leaving said North line, South 39°58'42" West, 208.34 feet; thence South 54°18'24" West, 13.22 feet; thence South 38°51'23" West, 91.19 feet; thence South 09°50'53" West, 97.10 feet; thence South 74°29'35" West, 63.15 feet more or less to a point on the Westerly line of said Lot 5; thence leaving said West line South 74°29'35" West, 62.06 feet; thence South 56°28'51" West, 12.72 feet; thence South 42°28'12" West, 74.41 feet; thence South 38°53'53" West, 63.19 feet; thence South 40°45'57" West, 452.17 feet; thence South 41°16'47" West, 38.17 feet; thence South 40°07'57" West, 79.99 feet; thence South 41°00'33" West, 79.99 feet; thence South 41°13'23" West, 63.70 feet; thence South 41°38'50" West, 38.00 feet; thence South 41°41'54" West, 40.01 feet; thence South 40°49'00" West, 42.01 feet; thence South 40°31'19" West, 78.01 feet; thence South 38°38'23" West, 62.28 feet; thence North 87°37'00" West, 53.14 feet; thence South 40°38'31" West, 82.48 feet; thence South 43°28'07" West, 35.17 feet; thence South 44°32'11" West, 219.33 feet; thence South 47°10'26" West, 34.72 feet more or less to a point on the West line of said Lot 2; thence along said West line, North 01°55'26" East, 76.15 feet more or less to the Northwest corner of said Lot 2; thence along the North line of said Lot 2, North 44°00'50" East, 194.17 feet; thence North 40°35'50" East, 167.12 feet more or less to the Northeast corner of said Lot 2 and the Northwest corner of Lot 3 of said Boyer Tract 2; thence along the North line of said Lot 3, North 40°35'50" East, 760.90 feet more or less to a point on the North line of said Boyer Tract 2; thence along said North line, North 89°59'50" East, 121.37 feet to the Point of Beginning. The area within said Parcel 3 contains 1.974 acres, more or less.

See Exhibit ‘A-3-2’ attached hereto and made a part of this description.

The basis of bearings for this description is the California Coordinate System, Zone II, NAD 83. Distances contained herein are ground distances. To obtain grid distances, multiply the distance by 0.9999115.

End of Description

Prepared by CTA Engineering & Surveying under the supervision of the undersigned

[Signature]

Keven A. Heaney, PLS 5914

Portion of APN 018-200-006

07/20/2010

Date

NO.5914
Exp.12-31-2010

LICENSED LAND SURVEYOR
STATE OF CALIFORNIA

F:\0-CTA\011\C1\06-008-004 Yuba River Phase 4 for Bender Rosenthal\Word\Legal Descriptions\2010\018-200-006-Fcs.doc
THE BASIS FOR BEARINGS SHOWN HEREIN IS THE CALIFORNIA COORDINATE SYSTEM, ZONE II, HAD 83. DISTANCES SHOWN HEREIN ARE GROUND DISTANCES. MULTIPLY GROUND DISTANCE BY 0.9999115 TO OBTAIN GRID DISTANCES.

EXHIBIT "A-3-2"  
DATE: 07/20/2010  
DRAWN BY: KAH  
SHEET 1 of 2

OWNER: Wilber, Richard G. Trust  
A.P.N.: 018-200-006  
AREA: FEE TITLE = 1.974 Ac.

Three Rivers Levee Improvement Authority  
Proposed Acquisition for  
Upper Yuba Levee Improvement Project  

County of Yuba, State of California
EXISTING LEVEE

PORTION OF LOT 1
BOYER TRACT 2
RS 3-31

1/2" IRON PIPE TAGGED LS3341
CENTER OF SECTION 15

RIGHT OF WAY TO CALIF. MIDLAND RAILROAD
PER BK 59 DEEDS, PAGE 461, FOLLOWS THE
ORIGINAL LINDA LEVEE, HOWEVER THE DESCRIPTION
DOES NOT MATCH THE PHYSICAL LOCATION.

THE BASIS FOR BEARINGS SHOWN HEREIN IS THE CALIFORNIA COORDINATE SYSTEM, ZONE II, NAD 83. DISTANCES SHOWN HEREIN ARE GROUND DISTANCES. MULTIPLY GROUND DISTANCE BY 0.999914 TO OBTAIN GRID DISTANCES.

EXHIBIT "A-3-2"

DATE: 07/20/2010  DRAWN BY: KAH  SHEET

SCALE: 1"=200'  JOB NO. 06-006-004  2 OF 2

OWNER: Wilbur, Richard G. Trust
A.P.M.: 018-200-006
AREA: FEE TITLE = 1.974 Ac.

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
Proposed Acquisition for
Upper Yuba Levee Improvement Project

ENGINEERING & SURVEYING
COUNTY OF YUBA, STATE OF CALIFORNIA

M:06-008-004\Plot\1018-200-000-FEE.dwg, SHT-1, 7/20/2010 8.51:14 AM, kheensay
Exhibit ‘B-1’

All that real property situate in the County of Yuba, State of California, being a portion of the Northwest One-quarter of Section 15 and the Northeast One-quarter of Section 16, Township 15 North, Range 4 East, M.D.M., and being more particularly described as follows:

Beginning at a point on the South line of said Northwest One-quarter, said point being also the Northwest corner of Lot 1 of the Boyer Tract 2, as filed in the office of the County Recorder of Yuba County in Book 3 of Maps, Page 31, and from which a 1 3/8” iron pipe tagged LS 3341, marking the center of said Section 15 bears North 89°59’50” East, 2536.35 feet; thence along the South line of said Northwest One-quarter and said Northeast One-quarter, North 89°59’50” West, 1632.50 feet; thence leaving said South line, North 82°00’05” East, 186.69 feet; thence South 89°29’19” East, 1012.01 feet; thence North 89°44’37” East, 434.89 feet; thence North 89°28’49” East, 778.08 feet; thence North 84°29’15” East, 222.16 feet; thence North 87°35’18” East, 301.94 feet; thence South 89°23’47” East, 360.19 feet; thence, South 40°09’05” West, 19.45 feet; thence South 35°58’48” West, 24.53 feet; thence North 89°23’47” West, 332.68 feet; thence South 87°35’18” West, 300.08 feet; thence South 84°29’15” West, 129.05 feet to a point on the South line of said Northwest One-quarter; thence along said South line, South 89°59’50” West, 872.38 feet to the Point of Beginning, containing 1.825 acres, more or less.

See Exhibit ‘B-2’ attached hereto and made a part of this description.

The basis of bearings for this description is the California Coordinate System, Zone II, NAD 83. Distances contained herein are ground distances. To obtain grid distances, multiply the distance by 0.9999115.

End of Description

Prepared by CTA Engineering & Surveying under the supervision of the undersigned.

Kevin A. Heeney, PLS 5914

Portion of
APN 018-140-040
A non-exclusive temporary access easement for ingress and egress on, over, and across certain real property owned by RICHARD G. WILBUR, TRUSTEE OF THE RICHARD G. WILBUR REVOCABLE TRUST DATED NOVEMBER 2, 1994 ("OWNERS"), located in Yuba County, California and as more particularly described on Exhibits "B-1" and "B-2" ("TAE Area"), attached hereto for the purpose of installing, constructing and/or improving certain levee and other public facilities located on adjacent and nearby property, and demolition of structures thereon, and accomplishing all necessary incidents and appurtenances thereto ("Project"). THREE RIVERS LEVEE IMPROVEMENT AUTHORITY ("TRLIA") shall repair or replace "in like kind" all fences, gates, irrigation facilities, driveways, and private roadways that are destroyed or damaged. The access easement herein described on Exhibits "B-1" and "B-2", shall extend for a period of fifteen months, limited to periods of time consisting of the annual construction season which spans from April 1 through November 15 of each year, beginning on the date so ordered by the Court.
Exhibit 'C-1'

All that real property situate in the County of Yuba, State of California, being a portion of the Southwest One-quarter of Section 10, Township 15 North, Range 4 East, M.D.M. and being more particularly described as follows:

Commencing at a 1 ¼" iron pipe tagged LS 3341 marking the center of said Section 10; thence along the North line of said Southwest One-quarter, North 89°50'19" West, 238.26 feet to the Point of Beginning; thence continuing along said North line, North 89°50'19" West, 46.44 feet to a point on the Southeasterly line of that certain road described in the deed to the County of Yuba recorded in Book 81 of Deeds, Page 46; thence along said Southeasterly line, South 37°53'59" West, 48.53 feet; thence leaving said Southeasterly line, North 57°48'49" East, 43.26 feet; thence North 69°07'25" East, 42.43 feet to the Point of Beginning, containing 0.016 acres, more or less.

See Exhibit 'C-2' attached hereto and made a part of this description.

The basis of bearings for this description is the California Coordinate System, Zone II, NAD 83. Distances contained herein are ground distances. To obtain grid distances, multiply the distance by 0.9999115.

End of Description

Prepared by CTA Engineering & Surveying under the supervision of the undersigned

[Signature]
Kevin A. Heene, PLS 5914

Portion of:
APN 018-140-040

Date 03/23/2010

[Stamp]
EASEMENT TO WESTERN AGGREGATES, LLC BY MEMORANDUM OF EASEMENT RECORDED IN DOC. NO. 2007-005040

NAUMES, INC.

018-140-041

WILBUR, RICHARD G. TRUST

O18-150-015

SMITH, HENRY P

THE BASIS FOR BEARINGS SHOWN HEREON IS THE CALIFORNIA COORDINATE SYSTEM, ZONE II, NAD 83. DISTANCES SHOWN HEREON ARE GROUND DISTANCES. MULTIPLY GROUND DISTANCE BY 0.9999115 TO OBTAIN GRID DISTANCES.

Proposed Acquisition for Upper Yuba Levee Improvement Project

COUNTY OF YUBA

STATE OF CALIFORNIA

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EXHIBIT “C-3”

TEMPORARY ACCESS EASEMENT

A non-exclusive temporary access easement for ingress and egress on, over, and across certain real property owned by RICHARD G. WILBUR, TRUSTEE OF THE RICHARD G. WILBUR REVOCABLE TRUST DATED NOVEMBER 2, 1994 ("OWNERS"), located in Yuba County, California and as more particularly described on Exhibits "C-1" and "C-2" ("TAE Area"), attached hereto for the purpose of installing, constructing and/or improving certain levee and other public facilities located on adjacent and nearby property, and demolition of structures thereon, and accomplishing all necessary incidents and appurtenances thereto ("Project"). THREE RIVERS LEVEE IMPROVEMENT AUTHORITY ("TRLIA") shall repair or replace “in like kind” all fences, gates, irrigation facilities, driveways, and private roadways that are destroyed or damaged. The access easement herein described on Exhibits "C-1" and "C-2", shall extend for a period of fifteen months, limited to periods of time consisting of the annual construction season which spans from April 1 through November 15 of each year, beginning on the date so ordered by the Court.
THE BASIS FOR BEARINGS SHOWN HEREON IS THE CALIFORNIA COORDINATE SYSTEM, ZONE II, HAD 83. DISTANCES SHOWN HEREON ARE GROUND DISTANCES. MULTIPLY GROUND DISTANCE BY 0.999915 TO OBTAIN GRID DISTANCES.

EXHIBIT "A-3-2"  DATE: 07/20/2010  DRAWN BY: KAM  SHEET 1 OF 2

OWNER: Wilber, Richard G. Trust
A.P.N.: 018-200-006
AREA: FEE TITLE = 1.974 Ac.

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
Proposed Acquisition for
Upper Yuba Levee Improvement Project

DATE: 07/20/2010
TO: THREE RIVERS LEVEE IMPROVEMENT BOARD OF DIRECTORS
FROM: PAUL BRUNNER, EXECUTIVE DIRECTOR
       MICHAEL A. CHURCHILL, ESQ., SPECIAL COUNSEL
       BOB MORRISON, RIGHT-OF-WAY MANAGER
       LARRY DACUS, DESIGN MANAGER

SUBJECT: CONSIDER ADOPTING A RESOLUTION OF NECESSITY FOR ACQUISITION OF PROPERTY INTERESTS OWNED BY THE ROBERT GLENN WOOD TRUST ON HAMMONTON SMARTVILLE ROAD FOR THE UPPER YUBA RIVER LEVEE IMPROVEMENT PROJECT

RECOMMENDATION:

That the Board of Directors adopt the attached proposed Resolution of Necessity for the acquisition of a portion of the property currently bearing Assessor's Parcel Number 018-210-029 for the Three Rivers Upper Yuba River Levee Improvement Project (the "Project"). The property is currently owned by the Robert Glenn Wood Trust. As described and depicted in Exhibit A-1 and A-2 to the proposed Resolution, the portion of the Wood Trust property proposed for acquisition is 0.383 acres in size.

