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

SPECIAL MEETING
JANUARY 11, 2011 – 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  ELECTION OF OFFICERS – Chair and Vice Chair

III  CLOSED SESSION

Pending litigation pursuant to Government Code §54956.9(a) – Luis YCSCCVED 10-000903

III  ACTION ITEMS

A. Approve minutes of the regular meeting of November 16, 2010.

B. Approve Feather River Levee Repair Project California Environmental Quality Act [Addendum No. 4]

C. Approve license with Sacramento San Joaquin Drainage District acting by and through Central Valley Flood Protection Board for use of the Anderson Mitigation Site to provide elderberry shrub impact mitigation for the Upper Yuba Levee Improvement Project and authorize the Executive Director authority to execute same and enter into a use agreement with similar terms as the license agreement upon review and approval of Counsel.

D. Approve agreement with Reclamation District 784 for long-term maintenance of a portion of the Anderson Elderberry mitigation site for the Upper Yuba Levee Improvement Project and authorize the Chair to execute same upon review and approval of Counsel.

IV  BOARD AND STAFF MEMBERS’ REPORTS

V  ADJOURN

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

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

NOVEMBER 16, 2010

MINUTES

A meeting of the Board of Directors of the Three Rivers Levee Improvement Authority (TRLIA) was held on the above date, commencing at 2:00 p.m., within the Government Center, Marysville, California, with a quorum being present as follows: Directors Rick Brown, Jerry Crippen, Don L. Graham, Mary Jane Griego, and John Nicoletti. Also present were Executive Director Paul Brunner, Counsel Andrea Clark, and Clerk of the Board of Supervisors/Secretary Donna Stottlemyer. Chair Griego presided.

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

II PUBLIC COMMUNICATIONS: No one came forward.

III 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 Consent Agenda MOVE: John Nicoletti SECOND: Don Graham
AYES: Rick Brown, Jerry Crippen, Don Graham, Mary Jane Griego, John Nicoletti
NOES: None ABSTAIN: None ABSENT: None

A. Approve minutes of the special meetings of October 26 and November 9, 2010. Approved.

B. Approve Amendment No. 2 extending the termination date to December 31, 2011 to the agreement with Kim Floyd Communications for public outreach services and authorize Executive Director to execute same. Approved.

C. Approve Amendment No. 2 extending the termination date to December 31, 2011 to the agreements with David T. Williams and Associates, Engineers, LLC; Donald H. Babbitt; and AMEC Geomatrix, Inc for engineering services and authorize the Executive Director to execute same. Approved.

IV ACTION ITEMS

A. Consider adopting Relocation Assistance Plan for the Upper Yuba River Levee Improvement Project and take action as appropriate. Relocation Consultant Karen Eddleman recapped the need for a relocation plan and the assistance to be provided. Ms. Eddleman responded to Board inquiries.

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

B. Adopt resolution declaring the public necessity for taking of certain property and amending and superseding Resolution 2010-10 for property owned by Bhajan S. Sohal and Rajwant K. Soahl and Walbinder S. Sohal Living Trust which will correct the legal description and map of the portion of APN 018-190-109 to be acquired.

11/16/10 – TRLIA
MOTION: Move to adopt  MOVED: John Nicoletti  SECOND: Jerry Crippen
AYES: Rick Brown, Jerry Crippen, Don Graham, Mary Jane Griego, John Nicoletti
NOES: None  ABSTAIN: None  ABSENT: None

Adopted Resolution No. 2010-11 entitled: A RESOLUTION OF THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY AMENDING AND SUPERSEDING 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)

C. Approve Amendment No. 1 to the agreement with MHM Inc. in the amount of $35,600 for engineering and surveying services and authorize the Executive Director to execute same.

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

D. Approve Amendment No. 5 to the agreement with Handen Company, Inc. in the amount of $181,700 for construction and consulting management services and authorize the Executive Director to execute same. Executive Director Paul Brunner recapplied the need for services.

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

V BOARD AND STAFF MEMBERS' REPORTS RECEIVED

Executive Director Paul Brunner and Director Nicoletti:
- Flood Management Agency Conference held November 2 – 5, 2010

Executive Director Paul Brunner:
- Meeting with KVIU regarding plan for documentary
- 408 permit approval for Upper Yuba project at division office
- Section 104 credit status and process

VI ADJOURN: p.m. by Chair Griego.