BACKGROUND:

The Three Rivers Levee Improvement Authority (TRLIA) is preparing to carry out improvement and repair work along an approximately 3.9-mile section of the South Bank Yuba River flood protection levee from Simpson Lane to the Yuba Goldfields in Yuba County. The levee improvements will include geometry corrections, a seepage berm, and several miles of seepage cutoff wall varying in depth from approximately 45 to 70 feet below existing ground level. The Board approved the Project and adopted a Mitigated Negative Declaration pursuant to the California Environmental Quality Act for it on April 20, 2010.

The Upper Yuba River Levee Improvement Project is one of the final pieces of TRLIA’S larger flood protection program that includes 29.3 miles of levee improvements in Yuba County. The entire 29.3 mile improvement program is necessary to restore 100-year flood protection to the portion of the county within Reclamation District 784, but TRLIA’s goal for the upgrades is to meet a higher 200-year flood protection standard. The State is providing the majority of the funding for the Project as part of its Proposition 1E Early Implementation Program (“EIP”). As with other EIP projects, the Project must comply with State Department of Water Resources’ standards for project design and real estate acquisition. Those standards require the acquisition of fee title to levee areas currently held by the State as easements and the acquisition of operation
and maintenance ("O&M") corridors extending fifteen feet from the water side levee toe and 50 feet from the land side toe, except where existing structures or infrastructure render the acquisition of such width infeasible and adequate alternative access exists for operation and maintenance of the levee. The O&M corridors will provide the State and RD 784 room to maintain the levee and conduct future flood fights.

The Wood Trust property is located in Segment 3 of the Project, east of Dantoni Road. Project improvements in this Segment will include removal of the top of the old levee, construction of a seepage cutoff wall, and reconstruction of the upper portion of the levee to current geometric standards. The improved levee will have a water-side slope of 3 to 1 horizontal to vertical and a land-side slope of 2 to 1 horizontal to vertical, a minimum of three feet of freeboard above the 200-year storm design water surface elevation, and a 20-foot wide crown. While most of Segment 3 of the Levee has sufficient freeboard at its current height, many areas are currently too narrow and/or too steeply sloped and must be widened.

Project construction is scheduled to begin on April 15, 2011.

**DISCUSSION:**

The Wood Trust parcel is located at 2363 Hammonton Smartville Road and currently totals 30.37 acres. Approximately 25 acres of the parcel is a large square fronting the road; the remainder is a narrow extension that stretches north into the levee. This narrow piece was previously used as a landing strip for a crop dusting operation and is currently fallow ground.

The proposed acquisition is a strip approximately 210 feet long that varies in width from approximately 70 to approximately 89 feet. As shown on the map attached to the proposed Resolution of Necessity as Exhibit A-2, a portion of the acquisition area is encumbered by existing levee easements. The encumbered area is approximately 0.122 of the 0.383-acres TRLIA needs to acquire.

The design of the Project is based on three technical documents prepared by TRLIA’s consultant team. The first is Kleinfelder, Inc.’s *Problem Identification Report*, dated September 29, 2009. Upper Yuba Levee Improvement Project, Yuba River South Levee Evaluation, Simpson Lane to Yuba Gold Fields, Reclamation District No. 784, Yuba County, California. This report contains the results of geotechnical investigations and provides preliminary repair recommendations. Kleinfelder subsequently prepared its *Revised Geotechnical Basis of Design*, dated June 11, 2010. Upper Yuba Levee Improvement Project, Yuba River South Levee Evaluation, Reclamation District 784, Yuba County, California. This report contains additional analysis on the final repair recommendations.

The third technical document on which the Project design is based is HDR’s *Upper Yuba Levee Improvement Project, 90% Design Submittal Design Documentation Report*, Upper Yuba Levee Improvement Project, Yuba River Basin, California (Sta. 102+00 to Sta. 303+59), dated May, 2010. This report identifies the standards used in the design of the Project, describes the design assumptions and design criteria, summarizes the methods and results of the hydraulic and geotechnical analyses of the Project, and describes the key features of the improved levee.

All three documents are available for review on TRLIA’s website.

A nominal valuation of the property rights required for the project completed by Bender-Rosenthal, Inc. valued the fee simple interest at $12,000 per acre. TRLIA offered to purchase
the property for $3,200 on June 30, 2010. A copy of TRLIA’s offer letter (without exhibits) is attached.

TRLIA’s right-of-way consultants began discussing the proposed acquisition with Mr. Wood in April 2010, and productive discussions have continued through the appraisal process and after TRLIA made its purchase offer. Mr. Woods has advised Bender Rosenthal staff that the price TRLIA has offered price is acceptable but he is not willing to sign the purchase agreement TRLIA has proposed due to concerns he has regarding certain indemnification language it contains. TRLIA’s counsel are developing new language for Mr. Woods to consider and it is possible that an agreement will be reached before an eminent domain case need be filed.

In the absence of a negotiated agreement for the purchase of the property, however, the lengthy time required to obtain possession of property via eminent domain will require TRLIA to commence condemnation proceedings in the very near future in order to obtain possession before the planned April 15, 2011 start of project construction. Nonetheless, the commencement of litigation will not end TRLIA’s efforts to reach a negotiated agreement.

**FISCAL IMPACT:**

The approved appraised values for this property is within the TRLIA Board approved (March 16, 2010) land acquisition plan for the Upper Yuba River Levee Improvement Project. The funding to acquire this property is in the TRLIA cash flow and is available to be deposited to the State Treasurer’s Condemnation Fund. The State will pay 70% of this expense as part of the Upper Yuba River Levee Improvement EIP funding agreement.

Attachments:
1. Letter of Offer
2. Resolution of Necessity

1113717.1
June 30, 2010

Robert Glenn Wood Trust  
Attn: Robert Wood, Trustee  
3950 Oro Dam Blvd, E  
Oroville, CA 95966

RE: Upper Yuba Levee Improvement Project  
APN: 018-210-029

Offer to Purchase – Government Code §7267.2

Dear Mr. Wood:

As you may be aware, the Three Rivers Levee Improvement Authority (TRLIA) is in the final planning stages of the Upper Yuba Levee Improvement Project. The Project will increase the Linda area’s protection against flooding by upgrading several miles of the Yuba River South Bank Levee to meet current standards for resistance to underseepage. In order to complete the Project, however, TRLIA will need to acquire ownership of a small portion of your property located near the Yuba River in Yuba County. The area TRLIA needs to acquire in fee ownership is approximately 0.383 acres in size.

Bender Rosenthal, Inc. has been retained by TRLIA to acquire the various property rights required for this Project. I have been asked to contact you to discuss the Project, the terms of the proposed acquisition, and the documents and procedures necessary to complete the transaction. As required by California law, TRLIA has obtained a valuation of the required property interest, which is summarized in the enclosed document titled Statement and Summary of the Basis of Non-Complex Valuation.

This letter, along with the enclosed Summary Statement Relating to Purchase of Real Property or an Interest Therein, Statement and Summary of the Basis of Non-Complex Valuation, proposed Agreement for Purchase of Real Property, proposed Grant Deed, proposed Escrow Instructions, Title Report, and Information Brochure, constitutes TRLIA’s offer to purchase the required real property for $3,200.00.

If the amount and terms of the offer are satisfactory, please sign the proposed Grant Deed with a notary’s acknowledgement, the proposed Escrow Instructions, plus two copies of the proposed Agreement for Purchase, and return them to me in the envelope provided at your earliest convenience for processing at TRLIA. Upon acceptance, a completely executed copy of the Purchase Agreement will be returned to you for your records. Of course, this offer is conditioned on TRLIA’s ratification of the offer by execution of the Purchase Agreement as approved by the TRLIA Board of Directors.
Please note that you are eligible to receive reimbursement of up to $5,000 for the reasonable costs associated with retaining the services of a qualified real estate appraiser, licensed by the State Office of Real Estate Appraisers, to prepare an appraisal report for the same property rights for which this offer is being made.

TRLIA realizes that it may take you some time to evaluate its purchase offer, particularly if you decide to obtain an appraisal of your own. As an alternative, TRLIA would like to enter into an Agreement for Possession and Use of Real Property with you on the following terms:

- TRLIA would immediately pay you the $3,200.00 waiver valuation of the property it needs to acquire.
- TRLIA would have the right to take possession of that property on August 1, 2010 and begin construction of the Project.
- TRLIA will continue to negotiate with you regarding the total price to be paid for the property it is acquiring and other terms of the purchase. If you and TRLIA do not reach an agreement on price and other terms before December 31, 2010, TRLIA will promptly file an eminent domain lawsuit to have the amount of just compensation for the property determined by the Yuba County Superior Court.

A proposed Agreement for Possession and Use of Real Property is also enclosed for your review and consideration. If the price and terms of the Agreement for Possession and Use of Real Property are acceptable, please sign that agreement and return it to me in the enclosed envelope. The proposed Agreement for Possession and Use of Real Property is also subject to approval by the TRLIA Board of Directors.

You are welcome to contact me at (916) 978-4900 or at the address above to discuss this proposed transaction, or the Project, further.

Thank you for your kind and careful consideration to this matter.

Sincerely,

Deryl L. Neal
Right of Way Consultant

Enclosures
RESOLUTION NO. 2010—__

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 UPPER YUBA RIVER LEVEE IMPROVEMENT PROJECT
(CODE CIV. PROC. § 1245.230)

WHEREAS, Three Rivers Levee Improvement Authority ("TRLIA") proposes to repair, construct, install, and maintain the Upper Yuba River Levee Improvement Project (the "Project"); and

WHEREAS, TRLIA has determined that it needs to acquire a portion of the parcel currently bearing Assessor's Parcel No. 018-210-029 (the "Property") in order to complete the Project; and

WHEREAS, TRLIA has advised the owner of the Property of the need for the Project and offered the owner an opportunity for a hearing before the TRLIA Board on September 28, 2010, pursuant to Section 1245.235 of the California Code of Civil Procedure; 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 is to be acquired for 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 set forth in the legal description attached hereto as Exhibit A-1 and the accompanying parcel map attached hereto as Exhibit A-2, which are incorporated herein by this reference.

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

a. The public interest and necessity require the Project.

b. The 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 Exhibit A-1 and depicted in Exhibit A-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 owner of record of the Property.

e. All conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Property described herein have been complied with by TRLIA.

f. TRLIA possesses the statutory authority to acquire the Property by eminent domain.
PASSED AND ADOPTED by the Board of Directors of the Three Rivers Levee Improvement Authority this 28th day of September, 2010, 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: ________________________
Exhibit ‘A-1’

All that real property situate in the County of Yuba, State of California, being a portion of Lot 2, as shown on the plat of the “Boyer Tract 1”, filed in the office of the County Recorder of Yuba County in Book 3 of Maps, Page 25 and being more particularly described as follows:

Beginning at a point on the North line of said Lot 2, from which a brass cap set in a monument well at the intersection of Dantoni Road and Hampton-Smartsville Road bears South 22°04‘14” West, 3186.10 feet and from which a 3/4” iron pipe marking the corner common to Sections 15, 16, 21 and 22, Township 15 North, Range 4 East, M.D.M. bears South 82°48‘57” East, 1441.53 feet; thence from said Point of Beginning, along the North line of said Lot 2, South 76°46‘58” West, 214.20 feet; thence leaving said North line, South 00°39‘07” East, 70.54 feet; thence North 81°43‘03” East, 210.88 feet; thence North 00°36‘46” West, 89.14 feet to the Point of Beginning, containing 0.383 acres, more or less.

See Exhibit ‘A-2’ attached hereto and made a part of this description.

The basis of bearings for this description is the California Coordinate System, Zone II, NAD 83. Distances contained herein are ground distances. To obtain grid distances, multiply the distance by 0.9999115.

End of Description

Prepared by CTA Engineering & Surveying under the supervision of the undersigned

[Signature]

Kevin A. Heaney, PLS 5914

03/10/2010

Date

Portion of

APN 018-210-029
EXHIBIT 'A-2'

THE BASIS FOR BEARINGS SHOWN HEREON IS THE CALIFORNIA COORDINATE SYSTEM, ZONE II, NAD 83. DISTANCES SHOWN HEREON ARE GROUND DISTANCES. MULTIPLY GROUND DISTANCE BY 0.9999115 TO OBTAIN GRID DISTANCES.

Owner: Robert Glenn Wood Trust
A.P.N.: 018-210-029
Area: FEE TITLE = 0.383 Ac.
AREA WITHIN SSJDD ESMT'S. = 0.122 Ac.