________________________________________
Chair

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

________________________________________
Approved:

11/16/10 – TRLIA  PAGE 43
January 11, 2011

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director
       Larry Dacus, Design Manager
SUBJECT: Feather River Levee Repair Project (FRLRP) California Environmental Quality Act (CEQA) Addendum #4

**Recommended Action:**
Board Approval of the Feather River Levee Repair Project CEQA Addendum #4

**Background:**
The California Environmental Quality Act (CEQA) requires a detailed level of analysis for all projects having the ability to affect a variety of human interest factors. This analysis was conducted and concluded in the form of an Environmental Impact Report (EIR) for the Feather River Levee Repair Project (FRLRP), and was approved by the TRLIA Board on February 6, 2007. The FRLRP project area was defined in detail in the EIR and included, at the time, all foreseeable project activities. Project components that were not precisely addressed or listed in detail in the EIR may be addressed in an addendum to the EIR. An addendum is appropriate when there are changes or additions to a project that do not involve new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

**Discussion:**
Review by Central Valley Flood Protection Board (CVFPB) Staff of the Encroachment Permit Applications for the Vegetated Wave Buffer and the Feather River Elderberry Transplant (FRET) Area, both of which are components of the FRLRP, has resulted in a comment that neither of these project features were precisely mentioned or defined in the FRLRP EIR. While it is true that the EIR does not precisely identify these features or their location, the impacts of these features in their proposed locations were described and analyzed adequately in the EIR. The impacts identified and evaluated involved the removal of important agricultural lands and Feather River hydraulic impacts as the setback area was assumed to be restored. To address this comment from the CVFPB Staff (CVFPB must address CEQA concerns as part of its encroachment permitting process), TRLIA has agreed to produce a brief EIR Addendum that precisely identified these two features and would describe how potential impacts of the features were already analyzed in the adopted EIR.

**Addendum Conclusions:**
An addendum must contain a brief explanation of the agency’s decision not to prepare a subsequent EIR under CEQA regulations, and this conclusion must be supported by substantial evidence. Consistent with this requirement, the addendum will conclude that these two features:
- Would not result in any new significant environmental effects,
- Would not substantially increase the severity of previously identified effects,
- Would not result in mitigation measures of alternatives previously found to be infeasible becoming feasible, and
- Would not result in availability/implementation of mitigation measures or alternatives that are considerably different from those analyzed in the previous document that would substantially reduce one or more significant effects on the environment.

There are no public review requirements for an EIR addendum: upon submittal of a Notice of Determination to the State Clearing House and the Office of Planning and Research, a 30 day statutory period of protest and/or challenge exists. The Vegetated Wave Buffer planting is anticipated to begin late this spring and extend into early summer after the CEQA process has been completed. The FRET has already been mostly planted. Only a few associated plantings remain to be done. The encroachment permit application for the FRET is to permit work that has already occurred.

**Fiscal Impact:** The construction work that is analyzed in this addendum is included in the Prop 1 E funding agreement and included in the FRLRP Budget.
ADDENDUM 4 TO THE ENVIRONMENTAL IMPACT REPORT

FOR THE FEATHER RIVER LEVEE REPAIR PROJECT

AN ELEMENT OF THE YUBA-FEATHER SUPPLEMENTAL FLOOD CONTROL PROJECT

STATE CLEARINGHOUSE NO. 2006062071

PREPARED FOR THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

PREPARED BY AECOM FLOOD CONTROL STUDY TEAM

January 2011
ADDENDUM 4 TO THE
ENVIRONMENTAL IMPACT REPORT
FOR THE
FEATHER RIVER
LEVEE REPAIR PROJECT
AN ELEMENT OF THE
YUBA-FEATHER SUPPLEMENTAL
FLOOD CONTROL PROJECT

STATE CLEARINGHOUSE NO. 2006062071

PREPARED FOR
THREE RIVERS LEVEE
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916/414-5800

January 2011
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1 INTRODUCTION

1.1 BACKGROUND AND REFINEMENTS IN PROJECT ELEMENTS LEADING TO PREPARATION OF THE ADDENDUM

On August 4, 2006, the draft environmental impact report (DEIR) for the Feather River Levee Repair Project (FRLRP) was distributed to public agencies and the general public. The lead agency under the California Environmental Quality Act (CEQA) is the Three Rivers Levee Improvement Authority (TRLIA), a joint powers authority composed of Yuba County and Reclamation District 784. In November 2006, the final environmental impact report (FEIR), addressing written and oral comments received on the DEIR, was distributed to public agencies and the general public. The TRLIA Board of Directors certified the environmental impact report (EIR), consisting of the DEIR and the FEIR, on February 6, 2007. The EIR was prepared in accordance with the requirements of CEQA and the State CEQA Guidelines.