TWO RIVERS LEVEE IMPROVEMENT AUTHORITY
Proposed Acquisition for
Upper Yuba Levee Improvement Project

Kah Sheet Engineering & Surveying
COUNTY OF YUBA, STATE OF CALIFORNIA
September 28, 2010

TO: THREE RIVERS LEVEE IMPROVEMENT BOARD OF DIRECTORS
FROM: PAUL BRUNNER, EXECUTIVE DIRECTOR
       MICHAEL A. CHURCHILL, ESQ., SPECIAL COUNSEL
SUBJECT: CONSIDER ADOPTING AN AMENDED RESOLUTION OF NECESSITY FOR ACQUISITION OF TWO PROPERTIES OWNED BY BHAJAN S. “JOHN” SOHAL AND RAJWANT K. SOHAL AND THE WALINDER S. SOHAL LIVING TRUST ALONG THE YUBA RIVER SOUTH BANK LEVEE FOR THE UPPER YUBA RIVER LEVEE IMPROVEMENT PROJECT

RECOMMENDATION:

That the Board of Directors adopt the attached proposed Resolution of Necessity for the acquisition of portions of the properties bearing Assessor's Parcel Numbers 018-190-109 and 018-190-110 for the Three Rivers Upper Yuba River Levee Improvement Project (the "Project"). APN 018-190-109 is owned by Bhajan S. “John” Sohal and Rajwant K. Sohal; APN 018-190-110 is owned by Walinder S. “Will” Sohal as Trustee of the Walinder S. Sohal Living Trust. The proposed Resolution would amend and supersede Resolution 2010-3.

BACKGROUND:

The Three Rivers Levee Improvement Authority (TRLIA) is preparing to carry out improvement and repair work along an approximately 3.9-mile section of the South Bank Yuba River flood control levee from Simpson Lane to the Yuba Goldfields in Yuba County. The levee improvements will include geometry corrections, a seepage berm, and several miles of seepage cutoff wall varying in depth from approximately 45 to 70 feet below existing ground level. The Board approved the Project and adopted a Mitigated Negative Declaration pursuant to the California Environmental Quality Act for it on April 20, 2010.

The Upper Yuba River Levee Improvement Project is one of the final pieces of TRLIA'S larger flood control program that includes 29.3 miles of levee improvements in Yuba County. The entire 29.3 mile improvement program is necessary to restore 100-year flood protection to the portion of the county within Reclamation District 784, but TRLIA’s goal for the upgrades is to meet a higher 200-year protection standard.

Construction of the seepage berm and reconstruction of the levee embankment after construction of the cutoff wall will require approximately 230,000 cubic yards of select “borrow” material with appropriate physical properties. Because hauling such a large quantity of material a significant distance to the Project site would both be costly and create undesirable amounts of truck traffic on nearby roads, the Project team investigated potential borrow sites adjacent to the
Project site during the design process. Following preliminary soils testing in 2009 that suggested their properties as a possible borrow site, property owners Will and John Sohal responded positively to inquiries from TRLIA’s right-of-way team regarding their willingness to sell their properties to TRLIA.

Further soil testing confirmed the suitability of the soil on the Sohal properties for Project use. The Sohals’ properties are adjacent to the levee near the middle of the Project. This will minimize the distance the material needs to be hauled and, as a result, minimize both the cost and the amount of air pollution produced by hauling operations as compared to other alternative sites. Based on these factors and the willingness of the Sohals to sell their properties (subject to agreements being reached regarding purchase price), the design team selected the Sohal properties as the material borrow site for the Project.

**DISCUSSION:**

Each of the two Sohal properties is 38.58 acres in size. They are currently part of a larger family farming operation located on the South side of the levee on the West side of Bryden Road. APN 018-190-110 is planted entirely to peaches and APN 018-190-109 is mostly peaches with some prunes.

Based on an appraised value of $14,500 per acre, TRLIA offered to purchase each of the Sohal properties for $560,000.

Negotiations regarding voluntary purchases were successful and tentative agreements with the fee owners were reached at compromise values between the appraisals obtained by TRLIA and those obtained by the property owners. For a number of reasons, purchase agreements could not be consummated in a reasonable time frame and the property owners agreed that TRLIA should acquire the properties via eminent domain. The Board adopted a Resolution of Necessity on July 20, 2010 (Resolution 2010-3).

The southern and eastern property lines of APN 018-190-109 and the eastern property line of the other parcel are located within farm roads shared with adjacent properties. In addition, the owner of the farms to the north and south, Henry Smith, owns road easements covering the portions of the roads within the Sohal properties and covering another road that crosses the Sohal parcels. The Sohals also maintain seasonal ditches along the southern road to drain water from the property to the east of the ones TRLIA is acquiring.

Before commencing eminent domain proceedings, Special Counsel investigated the farm road issues and met with members of the Smith and Sohal families several times. That investigation revealed that acquisition of the entire parcels would cause significant negative impacts on the Smith parcels and the Awtar Sohal parcel to the east, that the negative impacts could be significantly mitigated by very slightly reducing the amount of property TRLIA acquired, that such a slight reduction would not affect TRLIA’s Project, and that it would also simplify the eminent domain action.

On September 9, TRLIA’s Executive Director Paul Brunner and Special Counsel Michael Churchill met with numerous members of the Sohal and Smith families in TRLIA’s offices, including the owners and farmers of all of the affected properties. The property owners agreed that significant impacts on the farming operations could be avoided by transferring the farm roads intact to Awtar Sohal and Henry Smith, that this could by accomplished by having TRLIA reduce its acquisition to leave Will and John & Rajwant Sohal with the farm roads and room for the drainage ditches and then the those property owners selling the very small remainder parcels
to Awtar Sohal and Henry Smith for nominal sums, and that they would do so if TRLIA amended its Resolution of Necessity and proceeded to acquire less than all of the Sohal parcels.

Legal descriptions and maps depicting the proposed acquisitions are attached to the proposed Resolution of Necessity.

**FISCAL IMPACT:**

The approved appraised values for these two parcels are within the TRLIA Board approved (March 16, 2010) land acquisition plan for the Upper Yuba River Levee Improvement Project. The funding to acquire these two parcels is in the TRLIA cash flow and is available to be deposited to the State Treasurer's Condemnation Fund. The State will pay 70% of this expense as part of the Upper Yuba River Levee Improvement EIP funding agreement.

Attachments:
1. Letter of Offer
2. Resolution of Necessity
September 22, 2010

VIA FEDERAL EXPRESS

Bhajan S. “John” Sohal
Rajwant K. Sohal
3402 Sapphire Drive
Rocklin, CA 95677

Re: Notice of Hearing regarding Adoption of a Resolution of Necessity to Acquire Property by Eminent Domain [California Code of Civil Procedure 1245.235]

Dear Mr. and Mrs. Sohal

1. As I discussed with Will Sohal on September 21, the Board of Directors of the Three Rivers Levee Improvement Authority intends to consider the adoption of an Amended Resolution of Necessity on September 28, 2010 that, if adopted, will authorize the Three Rivers Levee Improvement Authority to acquire the property described herein by eminent domain for the Three Rivers Levee Improvement Project. The proposed Amended Resolution of Necessity would amend and supersede the Resolution of Necessity adopted on July 20, 2010.

A description of your property being considered for acquisition is attached to this Notice and marked as Exhibit A-1 and A-2. Your name appears on the last equalized Yuba County assessment roll.

2. Please take notice that the Board of Directors of the Three Rivers Levee Improvement Authority, at a special meeting to be held on September 28, 2010, at 2:00 p.m., at the Yuba County Government Center Board Chambers, 915 Eighth Street, Suite 109A, Marysville, California, will hold a hearing on whether such a Resolution of Necessity should be adopted, as required by California Code of Civil Procedure section 1245.220, for the commencement of an eminent domain proceeding to acquire real property.

You have a right to appear and be heard before the Board of Directors at the above scheduled hearing on the following matters and issues, and to have the Board of Directors give
judicious consideration to your testimony prior to deciding whether or not to adopt the proposed Resolution of Necessity:

a. Whether the public interest and necessity require the proposed project;
b. Whether the proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
c. Whether the property sought to be acquired by eminent domain is necessary for the proposed project;
d. Whether the offer required by Government Code section 7267.2, together with the accompanying statement and summary of the basis for the amount established as just compensation, was made to you and whether the offer and statement/summary were in a form and contained all of the factual information required by Government Code section 7267.2;
e. Whether the Three Rivers Levee Improvement Authority has complied with all conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the property described herein; and
f. Whether the Three Rivers Levee Improvement Authority has statutory authority to acquire the property by eminent domain.

The Three Rivers Levee Improvement Authority is authorized to acquire the property by eminent domain in accordance with the California constitution and the California Eminent Domain Law, Code of Civil Procedure section 1230.010 et seq., and pursuant to Government Code section 25350.5 and Water Code section 50930.

3. If you desire to be heard, please file a written request with the Three Rivers Levee Improvement Authority located at 1114 Yuba Street, Suite 218, Marysville, California 95901. A request to be heard will be accepted up to the date of the hearing. If you elect not to appear and be heard, your failure to appear will be a waiver of your right to later challenge the right of the Three Rivers Levee Improvement Authority to take the property by eminent domain.

If you elect not to appear and be heard in regard to compensation, your nonappearance will not be a waiver of your right to claim greater compensation in a court of law. The amount to be paid for the property will not be considered by the Board of Directors at this hearing.

This Notice is not intended to foreclose future negotiations between you and the representatives of the Three Rivers Levee Improvement Authority on the amount of
compensation to be paid for your property.

Very truly yours,

DOWNEY BRAND LLP

Michael A. Churchill

MAC:amf

Enclosures
September 22, 2010

VIA FEDERAL EXPRESS

Walbinder S. "Will" Sohal
Trustee of the Walbinder S. Sohal Living Trust
1608-2 11th Street
Sacramento, CA 95814

Re: Notice of Hearing regarding Adoption of a Resolution of Necessity to Acquire Property by Eminent Domain [California Code of Civil Procedure 1245.235]

Dear Mr. Sohal:

1. As we discussed on September 21, the Board of Directors of the Three Rivers Levee Improvement Authority intends to consider the adoption of an Amended Resolution of Necessity on September 28, 2010 that, if adopted, will authorize the Three Rivers Levee Improvement Authority to acquire the property described herein by eminent domain for the Three Rivers Levee Improvement Project. The proposed Amended Resolution of Necessity would amend and supersede the Resolution of Necessity adopted on July 20, 2010.

A description of your property being considered for acquisition is attached to this Notice and marked as Exhibit B-1 and Exhibit B-2. Your name appears on the last equalized Yuba County assessment roll.

2. Please take notice that the Board of Directors of the Three Rivers Levee Improvement Authority, at a special meeting to be held on September 28, 2010, at 2:00 p.m., at the Yuba County Government Center Board Chambers, 915 Eighth Street, Suite 109A, Marysville, California, will hold a hearing on whether such a Resolution of Necessity should be adopted, as required by California Code of Civil Procedure section 1245.220, for the commencement of an eminent domain proceeding to acquire real property.

You have a right to appear and be heard before the Board of Directors at the above scheduled hearing on the following matters and issues, and to have the Board of Directors give
judicious consideration to your testimony prior to deciding whether or not to adopt the proposed Resolution of Necessity:

a. Whether the public interest and necessity require the proposed project;
b. Whether the proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
c. Whether the property sought to be acquired by eminent domain is necessary for the proposed project;
d. Whether the offer required by Government Code section 7267.2, together with the accompanying statement and summary of the basis for the amount established as just compensation, was made to you and whether the offer and statement/summary were in a form and contained all of the factual information required by Government Code section 7267.2;
e. Whether the Three Rivers Levee Improvement Authority has complied with all conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the property described herein; and
f. Whether the Three Rivers Levee Improvement Authority has statutory authority to acquire the property by eminent domain.

The Three Rivers Levee Improvement Authority is authorized to acquire the property by eminent domain in accordance with the California constitution and the California Eminent Domain Law, Code of Civil Procedure section 1230.010 et seq., and pursuant to Government Code section 25350.5 and Water Code section 50930.

3. If you desire to be heard, please file a written request with the Three Rivers Levee Improvement Authority located at 1114 Yuba Street, Suite 218, Marysville, California 95901. A request to be heard will be accepted up to the date of the hearing. If you elect not to appear and be heard, your failure to appear will be a waiver of your right to later challenge the right of the Three Rivers Levee Improvement Authority to take the property by eminent domain.

If you elect not to appear and be heard in regard to compensation, your nonappearance will not be a waiver of your right to claim greater compensation in a court of law. The amount to be paid for the property will not be considered by the Board of Directors at this hearing.