The FRLRP consists of levee improvements along segments of the existing Feather River and Yuba River levees in southern Yuba County (Figure 1-1). The EIR evaluated three project alternatives at an equal level of detail and a no-project alternative. Concurrent with certification of the EIR, the TRLIA Board of Directors approved Alternative 2, the “Levee Strengthening and ASB [Above Star Bend] Setback Levee Alternative,” for implementation. Activities included in Alternative 2 are divided into three project segments as follows:

- Segment 1—The existing Feather River left (east) bank levee from Project Levee Mile (PLM) 13.3 to PLM 17.2 (from approximately Pump Station No. 2 to Star Bend) (Figure 1-2). Proposed improvements to this levee segment consist of repairing and strengthening the existing levee in place to correct seepage and/or stability deficiencies.

- Segment 2—The existing Feather River left bank levee from approximately PLM 17.2 to PLM 23.4 (from Star Bend to immediately south of Shanghai Bend [west of the Yuba County Airport]) (Figure 1-2). Proposed improvements to this levee segment consist of replacing the existing levee with a new setback levee (the ASB setback levee). Relocation and replacement of the existing RD 784 Pump Station No. 3 is also included with Segment 2.

- Segment 3—The existing Feather River left bank levee from PLM 23.4 to PLM 26.1, and the Yuba River left (south) bank levee from PLM 0.0 to PLM 0.3 (west of the Yuba County Airport to the railroad crossing at the State Route [SR] 70 bridge) (Figure 1-2). Proposed levee improvements in this area consist of repairing and strengthening the existing levee in place to correct seepage and/or stability deficiencies.

Since certification of the EIR, design, permitting, and construction of FRLRP Alternative 2 has been completed. Construction of Segment 1 and 3 levee improvements was almost entirely complete in 2008, along with some minor items resolved in 2009. Construction of the Segment 2 setback levee and related facilities was completed in fall 2010.

The three project alternatives evaluated in the EIR were developed based on a preliminary design effort. The structural features of the proposed levee repairs and the setback levee (i.e., the improvements in Segments 1, 2, and 3) included in all of the alternatives were developed to a level of detail sufficient for a complete project-level environmental analysis consistent with Section 15161 of the State CEQA Guidelines. An increase in the availability of detailed information regarding the approved project is to be expected as a project transitions from a preliminary design effort for several alternatives to a final design and implementation for a single alternative. This is reflected in the preparation of three previous EIR addenda prepared for the project addressing activities such as extending the anticipated period of closure of a public boat ramp during construction, use of additional borrow areas, and modifying a small portion of the Segment 2 setback levee design in response to discovery of a cultural resources site during construction.
The action evaluated in this addendum is not a change to the proposed project but a refinement in the level of details for actions already assumed in the EIR. Where the EIR generally assumed that all lands within the expanded Segment 2 floodway could be restored to native habitat, TRLIA has now identified two specific activities resulting in planting of native vegetation in the floodway. TRLIA, as lead agency for the project under CEQA, has determined that these refinements to the FRLRP project constitute clarifications to the EIR and have conservatively decided to prepare this EIR addendum in accordance with Section 15164 of the State CEQA Guidelines.

1.2 STATE CEQA GUIDELINES REGARDING CHANGES TO A PROJECT

If, after certification of an EIR, altered conditions or changes or additions to a project occur, CEQA provides three mechanisms to address these changes: a subsequent EIR, a supplement to an EIR, and an addendum to an EIR.

Section 15162 of the State CEQA Guidelines describes the conditions under which preparation of a subsequent EIR would be appropriate. When an EIR has been certified for a project, preparation of a subsequent EIR would be appropriate if the lead agency determines, on the basis of substantial evidence in light of the whole record, that one or more of the following conditions is met:

1. substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified effects;

2. substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

3. new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete, shows any of the following:

   A) the project will have one or more significant effects not discussed in the previous EIR;

   B) significant effects previously examined will be substantially more severe than shown in the previous EIR;

   C) mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measures or alternatives; or

   D) mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Section 15163 of the State CEQA Guidelines states that a lead agency may choose to prepare a supplement to an EIR rather than a subsequent EIR if:

1. any of the conditions described above for Section 15162 would require the preparation of a subsequent EIR, and

2. only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation.
Section 15164 of the State CEQA Guidelines states that a lead agency may prepare an addendum to a previously certified EIR if some changes or additions are necessary, but none of the conditions described above for Section 15162 calling for preparation of a subsequent EIR have occurred.