This Notice is not intended to foreclose future negotiations between you and the representatives of the Three Rivers Levee Improvement Authority on the amount of
compensation to be paid for your property.

Very truly yours,

DOWNEY BRAND LLP

Michael A. Churchill

MAC:amf

Enclosures
RESOLUTION NO. 2010-__

A RESOLUTION OF THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY AMENDING AND SUPERSEADING RESOLUTION NO. 2010-3 AND DECLARING THE PUBLIC NECESSITY FOR THE TAKING OF CERTAIN PROPERTY FOR REPAIR, CONSTRUCTION, INSTALLATION AND MAINTENANCE OF THE THREE RIVERS UPPER YUBA RIVER LEVEE IMPROVEMENT PROJECT (CODE CIV. PROC. § 1245.230)

WHEREAS, Three Rivers Levee Improvement Authority ("TRLIA") proposes to repair, construct, install, and maintain the Upper Yuba River Levee Improvement Project (the "Project"); and

WHEREAS, on July 20, 2010, TRLIA adopted Resolution No. 2010-3, a Resolution of Necessity for the acquisition of the properties currently bearing Assessor's Parcel No.'s 018-190-109 and 018-190-110 for the Property for the Project; and

WHEREAS, subsequent meetings and communications between TRLIA's Special Counsel, consultants, the property owners, and the owners of adjacent properties revealed to all parties that the acquisition by TRLIA of the entirety of both parcels would cause significant negative impacts to adjacent landowners, that such impacts could be mitigated by very slight reductions in the scope of TRLIA's property acquisitions, and that such slight reductions in the scope of TRLIA's acquisitions would not materially affect TRLIA's Project; and

WHEREAS, TRLIA has therefore determined that it needs to acquire portions of the properties currently bearing Assessor's Parcel No.'s 018-190-109 and 018-190-110 (the "Property") in order to complete the Project; and

WHEREAS, TRLIA has advised the owners of the Property of the need for the Project and offered the owners an opportunity for a hearing before the TRLIA Board on September 28, 2010 pursuant to Section 1245.235 of the California Code of Civil Procedure; 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 is to be acquired for 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 set forth in the legal descriptions attached hereto as Exhibit A-1 and Exhibit B-1 and the accompanying parcel maps attached hereto as Exhibit A-2 and Exhibit B-2, which are incorporated herein by this reference.

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

a. The public interest and necessity require the Project.
b. The 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 Exhibit A-1 and Exhibit B-1 and depicted in Exhibit A-2 and Exhibit 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. All conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the property described herein have been complied with by TRLIA.

f. TRLIA possesses the statutory authority to acquire the Property by eminent domain.

PASSED AND ADOPTED by the Board of Directors of the Three Rivers Levee Improvement Authority this 28th day of September, 2010 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: _______________________
Exhibit 'A-1'

All that real property situate in the County of Yuba, State of California, being a portion of Parcel 3, as shown on Parcel Map No. 95-11, filed in the office of the County Recorder of Yuba County in Book 66 of Maps, Page 45 and being more particularly described as follows:

Commencing at a point on the West line of said Parcel 3 marked by a 1-1/2" iron pipe tagged LS 3341, marking the center of Section 15, Township 15 North, Range 4 East, M.D.M. and from which a 1/2" rebar with plastic cap stamped LS 3341, marking the Northeast corner of said Section 15 bears North 44°52'09" East, 3787.33 feet; thence along the West line of said Parcel 3, South 00°33'30" East, 309.85 feet to the Point of Beginning; thence leaving said West line, North 89°04'09" East, 885.08 feet; thence North 88°02'26" East, 742.04 feet; thence South 00°51'04" West, 22.98 feet to a point on the South line of said Parcel 3; thence along said South line, South 88°05'47" West, 1626.76 to the Southwest corner of said Parcel 3; thence along the West line of said Parcel 3, North 00°33'30" West, 37.44 feet to the Point of Beginning, containing 0.991 acres, more or less.

See Exhibit 'A-2' attached hereto and made a part of this description.

The basis of bearings for this description is the California Coordinate System, Zone II, NAD 83. Distances contained herein are ground distances. To obtain grid distances, multiply the distance by 0.9999115.

End of Description

Prepared by CTA Engineering & Surveying under the supervision of the undersigned

Kevin A. Heeney, PLS 5914
Portion of:
APN 018-190-109

09/23/2010 Date

F:\0-CTA OFFICE\06-008-004 Yuba River Phase 4 for Bender Rosenthal\Word\Legal Descriptions\2010018-190-109-Rem-South.doc
THE BASIS FOR BEARINGS SHOWN HEREON IS THE CALIFORNIA COORDINATE SYSTEM, ZONE 11, NAD 83. DISTANCES SHOWN HEREON ARE GROUND DISTANCES. MULTIPLY GROUND DISTANCE BY 0.9999115 TO OBTAIN GRID DISTANCES.

**Exhibit 'A-2'**

**DATE:** 09/22/2010  
**DRAWN BY:** KAH  
**SHEET:** 1 OF 1

**OWNER:** Sohal, Bhajan S. & Rajwant K.  
**A.P.N.:** 018-190-109  
**AREA:** 0.991 Ac.

**SCALE:** 1"=300'  
**JOB NO.:** 06-008-004  
**THREE RIVERS LEVEE IMPROVEMENT AUTHORITY**

**Portion of Parcel 3**  
**R.S. 66-45**

**ENGINEERING & SURVEYING**

**COUNTY OF YUBA**  
**STATE OF CALIFORNIA**

---

**Notes:**
- TO A FOUND 1/2" REBAR W/ PLASTIC CAP STAMPED LS3341  
- NORTHEAST COR. SEC. 15
- FOUND 1 1/2" IRON PIPE TAGGED LS3341 CENTER OF SECTION
- NORTH 33°30'41" 37.44'  
- NORTH 24°48'30" 885.06'  
- NORTH 00°23'26" 742.04'  
- NORTH 05°47'48" 1626.76'  
- NORTH 31°49'24" 50051.94'  
- NORTH 31°49'24" 22.55'

**Parcels:**
- 018-190-110  
- 018-190-109  
- 018-190-106

**Sources:**
- M:\06-008-004\Plats\018-190-109-REM-SOUTH.dwg, SHT-1, 9/21/2010 3:18:25 PM, kheeney
Exhibit 'B-1'

All that real property situate in the County of Yuba, State of California, being a portion of Parcel 4, as shown on Parcel Map No. 95-11, filed in the office of the County Recorder of Yuba County in Book 66 of Maps, Page 45 and being more particularly described as follows:

Beginning at the Northwest corner of said Parcel 4, from which a 1/2" rebar with plastic cap stamped LS 3341, marking the Northeast corner of Section 15, Township 15 North, Range 4 East bears North 68°20'12" East, 2020.42 feet, and from which a 1-1/2" iron pipe tagged LS 3341, marking the center of said Section 15 bears South 22°16'51" West, 2094.71 feet; thence along the Northwesterly, West and South lines of said Parcel 4, South 40°34'50" West, 1217.26 feet to the West line of said Parcel 4; thence along said West line, South 00°08'00" West, 340.32 feet to the Southwest corner of said Parcel 4; thence along the South line of said Parcel 4, North 88°05'46" East, 1633.65 feet; thence leaving said South line, North 00°02'30" West, 204.69 feet; thence North 00°37'23" West, 307.55 feet; thence North 00°33'11" West, 728.30 feet to a point on the North line of said Parcel 4; thence along said North line, South 87°55'58" West, 830.12 feet to the Point of Beginning, containing 38.131 acres, more or less.

See Exhibit 'A-2' attached hereto and made a part of this description.

The basis of bearings for this description is the California Coordinate System, Zone 11, NAD 83. Distances contained herein are ground distances. To obtain grid distances, multiply the distance by 0.9999115.

End of Description

Prepared by CTA Engineering & Surveying under the supervision of the undersigned

[Signature]

Kevin A. Heeney, PLS 5914

Portion of:
APN 018-190-110

09/22/2010
Date
Proposed Acquisition for
Upper Yuba Levee Improvement Project

Exhibit '8-2'

<table>
<thead>
<tr>
<th>Owner: Sohal, Walbinder S. Living Trust</th>
</tr>
</thead>
<tbody>
<tr>
<td>A.P.N.: 018-190-110</td>
</tr>
<tr>
<td>Area: Fee Title = 38.131 Ac.</td>
</tr>
</tbody>
</table>

Three Rivers Levee Improvement Authority

County of Yuba

STATE OF CALIFORNIA

Licensed Land Surveyor

09/22/2010

Engineering & Surveying

M:\05-006-004\Data\18-190-110-fee.dwg, SHT-1, 09/22/2010 11:51:00 AM, kheaney
September 28, 2010

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director
SUBJECT: Feather River Segment I V-Ditch Repair

Recommended Action
Approve adding Feather River Segment I V-Ditch Repair to the Feather River EIP Funding Agreement and delegate authority to Executive Director to sign and execute contracts to accomplish this work.

Background
In 2003 and 2004 the U.S. Army Corps of Engineers (Corps) strengthened the existing Feather River Segment 1 levee at the site referred to as Site 7 Extension, in Reclamation District 784. Strengthening efforts included, but were not limited to, the relocation of Pump Station No. 2, construction of a landside seepage berm, installation of a line of relief wells, and construction of a landside concrete-lined drainage ditch to convey relief well flows to Clark Slough just upstream of Pump Station No. 2. The landside drainage ditch is the focus of this memorandum. The ditch is approximately 3,800 feet long.

Following moderately high overbank flows in the Feather River in early January 2006, damage was observed along the ditch, consisting of erosion and voids in the foundation soil under the concrete-lined ditch and cracking of the concrete lining. Most of the damage in the form of soil erosion and voids was observed along the southern half of the ditch. The most heavily damaged reach was at the southern end, although minor damage occurred throughout the length of the ditch. The cause of the damage was attributed to high pore-water pressures in the pervious soil layers in the levee foundation. It was hypothesized that high seepage pressures in the foundation uplifted and cracked the concrete lining and caused erosion of the sub-grade soil. A repair was made by the Corps in late 2006 of the most heavily damaged reach of the ditch at the southern end. The repair consisted of installing four additional relief wells and removing and reconstructing approximately 180 feet of the concrete lining. Pockets of gravel (approximately one-foot cubes) were placed under the ditch invert in seven locations and spaced between 17 and 25 feet apart, and a weep valve was placed through the lining at each cube of drain material to provide pressure relief.
TRLIA improved this levee section in 2008 and 2009. No additional work was identified at that time for the V-ditch.

Following the moderately wet winter of 2010, additional damage has been observed in the ditch, with noticeable signs of distress in the southern 2,250 feet and the northern 550 feet. The most significant damage is in the southern reach that was repaired by the Corps in 2006. The damage consists of erosion and voids in the foundation soil under the concrete lining.

**Discussion**

RD784 has asked both the CVFPB and TRLIA to help repair the V-Ditch. TRLIA staff has approached DWR about the idea of adding the V-ditch repair to the work that would be accomplished under the Feather River EIP Funding Agreement. There is sufficient funding within the current Funding Agreement to accomplish this work. DWR is receptive to this idea.

TRLIA staff requested GEI, Consultants to provide the attached alternative analysis that outlines potential solutions.

**Fiscal Impact**

The cost to do this work is estimated to be approximately $500,000 (design, construction, and construction management). If the State concurs with including this work within the Feather River Funding Agreement then they would pay 70% of the cost. The remaining 30% would come from local funds (813 Account). There is sufficient funding within the current EIP Funding Agreement (both state and local funding) to accomplish this work.

Attachment:

GEI report, dated September 10, 2010
Memo

To: Paul Brunner, Larry Dacus, Doug Handen
From: Alberto Pujol/Dan Wanket
Date: 09/10/2010
Re: Feather River Levee Site 7 Extension – Repairs to Concrete-Lined V-Ditch – Alternatives Evaluation

This memorandum summarizes the observed damage to the Corps-constructed concrete-lined V-ditch north of Pump Station 2 in Site 7 Extension of the Feather River levee and describes and evaluates potential alternatives to repair the ditch.

Background

In 2003 and 2004 the U.S. Army Corps of Engineers (Corps) strengthened the existing Feather River levee at the site referred to as Site 7 Extension, in Reclamation District 784. Strengthening efforts included, but were not limited to, the relocation of Pump Station No.2, construction of a landside seepage berm, installation of a line of relief wells, and construction of a landside concrete-lined drainage ditch to convey relief well flows to Clark Slough just upstream of Pump Station No.2. The landside drainage ditch is the focus of this memorandum.