The differences between the FRLRP as described in the FRLRP EIR and approved by TRLIA and the refined elements of the FRLRP as they are currently known constitute clarifications that may be addressed in an addendum to an EIR. As described in Section 2 of this document, “Description of FRLRP Refinements,” and Section 3, “Environmental Analysis of FRLRP Refinements,” none of the conditions described above for Section 15162 calling for preparation of a subsequent EIR have been met. In addition, the FRLRP EIR and associated Mitigation Monitoring and Reporting Program remain valid for assessing and mitigating identified impacts that would result from implementation of the approved project.

Refrinements to the FRLRP as described in this addendum and any altered conditions since certification of the EIR on February 6, 2007:

- would not result in any new significant environmental effects, and
- would not substantially increase the severity of previously identified effects.

In addition, no new information of substantial importance has arisen that shows that:

- the project would have new significant effects,
- the project would have substantially more severe effects,
- mitigation measures or alternatives previously found to be infeasible would in fact be feasible, or
- mitigation measures or alternatives that are considerably different from those analyzed in the EIR would substantially reduce one or more significant effects on the environment.

Because none of the conditions described in Section 15162 of the State CEQA Guidelines calling for preparation of a subsequent EIR have occurred, an addendum to the FRLRP EIR, consistent with Section 15164 of the State CEQA Guidelines, is the appropriate mechanism to address the project refinements.
2 DESCRIPTION OF FRLRP REFINEMENTS

The following two refinements to native vegetation plantings in the Segment 2 expanded floodway have been made to FRLRP Alternative 2 (the approved project) since the FRLRP EIR was certified and Alternative 2 was approved for implementation:

- Completion of the Feather River Elderberry Transplant (FRET) mitigation area, and
- Establishing a vegetated wave buffer along the water side of the Segment 2 Setback Levee.

These project refinements are described below. Both refinements consist of planting of native vegetation in the floodway. These types of plantings are consistent with assumptions included in the FRLRP EIR. For impact analysis purposes, it was assumed in the EIR that the entire expanded floodway could ultimately be planted in native vegetation. Therefore, the FRET mitigation area and the vegetated wave buffer simply provide more specific information regarding the location and type of native vegetation planting relative to the information available at the time the EIR was prepared.

2.1 FEATHER RIVER ELDERBERRY TRANSPLANT MITIGATION AREA

Construction of the Segment 2 setback levee and associated facilities affected elderberry shrubs within and immediately adjacent to the construction footprint. Elderberry shrubs are considered habitat for the threatened Valley Elderberry Longhorn Beetle (VELB). As a result, impacts to the VELB habitat were mitigated, in part, by establishing the FRET mitigation area. The FRET mitigation area is a 44-acre elderberry mitigation site located in the northern end of the setback area (Figure 1-2) and is a requirement of the August 28, 2008 U.S. Fish and Wildlife Service (USFWS) Biological Opinion (BO) and the U.S. Army Corps of Engineers (USACE) Section 404 Permit for the Segment 2 setback levee.

Elderberry shrubs within the Segment 2 construction footprint were transplanted to the FRET area as construction proceeded. TRLIA utilized the USFWS planting guidelines in transplanting the elderberry shrubs to the mitigation area and an initial number of associate plantings have been made in the FRET mitigation area. However, TRLIA has not completed the planting of associate plants in the FRET mitigation area pending approval of an encroachment permit from the Central Valley Flood Protection Board (CVFPB) for the proposed mitigation area and reinitiation of consultation with the USFWS regarding the final number of transplants to occur.