The ditch is approximately 3,800 feet long. Based on the TRLIA stationing system for the Feather River levee it is located between approximate Stations 50+00 and 88+00. The Corps as-built drawing that shows typical cross-sections of the improvements at this site is attached as Figure 1. Section D, on the upper right side of the drawing, shows the arrangement of the work. As shown on Section D, the seepage berm was constructed above original ground, and the drainage ditch was excavated though the berm and into the original ground. The typical cross-section of the lined ditch is on the upper left corner of the same drawing.

Following moderately high overbank flows in the Feather River in early January 2006, damage was observed along the ditch, consisting of erosion and voids in the foundation soil under the concrete-lined ditch and cracking of the concrete lining. Most of the damage in the form of soil erosion and voids was observed along the southern half of the ditch. The most heavily damaged reach was at the southern end, although minor damage occurred throughout the length of the ditch. Excerpts of the Corps’ Project Information Report for PL 84-99 Levee Rehabilitation prepared following the 2006 event are included as Attachment 1. The cause of the damage was attributed to high pore-water pressures in
the pervious soil layers in the levee foundation. It was hypothesized that high seepage pressures in the foundation uplifted and cracked the concrete lining and caused erosion of the subgrade soil. A repair was made by the Corps in late 2006 of the most heavily damaged reach of the ditch at the southern end. The repair consisted of installing four additional relief wells and removing and reconstructing approximately 180 feet of the concrete lining. Pockets of gravel (approximately one-foot cubes) were placed under the ditch invert in seven locations and spaced between 17 and 25 feet apart, and a weep valve was placed through the lining at each cube of drain material to provide pressure relief.

Following the moderately wet winter of 2010, additional damage has been observed in the ditch, with noticeable signs of distress in the southern 2,250 feet and the northern 550 feet. The most significant damage is in the southern reach that was repaired by the Corps in 2006. The damage consists of erosion and voids in the foundation soil under the concrete lining. A damage notification dated March 2010 is included as Attachment 2. During a brief site meeting on April 2, 2010, we observed the damage and noticed an offset between concrete lining surfaces at the contact between the 2006 concrete and the 2003 concrete at the south end of the repaired section. We also observed that runoff from the landside slope of the levee formed sizable ponds along the toe of the levee, i.e., there did not appear to be good drainage from the levee toe to the ditch across the maintenance road that services the relief wells.

There have not been high flows in the river during the 2009-2010 winter. The readings of piezometers along this reach of the levee did not show a groundwater table approaching the ground surface. Specifically, the nearest piezometer, P-F11, located at about Station 58+20 between relief wells RW-5 and RW-6A, showed groundwater levels ranging between 7 and 11 feet below the ground surface (Attachment 3).

Interpretation of Cause of Damage

The observed offset at the construction joint and the erosion of the soil that forms the subgrade for the concrete lining are interpreted to be indications that the concrete lining, including the segment replaced in 2006, has been uplifted again by water pressure.

Because there were no high river flows, high pore-water pressures did not develop in the pervious layers in the levee foundation and therefore cannot be the cause of the damage observed in March 2010. The attached piezometer readings substantiate this conclusion.

In our opinion, it is likely that during prolonged wet periods a perched groundwater table develops in the seepage berm fill and underlying clay soils between the levee toe and the ditch lining. The seepage berm fill is probably more pervious than the underlying clay. Thus, the underlying clay forms a barrier to downward percolation of runoff. In addition, the ditch concrete lining forms a lateral barrier that is keyed into the tight clay subgrade. Due to poor surface drainage, surface runoff from the levee slope ponds along the toe and road and remains there for long periods of time, saturating the seepage berm fill. The hydraulic barriers formed by the clay substrate and the ditch lining allow the buildup of
hydrostatic pressure within the seepage berm fill and perhaps the upper few feet of underlying clay. The localized hydrostatic pressure from this perched water table is enough to uplift the light-weight concrete lining. As the lining begins to separate from its subgrade, it allows surface runoff to flow down the steep sideslope under the concrete lining and erode the soil, resulting in the observed erosion features.

As noted above, the section of ditch repaired by the Corps in 2006 included weep valves through the concrete liner, yet still experienced damage in 2010. The Corps interpretation at the time was that the damage was due to high hydrostatic pressures in the pervious layers under the levee and not a shallow perched water table in the seepage berm fill. We understand that isolated gravel pockets and weep valves were installed in seven locations for the lining repair, but that a continuous drainage layer was not installed. The effectiveness of the weep valves is dependent on the ability of hydrostatic pressure that develops in the ditch foundation to relieve toward the weep valves, and without a continuous drainage layer to transmit the excessive hydrostatic pressure, the weep valves were not effective in relieving the hydrostatic pressure that developed in the ditch foundation.

The damage to the ditch reflects a functional deficiency that, if left unrepaired, will result in continued deterioration of the lining and eventually impact ditch performance. It should be noted that the damage to the ditch occurred during a non-flood year. It should be expected that during significant storms and high water events the damage will accelerate. After the initial damage in 2006, the Corps concluded that “If no repairs are made, the condition of the levee is severe enough that high flow may lead to failure of the levee during the next flood season.” (see Corps Project Information Report in Attachment 1). While this was likely an overstatement with regard to the 2006 damage and certainly does not apply to the current condition, the cumulative impacts from several wet winters and high flood events are expected to lead to continued deterioration and eventual failure of the ditch. In addition, debris accumulation in the ditch resulting from liner failure and subgrade soil erosion could impact the performance of the relief well field along this reach of levee.

**Repair Concepts**

Alternative repair concepts initially considered have included the following:

1. Remove the damaged lining, place a gravel underdrain and reconstruct the concrete lining with weep valves through it.
2. Construct an underdrain parallel to the ditch to drain the seepage berm and reduce the potential for buildup of seepage pressures under the concrete lining.
3. Install a system of soil anchors to anchor the existing lining and prevent its uplift.
4. Drill weepholes through the existing lining to provide underdrainage.
5. Remove the damaged lining and reconstruct it with a pervious material, such as a gabion mattress over a geotextile fabric.
6. Repair the liner in place by grouting the voids between the concrete liner and subgrade, and sealing cracks in the liner.
(7) Do not repair the liner.

The repair in place (Alternative 6) and do nothing (Alternative 7) alternatives were included in this evaluation at the request of DWR.

A summary evaluation of these alternatives is provided in Table 1. Out of these repair alternatives, we have developed conceptual sketches and order-of-magnitude cost estimates for Alternatives 1 and 2. We have not developed sketches for the remaining options for the following reasons:

- Alternative 3 - System of anchors to anchor the existing lining and prevent its uplift: The lining is cracked and weakened in some areas. The fiber reinforcement is not enough to provide flexural strength, so a great number of anchors would be required. This repair scheme appears relatively complex and costly.

- Alternative 4 - Weepholes through the existing lining: The weepholes would further weaken the lining. Since there is no filter medium behind the lining, subgrade soil could tend to erode and flow out through the weepholes aggravating the cavities under the lining. This alternative does not appear to be a reliable long-term solution.

- Alternative 5 - Remove the damaged lining and reconstruct it with a pervious material, such as a gabion mattress placed over a geotextile fabric: The side slopes would have to be laid back to the point where the repair work would likely conflict with the existing relief wells and drain pipes. This concept does not appear to have a cost advantage over Alternative 1.

- Alternative 6 - Repair liner in place by grouting the voids under the liner and sealing cracks: This alternative would restore the ditch to near its originally constructed condition, but would not solve the underlying cause of distress. Without addressing the elevated localized hydrostatic pressure from the perched water table during wet periods, the light-weight concrete lining will continue to experience excessive uplift forces that will continue to damage and degrade the ditch.

- Alternative 7 - Do nothing: Without implementing appropriate repairs, the ditch will continue to deteriorate and eventually impact ditch performance. As discussed above, the damage to the ditch occurred during a non-flood year. It should be expected that during significant storms and high water events the damage will accelerate. The cumulative impacts from several wet winters and high flood events will lead to continued deterioration and eventual failure of the ditch. In addition, debris accumulation in the ditch resulting from liner failure and subgrade soil erosion could impact the performance of the relief well field along this reach of levee.
As described above, damage is noticeable along the southern 2,250 feet and the northernmost 550 feet, with the most substantial damage along a few hundred feet at the southern end of the ditch, although there is some indication of soil erosion over the entire ditch alignment. For cost estimating purposes we have preliminarily assumed that repairs would be performed for the complete 3,800-foot alignment. Because some indications of damage exist along the full length of the ditch, it is our opinion that the entire length will ultimately need to be repaired. However, an alternative approach could consist of making an initial limited repair of one or two of the more damaged sections of the ditch, at the south end and possibly at the north end, to verify the effectiveness of the repair over a period of a few years while monitoring the condition and rate of deterioration of the less damaged reaches over the same period. Limits of ditch repair need to be determined during final design based on cost and input from TRLIA, RD 784, Corps, and CVFPB.

The two repair alternatives that appear feasible are described below:

**Alternative 1 – Replace Damaged Lining and Provide Underdrain**

A typical design for Alternative 1 is shown on Figure 2. Reconstruction of the drainage ditch would involve flattening the existing 1.25H:1V slope to a 1.5H:1V slope and constructing a continuous 8-inch-thick gravel drain layer underneath the concrete lining with weep valves providing hydrostatic pressure relief. The continuous underdrain beneath the concrete liner will provide a more robust drainage system than the isolated pockets of gravel placed during the 2006 repairs. The side slopes would need to be laid back in order to keep the underdrain material in place during concrete placement. Costs for demolition of the existing ditch and construction of the new lining are estimated to be in the order of $80/linear foot based on the pricing obtained from several bidders for a comparable concrete-lined drainage ditch constructed along portions of Segment 2 of the Feather River levee. In addition, to improve drainage and reduce infiltration, the corridor between the levee toe and the ditch would need to be regraded. Placement of additional fill and possibly some aggregate base would be required to fill low areas and maintain positive drainage toward the ditch. It is expected that up to about 500 cy of fill and perhaps 100-200 cy of imported aggregate base would be required to regrade the access corridor.

Including mobilization/demobilization, construction costs for the replacement of the entire 3,800-foot-long ditch lining and regrading of the access corridor could be in the order of $450K.

**Alternative 2 – Construct Drain Adjacent to Ditch**

A typical design for Alternative 2 is shown on Figure 3. A filtered underdrain including a drainage pipe would be constructed parallel to the existing concrete-lined ditch to reduce the hydrostatic pressure under the lining of the existing drainage ditch. An outlet to Clark Slough would need to be provided by extending the drainage pipe approximately 100 feet to the south beyond the south end of the concrete-lined ditch. Some cleanouts would be needed, as well as a flap valve at the end of the pipe to prevent backflow. The existing concrete-lined ditch would not be reconstructed, although the larger voids behind the
Concrete lining would be filled with grout to restore intimate contact between the ditch lining and underlying soil.

Including mobilization/demobilization, construction cost of the underdrain system for the entire 3,800-foot-long ditch is estimated to be in the order of $600K.

**Recommendation/Implementation**

Alternative 1 is recommended for implementation based on its lower estimated cost and because it is likely a more robust repair since the damaged reach of ditch lining would be completely replaced with a new ditch lining with underdrain. If TRLIA decides to implement repairs to the ditch, the following steps are recommended:

- Coordinate with RD 784, Corps and CVFPB to determine acceptability of Alternative 1. Confirm that work can be performed under existing permits or under RD 784's maintenance authority and additional permitting will not be required. Address review comments from these agencies.
- Develop detailed design, including definition of the limits of the repair work. The engineering cost will be in the $30k range assuming that preparation of a brief bid package will be required and that regulatory reviews and approvals will be expeditious.
- It is assumed that construction will take place after the 2010-2011 flood season. Management of the construction contract is also estimated to be in the $30k range.

**Attachments:**

Figures 1-3
Attachment 1 – Excerpts of Corps of Engineers 2006 PIR
Attachment 2 – RD 784 Damage Notification
Attachment 3 – P-F11 Piezometer Readings
<table>
<thead>
<tr>
<th>Alternative</th>
<th>Preliminary Assessment</th>
<th>Preliminary Cost</th>
</tr>
</thead>
</table>
| Alt 1 – Reconstruct concrete lining with weep valves and drain | - Would address excessive hydrostatic pressure  
- Would replace existing damaged ditch lining | ~$450k                                                |
| Alt 2 - Construct an underdrain parallel to the ditch          | - Would address excessive hydrostatic pressure  
- Would repair existing ditch in place             | ~$600k                                                |
| Alt 3 – Anchor existing lining with soil anchors                | - Repair would require significant anchors / design would be complex                    | Preliminary cost not developed, but would likely be in excess of $1M |
| Alt 4 - Drill weepholes through the existing lining             | - Would compromise the strength of concrete liner  
- Would likely cause piping of underlying foundation material | Preliminary cost not developed since alternative is not considered a viable long term solution |
| Alt 5 - Remove the damaged lining and reconstruct with pervious material | - Geometry would likely impact existing relief wells                                      | Preliminary cost not developed since alternative would be greater than reconstructing existing ditch |
| Alt 6 - Repair the liner in place                              | - Would not address excessive hydrostatic pressure that is causing distress to ditch    | Preliminary cost not developed since alternative would not address underlying cause of distress |
| Alt 7 - Do not repair the liner                                 | - Would not address deteriorating ditch                                                    | No ditch repair costs                                  |
|                                                                             |                                                                                         | The cost of eventual failure of the ditch and its consequences has not been quantified |
Figures 1 through 3
NOTES:
1. PROTECT IN PLACE ALL RELIEF WELLS AND RELIEF WELL DRAIN PIPES.
REPLACE ALL DAMAGED PIPES AT NO EXPENSE TO OWNER.
NOTES:
1. PROTECT IN PLACE ALL RELIEF WELLS AND RELIEF WELL DRAIN PIPES.
   REPLACE ALL DAMAGED PIPES AT NO EXPENSE TO OWNER.
Attachment 1

Excerpts of Corps of Engineers 2006 PIR
Executive Summary

A series of storms struck Northern California and Nevada in late December and early January 2005/2006. The Sacramento River, Truckee River and several tributaries reached flood stage. In addition to high flows, high tides and winds were experienced in the Sacramento San-Joaquin Delta. A Federal Disaster Declaration was issued for 31 California counties for the storms, flooding, mudslides and landslides.

A number of levees in the Sacramento area sustained damage during these storms, and many public sponsors have requested Rehabilitation Assistance from the Corps under authority of PL 84-99. This Project Information Report (PIR) is one report in series of PIRs prepared by CESPK in response to these requests. Emergency rehabilitations are required for these sites because the damage is very severe and the timeframe before the upcoming flood season is very limited. To help the reader differentiate between the PIRs, details from this report have been summarized below:

<table>
<thead>
<tr>
<th>Reclamation District</th>
<th>Reclamation District 784</th>
</tr>
</thead>
<tbody>
<tr>
<td>Location</td>
<td>Yuba County, CA; 40 miles north of downtown Sacramento.</td>
</tr>
<tr>
<td>Protected Municipality</td>
<td>Marysville, Linda, &amp; Olivehurst</td>
</tr>
<tr>
<td>Description of sites:</td>
<td>Two (2) damage sites. The major problem in each is erosion of the levee slope. All sites are categorized as Order 1 repair sites.</td>
</tr>
<tr>
<td>To be constructed by:</td>
<td>This site will be constructed by the Corps.</td>
</tr>
<tr>
<td>Total Cost of Repair</td>
<td>$783,100</td>
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<tr>
<td>Total Annual Cost (Amortized)</td>
<td>$51,553</td>
</tr>
<tr>
<td>Annual Benefits</td>
<td>$2.6 million</td>
</tr>
<tr>
<td>B/C Ratio</td>
<td>51 to 1</td>
</tr>
<tr>
<td>Eligibility/ Funding Issues:</td>
<td>Though the State is providing full funds for this repair, this PIR is needed to establish the Federal responsibility, should the Corps be directed to reimburse the state.</td>
</tr>
<tr>
<td>Other Significant Issues:</td>
<td></td>
</tr>
</tbody>
</table>
MEMORANDUM FOR Commander, U.S. Army Engineer Division, South Pacific Division, (ATTN: CESPD-DD-E), 333 Market Street, San Francisco, CA 94105

SUBJECT: Request for Federal Assistance in Repairing Flood Damages to Sacramento Flood Control Project, Reclamation District No. 784 on the Yuba River, Bear River and Western Interceptor Canal, Yuba County, California.

1. The U.S. Army Corps of Engineers, Sacramento District, issued a public notice for rehabilitation assistance dated 2 February 2006. RD 784 requested rehabilitation assistance in a letter dated 21 March 2006 (Appendix A). The public sponsor, The California Reclamation Board, forwarded the request on 10 April 2006. RD 784 has 9 damaged sites reported. There are 4 eligible sites, 2 are not eligible, and 3 will be repaired by the RD. This PIR (Project Information Report) will address the 4 eligible sites listed below. [Note: The current PIR lists only two of the four eligible sites because two of the four sites are order 1 and two are order 2. The eligible sites are on separate levees within RD 784, and one levee protects agricultural land while the other protects an urban area. This PIR will be amended soon with the addition of the order 2 sites.] Because of the severity of the sandboil problems, these Order 1 sites are on the imminent verge of failure, and they protect a populated area. This Project Information Report (PIR) will address the following:

<table>
<thead>
<tr>
<th>Unit</th>
<th>Site #</th>
<th>Order</th>
<th>Repair to be Done</th>
<th>To Be Constructed By</th>
<th>In Report?</th>
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</thead>
<tbody>
<tr>
<td>Feather</td>
<td>20051230-025-002</td>
<td>1</td>
<td>Install drainage trench at the berm toe</td>
<td>COE</td>
<td>Yes- Design is Included</td>
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<tr>
<td>River</td>
<td>20051230-025-003</td>
<td>1</td>
<td>Restore concrete V ditch; install additional relief wells</td>
<td>COE</td>
<td>Yes- Design is Included</td>
</tr>
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</table>

The following data are reported in the format required in Section 5, Figure 5-3 of EP 500-1-1. I have determined that this is an emergency project that requires immediate action to prevent and reduce risks to life, health and property, and severe economic losses.
CESPN-CO-OR
SUBJECT: Request for Federal Assistance in Repairing Flood Damages to Sacramento Flood Control Project, Reclamation District No. 784 on the Yuba River, Bear River and Western Interceptor Canal, Yuba County, California.

Feather River Pump Station No. 2 (Site # 20051230-025-003) - Erosion of the foundation soil on a 400 foot long reach under the concrete lined V-ditch for the relief wells along the levee toe.

**Alternative 1 (selected alternative):** Restore the levees to the pre-flood condition.

Alternative 1 for the Feather River Pump Station No. 2 (Site # 20051230-025-003) consists of reducing the hydrostatic pressure in the foundation sand layer and restoring the concrete lined V-ditch on a layer of drainage material. The work will include removal of the damaged concrete ditch liner and backfilling the voids with compacted soil. A coarse, filter fabric lined, drainage base will be constructed under the concrete liner and reconstruct the concrete liner. Eight additional relief wells will be installed 60 feet deep between the existing wells.

Repair details are shown on Appendix E

**Alternative 2:** Slurry Wall

Alternative 2 for the Feather River Pump Station No. 2 (Site # 20051230-025-003) consists of constructing a slurry wall that is 400 feet in length, 80 feet in depth, and 24 inches thick. The slurry wall cap in the levee crown should be backfilled with compacted impervious fill and the levee patrol road should be topped off with 6 inches of aggregate.

**Alternative 3.** No Action.

If no repairs are made, the condition of the levee is severe enough that high flow may lead to failure of the levee during the next flood season. This levee is protecting an urban area where lives are at risk and where there may be large economic impact. Sacramento District engineers assessing the project have determined that the damages are very severe and that without any repairs, the entire flood control project is reduced to a 1-year frequency event. Due to these reasons, this alternative is not recommended.

14. **COST ESTIMATE**
(Rounded to nearest $100)

<table>
<thead>
<tr>
<th>Item</th>
<th>Qty</th>
<th>Unit</th>
<th>Cost</th>
<th>Total</th>
</tr>
</thead>
<tbody>
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<td>$563K</td>
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<tr>
<td>Mitigation</td>
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<td>LS</td>
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<td>$56K</td>
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<tr>
<td><strong>Sub-total Construction Cost</strong></td>
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<td></td>
<td>$619K</td>
<td>$619K</td>
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<tr>
<td>Contingencies (10%)</td>
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<td></td>
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<tr>
<td><strong>Total Construction Cost</strong></td>
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<td></td>
<td>$681K</td>
<td>$681K</td>
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<tr>
<td>Planning, Engineering, Design (6%)</td>
<td></td>
<td></td>
<td>$41K</td>
<td>$41K</td>
</tr>
</tbody>
</table>
Dear Mr. Fua,

Reclamation District 784 operates and maintains the project levees located within the district along the Yuba River, Feather River, Bear River and Western Interceptor Canal. During the high river flows occurring in January of this year numerous areas were damaged due to the high flows. Assistance pursuant to PL 84-99 is thereby requested to facilitate the timely repair of these damages. A description of the damages and other technical information is listed below.

Name and telephone number of the Public Sponsor’s point of contact:
Richard Webb
President, Reclamation District 784
(530) 742-0520

Legal name of the flood control project:
Sacramento Flood Control Project—specifically being the levees within
Reclamation District No. 784 on the Feather River, Bear River and Western Interceptor Canal.

Date and results of the last semi or annual inspection:
The last semi-annual inspection of the levees maintained by Reclamation District No. 784 was conducted by State DWR personnel on November 4, 2005 with satisfactory findings.

Location of the flood control project by township, section, range, city, and county and/or GPS coordinates:
Southwest Yuba County within RD784
Location(s) of the damaged section(s), and extent of the damage at each location:

1. Feather River Levee: Erosion and sear damage along the waterside of the levee and levee toe in numerous locations extending approximately from River Mile 20 to River Mile 22. Estimated cost of repair: $100,000

2. Feather River Levee near Star Bend: Large boils in several locations near District Pump No. 3, which was observed by Corps personnel during the flood event and described as needing immediate remediation work. The location is near River Mile 19 at Star Bend. Estimated cost of repair: $2,000,000

3. Feather River Levee: Erosion and/or settlement has occurred on the landside toe along the concrete lined V-ditch constructed by the Corps to receive water from the numerous relief wells along the levee toe. A large void has occurred, causing instability and cracking in the ditch. The V-ditch is located immediately north of District Pump Station No. 2. Estimated cost of repair: $150,000

4. Western Pacific Interceptor Canal Levee: Wave wash erosion and debris deposits have occurred along the levee in approximately a two-mile reach of the levee extending north from the Bear River. Estimated cost of repair: $320,000

5. Yuba River: Erosion damage has occurred to the low levee/berm located along the main channel of the Yuba River constructed to direct river flows away from the south levee of the Yuba River. The low levee/berm is located between the SR70/65 bridge and the UPRR trestle (old SPRR). Estimated cost of repair: $350,000

6. Levee Patrol Roads: Damage due to flood patrol/blood fight activities has damaged the levee roads. Estimated cost to repair the roads on 18 miles of levee: $150,000

Waterway causing the flood

Flood damage as described above was due to the high river stages in the Yuba, Feather and Bear Rivers and the flow in the Western Pacific Interceptor Canal.
March 2, 2006
The Reclamation Board
Dan Fua, Acting General Manager

Public Law 84-99 Rehabilitation Assistance
Request for Assistance
Page 3 of 3

The damage repairs for the six locations described above total approximately $3,070,000. Please advise us of any additional information needed or when an inspection is possible.

Sincerely,

Richard Webb

cc Corps of Engineers
DAMAGE DESCRIPTION

1. Cause of Damage:

The levee system of Reclamation District (RD) 784 protects the areas of Marysville, Linda, and Oliverhurst. A breach in the levee may contribute to loss of lives and may have a large economical impact. High water stages on the Feather River, Yuba River, Dry Creek, and Western Pacific Interceptor Canal produced heavy damages to the levee embankment. The damages consist of erosions of the levee waterside slopes, sand boils landward of existing underseepage berms, cracks in a concrete V ditch constructed under previous PL 84-99 assistance for discharging water from relief wells, and other damages. Some damage have reduced the stability of the levee below the acceptable limits that may result in potential breaches in the embankment and flooding the protected urban area. These damages are considered Order 1 of repair. The damages that reduced the levee stability below acceptable limits but are located on a levee unit protecting a less developed agricultural area were considered Order 2 of repair. Other damages may be exacerbated during the next flood event but now are not threatening the levee integrity are considered Order 3 and 4 of repair. Some of the damages were already repaired or will be repaired by the Reclamation District (RD) 784 or Tri Rivers Improvement Authority.