To date, 92 elderberry shrubs have been transplanted into the FRET mitigation area, as well as planting of 2,705 additional elderberry seedlings and 4,737 native associate plants. At least 558 plants (203 elderberry seedlings and 355 associate plantings) remain to be planted in the FRET mitigation area. This number could increase following reinitiated consultation with the USFWS regarding elderberry mitigation. Reinitiation of consultation with USFWS is required because the actual number of elderberry shrub transplants to the FRET mitigation area slightly exceeded the number discussed in the BO. Although the total number of transplanted elderberry shrubs is greater than initially anticipated, the number of stems affected is very close to the number in the BO. TRLIA is reinitiating consultation with the USFWS to report the number of actual shrubs and stems impacted, to report the timing of stem impacts, and to confirm the final numbers of elderberry seedlings and associated native plantings required to completely mitigate the impact.

Planting rows in the FRET mitigation area are 20 feet apart with the spacing of plants in the rows at 10 feet. Irrigation is supplied through a drip system installed underground using a small tractor. Planting activities involve using standard agricultural procedures along with hand labor, small trucks, trailers, and tractors. Future plantings would follow these same procedures.
Additional actions as part of the mitigation plan include protecting the mitigation area in perpetuity through a conservation easement, deed restriction, or similar mechanism; maintaining and monitoring the mitigation area for ten years to assure the USFWS of the success of the transplanted elderberry shrubs; and ongoing maintenance of the mitigation area in perpetuity.

2.2 VEGETATED WAVE BUFFER

Trees and thick brush growing in the floodplain on the waterside of a levee can mitigate the effects of wave action on the levee. Native riparian vegetation as well as orchard trees that extend at and above the water surface during a flood event buffer wave action by obstructing and impeding wave travel and dissipating wave energy. These obstructing and impeding effects result in reducing the size of waves reaching the levee and consequently reduce wave run-up and wave erosion. Waves breaking on a levee slope can cause erosion damage that needs to be repaired after a storm.

In designing the Feather River Setback Levee, a correction factor was applied to the wave run-up estimates to account for the beneficial existence of current floodway vegetation. The levee design assumed that trees would be located along the waterside of the levee, such as existing orchards or riparian vegetation that grows along the levee in Segment 1. As such, the levee design incorporated a vegetation correction factor which determined a lower freeboard requirement and levee height than would have been required otherwise. The levee design also assumed that at a minimum, a linear strip of the existing orchards would be left in front of the setback levee. As acquisition negotiations proceeded with land owners, some orchards were completely removed to reduce concern with agricultural pests that can infest non-maintained orchards. The complete removal of some orchards changed the original levee design assumption for wave run-up. It should be noted that walnut trees in the southern third of the setback levee remain in active orchards and, therefore, were left in place.

The vegetated wave buffer design includes a 100-foot-wide buffer of plantings beginning at the edge of the 50-foot waterside toe-access corridor of the new levee. The buffer would exist along the setback levee for a length of approximately 30,000 feet (Figure 1-2). It is estimated the vegetated wave buffer design would include 70 acres of plantings within the setback area. Ultimate tree density is determined by a planting matrix of six rows (20-feet apart) and plant spacing of 10 feet between plants in the rows. Not all 70 acres will be initially planted because approximately one third of the wave buffer zone is currently planted in orchards. If orchard trees currently in the wave buffer zone are removed any time in the future, these areas would also be planted with native tree species to maintain a continuous vegetated wave buffer along the length of the setback levee.

Although plantings could consist of any large canopy trees and associated shrubs, the wave buffer zone also offers opportunity to restore some riparian habitat in this stretch of the floodway. Proposed riparian species to be planted in the vegetated wave buffer include Box Elder (Acer negundo L.), Fremont Cottonwood (Populus fremontii ssp. Fremontii), Oregon Ash (Fraxinus latifolia), Valley Oak (Quercus lobata), Western Sycamore (Platanus racemosa), Wild Rose (Rosa californica), Arroyo Willow (Salix lasiolepis), and Gooding’s Black Willow (Salix goodingii). Irrigation would be supplied through a drip system installed underground using a small tractor. Planting activities would involve using standard agricultural procedures along with hand labor, small trucks, trailers, and tractors.

After planting, the vegetation would be maintained for at least three years to ensure establishment of the plants. Maintenance would consist of fertilizing, watering, and controlling invasive plant species. In some cases, replanting of the described species may be required if there is high mortality of the initial plantings. Plantings could occur any time that flood flows are not present in the newly established floodway, but some plantings would occur in the fall and spring during the dormant period for some plants.
3 ENVIRONMENTAL ANALYSIS OF FRLRP REFINEMENTS

This section describes the evaluation performed to verify that (1) the two FRLRP refinements described in Chapter 2 of this document do not meet any of the criteria in Sections 15162 of the State CEQA Guidelines for preparation of a subsequent EIR and meet the criteria of 15164 of the State CEQA Guidelines for preparation of an EIR addendum, such as not resulting in new significant impacts or substantially more severe impacts than those already described in the FRLRP EIR, and (2) the combined analysis of the FRLRP in the EIR and this addendum is sufficient to meet CEQA requirements and allow the approval of the proposed FRLRP project refinements, if TRLIA so chooses.

The evaluation is provided in the form of a narrative discussion addressing each environmental issue area included in the FRLRP EIR (e.g., land use, transportation/traffic, air quality).

3.1 EXPLANATION OF DISCUSSION, MITIGATION MEASURES, AND CONCLUSION SECTIONS

A discussion is provided for each environmental issue area and provides information about the particular environmental issue, how the FRLRP and the proposed project refinements relate to the issue, and the status of any mitigation that may be required.

3.1.1 LAND USE AND PLANNING (INCLUDING AGRICULTURAL RESOURCES)

Since certification of the FRLRP EIR, the TRLIA Board of Directors adopted a policy to seek to maintain as much of the levee setback area in agricultural use as is economically feasible, subject to ensuring public safety, and encourages the use of the lands in the setback area for agricultural use. There are no other new circumstances since certification of the FRLRP EIR that would influence land use impacts associated with FRLRP Alternative 2 or the project refinements evaluated in this addendum, and there is no new information requiring analysis for verification of the EIR conclusions related to land use and planning.

Regarding impacts to agricultural resources, as identified in the discussion of Impact ASB-5.1-b in the EIR,

“For purposes of this analysis, and to assess the highest level of impacts on agricultural lands, it is conservatively assumed that the entire levee setback area would be used for habitat restoration, and would therefore include the conversion of approximately 1,025 acres of Prime Farmland, 10 acres of Farmland of Statewide Importance, and 10 acres of Unique Farmland to nonagricultural uses.”

Therefore, planting of native vegetation in the FRET mitigation area and as part of the vegetated wave buffer is consistent with assumptions already included in the EIR. These project refinements simply provide specific locations and planting plans for actions already assumed in the EIR. There is no change in the type, significance, or severity of impacts on agricultural resources or in the need for, or effectiveness of mitigation measures.

Regarding the issues of land use and planning, the EIR assumed restoration of native habitat in the entirety of the expanded floodway and analyzed impacts to land uses and planning from that activity. As stated above, implementation of the FRET mitigation area and vegetated wave buffer refine the habitat restoration assumptions already included in the EIR. Establishment of the FRET mitigation area and vegetated wave buffer, along with associated activities in those areas (see Chapter 2 of this Addendum), would not physically divide an established community, conflict with any applicable land use plan or policy, or displace persons or housing and would not result in more or less effects on land use and planning than those already identified in the EIR. There is no change in the type, significance, or severity of land use and planning related impacts or in the need for, or effectiveness of mitigation measures.
Given these conditions, implementation of the FRET mitigation area and vegetated wave buffer are consistent with the CEQA requirements for use of an addendum (See Section 1.2 of this addendum). The combined analysis of agricultural resources and land use and planning issues for FRLRP Alternative 2 in the FRLRP EIR and for the proposed project refinements in this addendum is sufficient to meet CEQA requirements and support the approval of the proposed project refinements, if TRLIA so chooses.

3.1.2 GEOLOGY AND SOILS

There are no new circumstances since certification of the FRLRP EIR that would influence geology, soil, and mineral resource impacts associated with FRLRP Alternative 2 or the project modifications evaluated in this addendum, and there is no new information requiring analysis for verification of the EIR conclusions related to this topic.

Regarding the issues of geology and soils, the EIR assumed restoration of native habitat in the entirety of the expanded floodway and the analysis of impacts to geology and soils considers that activity. Therefore, planting of native vegetation in the FRET mitigation area and as part of the vegetated wave buffer is consistent with assumptions already included in the EIR. These project refinements simply provide specific locations and planting plans for actions already assumed in the EIR. Establishment of the FRET mitigation area and vegetated wave buffer, along with associated activities in those areas (see Chapter 2 of this addendum), would not result in a change in the type, significance, or severity of impacts on geology and soils or in the need for, or effectiveness of mitigation measures.