2. Description of Physical Damage to Project Feature.

   a. Feather River, Left Bank, River Mile 20 to 22 – Intermittent levee toe erosions at numerous sites. The erosions were repaired by the RD 784.

   b. Feather River, Left Bank, near Star Bend at Pump Station #3 - Large boils in several locations in the vicinity of Pump Station No. 3 carried sand from the foundation beyond the underseepage berm toe. The boils were observed by the Corps’ specialists during the flood fight and described as “needing immediate remediation work”. The boils could not be inspected after the flood due to agricultural activity in the field beyond the berm. Because material was piping from under the levee foundation, immediate remediation, such as construction of a rock drain along the berm toe, must be taken prior to the next flood season. The repair is considered Order 1 since the levee protects a developed urban area.

   c. Feather River north of Pump Station No. 2 - Erosion of the foundation soil under the concrete lined V-ditch. The V-ditch was constructed by the Corps under PL 84-99 assistance in 1997 to accept water from the relief wells along the levee toe at the Pump Station 2. The erosion removed material from under the concrete liner, creating deep voids and cracking the concrete. The cracks in the concrete liner extended about 200 feet along the bottom of the ditch. Additional relief wells between the existing wells or other pressure relief methods are required to decrease the pressure in the aquifer along the levee toe. The damaged concrete liner needs to be removed, the voids backfilled with compacted soil, and the V-ditch replaced. The repair is considered Order 1 since the levee protects a developed urban area.
Cracks in the concrete liner of the relief well discharge ditch.

Voids under the concrete liner
Erosion of the soil under concrete liner and cracks in the concrete

d. Western Pacific Interceptor Canal Right Bank Levee – wave wash erosion and debris deposit on approximately 2 mile reach was repaired by the Three-River Levee Improvement Authority.

c. Yuba River Left Bank - 2,000 feet long erosion to the low levee/berm along the main channel of the Yuba River constructed to direct the river flows away from the south levee of the Yuba River, between the SR 70/65 Bridge and UPRR trestle. The damages are significant but they are not threatening the levee integrity and are considered Order 3 of repair.

f. The gravel on the levee patrol road has been damaged during the flood fight activities. The levee patrol road has been repaired by the RD 784.

g. Dry Creek between Levee Miles 3.285 and 4.307 – intermittent minor erosions and scour damages along a 5,000 foot reach of the levee on the waterside slope. The erosion sites are 2-3 feet deep and are not threatening the levee stability. The damages may be repaired as Order 4.
Evaluation Criteria Used to Order Rank Sites

Evaluation factors used to rank the sites into Order rank are:

**Order 1:** The damages are severe enough that they may lead to loss of the levee before the next flood season. These levees are protecting urban areas where lives are at risk or where there may be a large economic impact.

**Order 2:** The damages are severe enough that they may lead to loss of the levee before the next flood season. These levees are protecting undeveloped areas.

**Technical Criteria for both Order 1 and 2 Sites:**

- Vertical cut in the levee slopes higher than 10 feet,
- Vertical cut close to the levee crown with high traffic on the paved road on the levee crown (i.e. Hwy 160)
- Slides in the waterside or landside levee slope close to the levee crown that may lead to progressive failure of the levee,
- Sand boils removing material from the levee foundation that may lead to collapse of the levee due to piping.

**Order 3:** Severe damages that may extend into the next flood season but are less likely to lead to levee breaches.

**Technical Criteria for Order 3 Sites:**

- Vertical cut of the levee toe at least 5 feet but less than 10 feet
- Loss of riprap and erosion 4 to 8 feet into the levee slope
- Small slides of the levee toe
- Wave wash 3-5 feet and erosion of the levee toe.

**Order 4:** Minor damage that may be exacerbated during the next flood but will not lead to the loss of the levee embankment.

**Technical Criteria for Order 4 Sites:**

- Wave wash less than 3 feet into the levee slope
- Erosion less than 3 feet of the levee toe
- Seepage with clear water not carrying material from the levee foundation or levee embankment
- Damages to the crushed rock of the levee patrol road

**Order 5:** All other minor damages that will not affect the functionality of the levee and are not critical for the levee embankment.
b. Feather River Pump Station # 2 (Site # 2005123-025-003) - Erosion of the foundation soil on a 400 foot long reach under the concrete lined V-ditch for the relief wells along the levee toe.

**Alternative 1 (selected alternative)** consists of reducing the hydrostatic pressure in the foundation sand layer and restoring the concrete lined V-ditch on a layer of drainage material. The work will include removal of the damaged concrete ditch liner and backfilling the voids with compacted soil. A coarse, filter fabric lined, drainage base will be constructed under the concrete liner and reconstruct the concrete liner. Eight additional relief wells will be installed 60 feet deep between the existing wells. The new wells will discharge into the concrete lined ditch. The required quantities for the repair are as follows:

- Clearing and grubbing: 390 SY
- Remove existing ditch liner: 20 CY
- Remove Surface Base: 1780 SY
- Granular material for Drainage Layer: 230 Tons
- New Concrete V ditch liner: 120 CY
- Wells 60 feet deep: 8
- Wells manifolds: 8
- Wells Drainage (40 feet each): 8
- Surface drainage blanket: 500 Tons

The construction cost of this alternative is $443,660. The total cost is $617,407 including environmental mitigation, contingency, E&D, and SOIH.

**Alternative 2** consists of construction of a slurry wall, 80 feet deep, 24 inches thick on 400 feet long reach along the levee crest as shown on Figure 2. The slurry wall will be excavated on a platform that will be temporarily constructed on the levee crown (1:1 slope). The slurry wall cap needs to be backfilled with compacted impervious fill. The disturbed levee patrol road should be restored with 6 inches coarse aggregate base.

The material quantities for this repair are:

- Clearing and grubbing: 390 SY
- Remove existing ditch liner: 20 CY
- Remove Surface Base: 1780 SY
- Granular material for Drainage Layer: 230 Tons
- New Concrete V ditch liner: 120 CY
- Slurry wall: 32,000 SF
- Excavation and backfill: 150 CY
- Aggregate base course: 3,200 Tons
The cost of alternative 2 for this site is $1,904,178 for construction and $2,649,894 including environmental mitigation, E&D, and SIOH.

**Alternative 3. No Action.**

If no repairs are made, the condition of the levee is severe enough that high flow may lead to failure of the levee during the next flood season. This levee is protecting an urban area where lives are at risk and where there may be large economic impact. Without any repairs the entire flood control project is reduced to a 1-year frequency event. Due to these reasons, this alternative is not recommended.

**Total cost:** The total cost of selected alternatives for all order 1 sites in RD 784 is $783,111 for construction and $562,733 including environmental mitigation, E&D, and SIOH.
Attachment 2

RD 784 Damage Notification
Gentlemen- Problem with Concrete Relief Well Ditch North of Pump Station 2

The cement ditch into which the relief wells empty has once again developed erosion problems along the western edge North from Pump Station 2. Soil has eroded in the section of ditch which was repaired in 2006. The heaviest damage is located between pump station 3A and 3B. The extent of the damage is currently unknown. In one section, the erosion can be measured to a depth of approximately 30 inches.

Photographs are attached.

The damage was noted after the last rain. There has been no high water in the channel and no water against the levee.

Mr. Minard, MHM Engineering, was notified by phone but has not yet examined the scene.

DWR, CFVPB, and TRLIA are being notified by email.

With Kindest Regards,

Steven Fordice, General Manager
Reclamation District 784
1594 Broadway
Arboga, CA 95961
530-742-0520
Cell 530-682-0303
Attachment 3

P-F11 Piezometer Readings
P-F11 Piezometric Elevations
Phase IV Feather River Levee Repair Project
Yuba County, California

Date

Piezometric Elevation (ft, NGVD)

- P-F11 U (Tip El. -0.8)
- P-F11 L (Tip El. -3.3)
- Ground Surface (El. 34.9)
AMENDMENT NO. 2

AGREEMENT FOR PROFESSIONAL SERVICES
FOR
ENGINEERING SERVICES
BETWEEN
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY AND
KLEINFELDER WEST, INC.

THIS SECOND AMENDATORY AGREEMENT is made effective September 2010, by and between Three Rivers Levee Improvement Authority ("TRLIA") and Kleinfelder West, Inc. ("the Consultant"), who agree as follows:

1. **Recitals.** This Amendment is made with reference to the following background recitals:

   1.1. Effective October 1, 2009, the parties entered into an Agreement ("AGREEMENT") for Professional Services relating to Engineering Services for TRLIA’s Design Program.

   1.2. Effective March 6, 2010, the parties entered into Amendment 1 to the AGREEMENT in the amount of $374,000 for a total contract value of $676,000.

   1.3. Article C.24 of the AGREEMENT, states that modifications or amendments to the terms of the AGREEMENT shall be in writing and executed by both parties;

   1.4. TRLIA and the CONSULTANT desire to amend the AGREEMENT;

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

2. **Second Amendment to Agreement.** The Professional Services Agreement is hereby amended as follows:

   2.1. The Termination Date in Clause 2 and A.2 is amended to extend to June 30, 2011.

   2.2. The scope of services (Attachment A to the Agreement for Professional Services between TRLIA and Kleinfelder, Inc.) is amended by the addition of tasks described in the scope of services attached to this amendment agreement, Exhibit 1.

   2.3. The payment, budget, and not-to-exceed amounts, Condition B.1 in Attachment B to the Agreement for Professional Services between TRLIA
and Kleinfelder West, Inc., are amended to include the additional amount of $17,000 for a total contract amount of $693,000.

3. **No Effect on Other Provisions.** Except for the amendments in Section 2, the remaining provisions of the Professional Services Agreement shall be unaffected and remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on ______________________, 2010.

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

Kleinfelder West, INC.

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Paul G. Brunner, Executive Director

Tony Martin, Regional Manager

ATTEST:

DONNA STOTTLEMeyer

CLERK OF THE BOARD OF DIRECTORS

APPROVED AS TO FORM:

SCOTT L. SHAPIRO

GENERAL COUNSEL

[Signature]

Andrea P. Clack for Scott Shapiro
EXHIBIT 1

KLEINFELDER CONTRACT AMENDMENT 2
SCOPE OF WORK

TASK - Consulting and Review

Previous scopes did not include effort for Kleinfelder to provide services during the FEMA Certification process. As the FEMA Summary Report was being completed and reviewed by the Board of Senior Consultants (BOSC), questions were asked that required Kleinfelder input and additional analysis to prepare responses. Efforts for this work exceeded previous budget amount for Consulting and Review and a budget increase is necessary.
Cost - $10,000

Kleinfelder provided assistance during final negotiations with the CVFPB on the UYLIP encroachment permit. Comments from the CVFPB staff required additional analysis from Kleinfelder not covered in original budget and a budget increase is necessary.
Cost - $2,200

Kleinfelder started an evaluation of seepage conditions within the repaired area of the Lower Yuba River, South Levee due to the 1986 levee failure. This analysis was performed in response to questions from the public regarding potential seepage at the repair area. Work performed included review of readily available documents, identifying what data and models were needed to analyze seepage conditions in the repair, identification of data gaps, and review of DWR boring logs and samples collected from borings advanced in and near the repair area. This scope of work was not included in the authorized contract and a budget increase is necessary.
Cost - $4,800
September 28, 2010

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director
Larry Dacus, Design Manager
SUBJECT: Consider Approval of Amendment to Contract with Kleinfelder West Inc. to Provide Additional Geotechnical Exploration Services for TRLIA Upper Yuba Levee Improvement Project

Recommended Action:
Approve a contract Amendment 2 with Kleinfelder West Inc. (Attachment 1) for geotechnical exploration services and authorize TRLIA Executive Director to sign and execute once General Counsel has reviewed and approved.

Discussion:
During completion of the FEMA Certification process, responding to comments from the CVFPB Staff while obtaining the UYLIP encroachment permit, and responding to public comments regarding the condition of the levee at the 1986 break, Kleinfelder was asked to provide responses to questions and perform analysis to address comments. It was assumed that budget in the last Kleinfelder amendment would cover these additional efforts by Kleinfelder that had not been included in previous scopes. However continuing design efforts by Kleinfelder during the bid process have exhausted the budget for the task Continuing Consulting and Review and a budget increase is needed for this task to pay for effort that was not included in past scopes of work.

These tasks are covered in more detail in the attached Exhibit 1 to Amendment 2.

Fiscal Impact:
This contract amendment for $17,000 is for services on a time-and-expenses basis, to bring the total maximum contract amount to a not to exceed amount of $693,000. This work is covered in the UYLIP EIP funding agreement and will be cost shared with the State 70% State to 30% Local.

Attachments:
1. Kleinfelder West, Inc. Professional Services Amendment 2
2. Exhibit 1
September 28, 2010

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director
SUBJECT: Consider Amending Contractual Agreement with MBK Engineers for TRLIA Project Management, Amendment 15.