Given these conditions, implementation of the FRET mitigation area and vegetated wave buffer are consistent with the CEQA requirements for use of an addendum (See Section 1.2 of this addendum). The combined analysis of geology and soils issues for FRLRP Alternative 2 in the FRLRP EIR and for the proposed project refinements in this addendum is sufficient to meet CEQA requirements and support the approval of the proposed project refinements, if TRLIA so chooses.

3.1.3 WATER RESOURCES AND RIVER GEOMORPHOLOGY

There are no new circumstances since certification of the FRLRP EIR that would influence water resources and river geomorphology impacts associated with FRLRP Alternative 2 or the project modifications evaluated in this addendum, and there is no new information requiring analysis for verification of the EIR conclusions regarding these topics.

Regarding the issues of water resources and river geomorphology, the EIR assumed restoration of native habitat in the entirety of the expanded floodway and analyzed impacts to water resources and river geomorphology from that activity. Therefore, planting of native vegetation in the FRET mitigation area and as part of the vegetated wave buffer is consistent with assumptions already included in the EIR. These project refinements simply provide specific locations and planting plans for actions already assumed in the EIR. Establishment of the FRET mitigation area and vegetated wave buffer, along with associated activities in those areas (see Chapter 2 of this Addendum), would not result in a change in the type, significance, or severity of impacts on water resources and river morphology or in the need for, or effectiveness of mitigation measures.

Given these conditions, implementation of the FRET mitigation area and vegetated wave buffer are consistent with the CEQA requirements for use of an addendum (See Section 1.2 of this addendum). The combined analysis of water resources and river geomorphology issues for FRLRP Alternative 2 in the FRLRP EIR and for the proposed project refinements in this addendum is sufficient to meet CEQA requirements and support the approval of the proposed project refinements, if TRLIA so chooses.
3.1.4 **Fisheries**

There are no new circumstances since certification of the FRLRP EIR that would influence fisheries impacts associated with FRLRP Alternative 2 or the project modifications evaluated in this addendum, and there is no new information requiring analysis for verification of the EIR conclusions regarding fisheries.

Regarding the issue of fisheries, the EIR assumed restoration of native habitat in the entirety of the expanded floodway and analyzed impacts to fisheries from that activity. Therefore, planting of native vegetation in the FRET mitigation area and as part of the vegetated wave buffer is consistent with assumptions already included in the EIR. These project refinements simply provide specific locations and planting plans for actions already assumed in the EIR. Establishment of the FRET mitigation area and vegetated wave buffer, along with associated activities in those areas (see Chapter 2 of this addendum), would not result in a change in the type, significance, or severity of impacts on fisheries or in the need for, or effectiveness of mitigation measures.

Given these conditions, implementation of the FRET mitigation area and vegetated wave buffer are consistent with the CEQA requirements for use of an addendum (See Section 1.2 of this addendum). The analysis of fisheries issues for FRLRP Alternative 2 in the FRLRP EIR and for the proposed project refinements in this addendum is sufficient to meet CEQA requirements and support the approval of the proposed project refinements, if TRLIA so chooses.

3.1.5 **Terrestrial Biological Resources**

There are no new circumstances since certification of the FRLRP EIR that would influence terrestrial biological resource impacts associated with FRLRP Alternative 2 or the proposed project modifications evaluated in this addendum, and there is no new information requiring analysis for verification of the EIR conclusions regarding terrestrial biological resources.

Regarding the issue of terrestrial biological resources, the EIR assumed restoration of native habitat in the entirety of the expanded floodway and analyzed impacts to terrestrial biological resources from that activity. Therefore, planting of native vegetation in the FRET mitigation area and as part of the vegetated wave buffer is consistent with assumptions already included in the EIR. Note that the EIR does not require restoration of native habitat in the entire floodway to mitigate impacts to biological resources, or any other environmental resources. The EIR assumed full restoration in the floodway to ensure that potential impacts from this activity were not minimized, but did not take any “mitigation credit” for restoration as it was not known at the time the EIR was prepared the full extent of habitat restoration that might occur. Therefore, the impact discussions in Section 5.5.3 of the Draft EIR (beginning on page 5.5-25) and descriptions of mitigation measures in Section 5.5.4 (beginning on page 5.5-38), do not “take credit” for any beneficial effects that might occur to biological resources from habitat restoration in the floodway and do not require that habitat restoration occur in the entirety of the floodway.