Recommended Action

Approve a $661,887 15th amendment to the contract with MBK Engineers and delegate authority to Executive Director to sign and execute contract upon General Counsel review.

Discussion

The TRLIA Board has adopted a management organization that includes a Program Manager and a Design Manager. These services have been provided by MBK Engineers for several years. In the past these services have included program and design management; limited financial management; and grant support. As the TRLIA Program nears the completion of design and construction efforts, the focus of management turns from design and permitting to final completion tasks and management becomes more general. As a part of implementing the TRLIA program, many permits have been obtained which have placed requirements for land acquisition, environmental monitoring and reporting, and interim land management on TRLIA. In addition, EIP Grants require several completion documents to meet the grant requirements. MBK has extensive program knowledge and has helped to procure many of the permits that TRLIA has acquired for construction. MBK will assist TRLIA in this program completion phase by providing management direction in defining ongoing permit requirements and arranging for those requirements to be met. MBK will also continue assisting in the construction of the Upper Yuba Levee Improvement Project that will occur in 2011, assist in certifying the upper Yuba Levee Project to FEMA, assist in certifying the entire RD 784 levee system to the Department of Water Resources for 200-year protection, and complete the Goldfields analysis and assist in evaluating any potential alternatives in the Goldfields if required.

This 15th amendment will extend MBK’s management and hydraulic analysis of the flood risk from the Goldfields. The amendment also extends the end date of the MBK contract from December 31, 2010 to December 31, 2011. The estimated cost associated with
2011 additional efforts is $661,887. MBK has maintained its 2009 rate structure for 2011 as requested by Executive Director Policy Memorandum dated July 23, 2009. All other terms and conditions contained in the Agreement shall remain in full force and effect.

The specific contract amendment terms are detailed in the attached Amendment 15 (Attachment 1) and Attachment A (Scope of Work) (Attachment 2) to that amendment.

**Fiscal Impact**

The contract amendment would increase the existing contract by $661,887 for services on a time-and-expenses basis, to a maximum amount not exceeding $4,315,124 (Current maximum amount $3,653,237) without prior authorization by TRLIA. This amendment is a time and material contract, which could be terminated at anytime. These projected expenses are included in the current TRLIA cash flow for project completion.

Attachments:
1. Amendment 15
2. Scope of Work
AMENDMENT NO. 15

AGREEMENT FOR PROFESSIONAL SERVICES
BETWEEN
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
AND
MBK ENGINEERS

THIS FIFTEENTH AMENDATORY AGREEMENT is made and entered into this ___ day of September, 2010, by and between the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY ("TRLIA") and MBK ENGINEERS ("CONTRACTOR"), who agree as follows:

1. Recitals. This Amendment is made with reference to the following background recitals:

   1.1. Effective August 23, 2003, the parties entered into an agreement ("AGREEMENT") to provide basic services with a contract value of $55,800 and an end date of February 3, 2004.
   1.2. Effective September 11, 2003, the parties entered into Amendment 1 to the AGREEMENT in the amount of $8,000 for a total contract value of $63,800.
   1.3. Effective January 6, 2004, the parties entered into Amendment 2 to the AGREEMENT in the amount of $30,000 for a total contract value of $93,800.
   1.4. Effective March 19, 2004, the parties entered into Amendment 3 to the AGREEMENT in the amount of $45,400 for a total contract value of $139,200 and to extend the contract end date to March 30, 2004.
   1.5. Effective April 22, 2004, the parties entered into Amendment 4 to the AGREEMENT in the amount of $50,100 for a total contract value of $189,300 and to extend the contract end date to July 31, 2004.
   1.6. Effective August 3, 2004, the parties entered into Amendment 5 to the AGREEMENT in the amount of $8,000 for a total contract value of $197,300 and to extend the contract end date to September 7, 2004.
   1.7. Effective October 6, 2004, the parties entered into Amendment 6 to the AGREEMENT in the amount of $97,650 for a total contract value of $294,950 and to extend the contract end date to December 7, 2004.
   1.8. Effective January 26, 2005, the parties entered into Amendment 7 to the AGREEMENT in the amount of $35,000 for a total contract value of $329,950 and to extend the contract end date to April 30, 2005.
   1.9. Effective March 15, 2005, the parties entered into Amendment 8 to the AGREEMENT in the amount of $108,200 for a total contract value of $438,150.
   1.10. Effective September 6, 2005, the parties entered into Amendment 9 to the AGREEMENT in the amount of $187,200 for a total contract value of $625,350 and to extend the contract end date to July 31, 2006.
   1.11. Effective April 18, 2006, the parties entered into Amendment 10 to the AGREEMENT in the amount of $549,359 for a total contract value of $1,174,709 and to extend the contract end date to December 31, 2006.
   1.12. Effective December 12, 2006, the parties entered into Amendment 11 to the AGREEMENT in the amount of $707,980 for a total contract value of $1,882,689 and to extend the contract end date to December 31, 2007.
1.13. Effective January 8, 2008, the parties entered into Amendment 12 to the AGREEMENT in the amount of $629,056 for a total contract value of $2,511,745 and to extend the contract end date to December 31, 2008.

1.14. Effective January 27, 2009, the parties entered into Amendment 13 to the AGREEMENT in the amount of $572,472 for a total contract value of $3,084,217 and to extend the contract end date to December 31, 2009.

1.15. Effective December 15, 2009, the parties entered into Amendment 14 to the AGREEMENT in the amount of $569,020 for a total contract value of $3,653,237 and to extend the contract end date to December 31, 2010.

1.16. The parties now desire to amend the AGREEMENT to modify the scope of services, total contract value and contract end date.

2. **Fifteenth Amendment to Agreement.** The AGREEMENT is hereby amended as follows:

   2.1. The scope of services is amended by the scope of work as described in Attachment A.

   2.2. The total contract value is amended in the amount of $661,887 for a total contract value of $4,315,124.

   2.3. The contract end date is extended to December 31, 2011

3. **No Effect on Other Provisions.** Except for the amendments in Section 2, the remaining provisions of the Professional Services Agreement shall be unaffected and remain in full force and effect.

   IN WITNESS WHEREOF, the parties hereto have executed this Agreement on ______________________, 2010.

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

MBK ENGINEERS

Paul G. Brunner
Executive Director

Ric Reinhardt
Principal

ATTEST:
DONNA STOTTLEMEYER
SECRETARY, THREE RIVERS

APPROVED AS TO FORM:
SCOTT L. SHAPIRO
GENERAL COUNSEL, TRLIA

____________________________
Andrea P. Clark for Scott Shapiro
AMENDMENT 15 TO TRLIA/MBK CONTRACT
Scope of Work

As the TRLIA Program nears the completion of design and construction efforts, the focus of management turns from design and permitting to final completion tasks. As a part of implementing the TRLIA program, many permits have been obtained which have placed requirements for land acquisition, environmental monitoring and reporting, and interim land management on TRLIA. In addition EIP Funding Agreements require several completion documents to meet the agreement requirements. MBK has extensive program knowledge and has helped to procure many of the permits that TRLIA has acquired for construction. MBK will assist TRLIA in this program completion phase by providing management direction in defining ongoing permit requirements and arranging for those requirements to be met. MBK will also assist in the construction of the Upper Yuba Levee Improvement Project that will occur in 2011 and complete the Goldfields analysis and assist in evaluating any potential alternatives in the Goldfields if required. The following is a listing of tasks and a general level of estimated involvement for MBK from November 1, 2010 to December 31, 2011.

Task 1 – General TRLIA Management Activities

- CVFPB coordination and preparation of the monthly TRLIA Status Report to the CVFPB
- Respond to questions and requests for information regarding historic TRLIA Program
- Review and respond to DWR Urban Levee Evaluation results
- Review ALL permits and agreements to determine what has not been done and ongoing requirements
- Provide EIP Funding Agreement Support, continue to meet with County to be certain that TRLIA invoices are coded to the correct accounts for DWR Agreement purposes
- Support CVFPB Required ROW Acquisition
- Develop RD 784 Levee System Vegetation Survey and Action Plan to meet emphasized Corps requirements for vegetation management on levees
- Coordination with the Corps and FEMA on FEMA certification issues
- General Coordination – Coordination on project issues with TRLIA staff, floodplain mapping outreach, land use adjacent to levees, public meetings, prepare PowerPoint presentations, prepare other correspondence, coordination and meetings with stakeholders, and Board Meetings.

Effort – 126 Hours Principal 393 Hours Project Manager
62 Hours Water Resources Associate $7,000 Expenses

Total Cost Task 1 = $115,031

Task 2 – UYLIP Management Activities

- Continue Section 408 and Section 104 coordination with the Corps and provide support during approval process
- Manage Elderberry Relocation
- Provide Engineering & Design Management during Construction
- Manage Safety Assurance Review during Construction
• Coordinate preparation of the Construction Completion Report  
• Prepare O&M Manual Addendum  
• Assist in Potential Eminent Domain Cases  
• Support EIP Discussions with DWR Flood Safe team  
• Review and comment on EIP Quarterly Work Plans  
• Review and comment on EIP Quarterly Progress Reports  
• Prepare the EIP Project Completion Report  
• Prepare the EIP Post Construction Performance Report  
• Assist in the EIP OMRR&R Agreement  
• Prepare the EIP OMRR&R Manual

**Effort – 148 Hours Principal  612 Hours Project Manager  
24 Hours Water Resources Associate**

**Total Cost Task 2 = $149,644**

**Task 3 – FEMA 100-Year Certification UYLIP**

TRLIA will need to certify the upper Yuba levee as meeting FEMA's 100-year requirements. This effort will include the results from the Goldfields modeling to either confirm there is not a problem at the 100 year event, or if there is, mapping the residual floodplains. MBK will manage the preparation of the 100-year certification summary report and will organize and prepare for submittal the final summary report.

**Effort – 36 Hours Principal  70 Hours Project Manager  
32 Hours Supervisory Engineer  24 Hours Assistant Engineer  
16 Hours Water Resources Associate**

**Total Cost Task 3 = $32,170**

**Task 4 – SB 5 200-Year Certification**

TRLIA will need to certify the RD 784 levee system to the Department of Water Resources for the 200-year protection required by Senate Bill 5. The exact requirements for this certification are unknown but it is expected that the same sort of information recently provided in the FEMA Certification Summary Report will be required. MBK will manage the preparation of the 200-year certification summary report and will organize and prepare for submittal the final summary report.

**Effort – 60 Hours Principal  100 Hours Project Manager  
72 Hours Supervisory Engineer  60 Hours Assistant Engineer  
48 Hours Water Resources Associate**

**Total Cost Task 4 = $59,080**
Task 5 – Feather Levee Management

- Assist in obtaining Vegetated Wave Buffer Encroachment Permit
- Assist in obtaining FRET Encroachment permit
- Assist in Setback Area Land Management
- Manage Mitigation Plantings and Monitoring
- Assist in Setback ROW Turnover
- Provide assistance in Eminent Domain Cases
- Coordination with the Lower Feather River Corridor Management
- Manage the repair of PS 2 V Ditch
- Support EIP Discussions with DWR Flood Safe team
- Review and comment on EIP Quarterly Work Plans
- Review and comment on EIP Quarterly Progress Reports
- Prepare the EIP Project Completion Report
- Prepare the EIP Post Construction Performance Report
- Assist in the EIP OMRR&R Agreement
- Prepare the EIP OMRR&R Manual

Effort – 56 Hours Principal 274 Hours Project Manager 24 Hours Assistant Engineer

64 Hours Water Resources Associate

Total Cost Task 5 = $73,598

Task 6 – Bear Levee Management

- Clarify and Manage Mitigation Monitoring
- Assist in Setback Area ROW Turnover

Effort – 16 Hours Principal 80 Hours Project Manager

16 Hours Water Resources Associate

Total Cost Task 6 = $20,240

Task 7 – Goldfields Analysis

- Complete Hydraulic Analysis
- Manage Alternative Analysis
- Coordinate with Stakeholders
- Manage Environmental, Design, & Funding for Selected Solution.
- Create floodplain maps showing 100-year and 200-year floodplains from the Goldfields.
- QA/QC model and mapping results
- Coordinate effort with CVFPB and Corps

Effort – 172 Hours Principal 212 Hours Project Manager

324 Hours Supervisory Engineer 432 Hours Assistant Engineer

144 Hours Water Resources Associate

Total Cost Task 7 = $212,124
Total Amendment 15 Costs for Tasks 1-7 = $661,887 for the period November 1, 2010 to December 31, 2011.

The AGREEMENT shall be amended to extend the contract end date to December 31, 2011.

The AGREEMENT shall be amended to increase the price ceiling for basic services by $661,887 from $3,653,237 to $4,315,124.

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