The project refinements evaluated in this addendum simply provide specific locations and planting plans for actions already assumed in the EIR. Establishment of the FRET mitigation area and vegetated wave buffer, along with associated activities in those areas (see Chapter 2 of this addendum), would not result in a change in the type, significance, or severity of impacts on terrestrial biological resources or in the need for, or effectiveness of mitigation measures.

Given these conditions, implementation of the FRET mitigation area and vegetated wave buffer are consistent with the CEQA requirements for use of an addendum (See Section 1.2 of this addendum). The analysis of terrestrial biological resources issue for FRLRP Alternative 2 in the FRLRP EIR and for the proposed project refinements in this addendum is sufficient to meet CEQA requirements and support the approval of the proposed project refinements, if TRLIA so chooses.
3.1.6 Recreation

There are no new circumstances since certification of the FRLRP EIR that would influence recreation impacts associated with FRLRP Alternative 2 or the project modifications evaluated in this addendum, and there is no new information requiring analysis for verification of the EIR conclusions regarding recreation.

Regarding the issue of recreation, the EIR assumed restoration of native habitat in the entirety of the expanded floodway and analyzed impacts to recreation from that activity. Therefore, planting of native vegetation in the FRET mitigation area and as part of the vegetated wave buffer is consistent with assumptions already included in the EIR. These project refinements simply provide specific locations and planting plans for actions already assumed in the EIR. Establishment of the FRET mitigation area and vegetated wave buffer, along with associated activities in those areas (see Chapter 2 of this addendum), would not result in a change in the type, significance, or severity of impacts on recreation or in the need for, or effectiveness of mitigation measures.

Given these conditions, implementation of the FRET mitigation area and vegetated wave buffer are consistent with the CEQA requirements for use of an addendum (See Section 1.2 of this addendum). The analysis of recreation issues for FRLRP Alternative 2 in the FRLRP EIR and for the proposed project refinements in this addendum is sufficient to meet CEQA requirements and support the approval of the proposed project refinements, if TRLIA so chooses.

3.1.7 Aesthetics

There are no new circumstances since certification of the FRLRP EIR that would influence aesthetics impacts associated with FRLRP Alternative 2 or the project modifications evaluated in this addendum, and there is no new information requiring analysis for verification of the EIR conclusions regarding aesthetics.

Regarding the issue of aesthetics, the EIR assumed restoration of native habitat in the entirety of the expanded floodway and analyzed impacts to aesthetics from that activity. Therefore, planting of native vegetation in the FRET mitigation area and as part of the vegetated wave buffer is consistent with assumptions already included in the EIR. These project refinements simply provide specific locations and planting plans for actions already assumed in the EIR. Establishment of the FRET mitigation area and vegetated wave buffer, along with associated activities in those areas (see Chapter 2 of this addendum), would not result in a change in the type, significance, or severity of impacts on aesthetics or in the need for, or effectiveness of mitigation measures.

Given these conditions, implementation of the FRET mitigation area and vegetated wave buffer are consistent with the CEQA requirements for use of an addendum (See Section 1.2 of this addendum). The analysis of aesthetics issues for FRLRP Alternative 2 in the FRLRP EIR and for the proposed project refinements in this addendum is sufficient to meet CEQA requirements and support the approval of the proposed project refinements, if TRLIA so chooses.

3.1.8 Cultural Resources

There are no new circumstances since completion of the FRLRP EIR that would influence cultural resource impacts associated with FRLRP Alternative 2 or the project modifications evaluated in this addendum, and there is no new information requiring analysis for verification of the EIR conclusions regarding cultural resources.

Regarding the issue of cultural resources, the EIR assumed restoration of native habitat in the entirety of the expanded floodway and analyzed impacts to cultural resources from that activity. Therefore, planting of native vegetation in the FRET mitigation area and as part of the vegetated wave buffer is consistent with assumptions already included in the EIR. These project refinements simply provide specific locations and planting plans for actions already assumed in the EIR. Establishment of the FRET mitigation area and vegetated wave buffer, along
with associated activities in those areas (see Chapter 2 of this addendum), would not result in a change in the type, significance, or severity of impacts on cultural resources or in the need for, or effectiveness of mitigation measures.

Given these conditions, implementation of the FRET mitigation area and vegetated wave buffer are consistent with the CEQA requirements for use of an addendum (See Section 1.2 of this addendum). The analysis of cultural resource issues for FRLRP Alternative 2 in the FRLRP EIR and for the proposed project refinements in this addendum is sufficient to meet CEQA requirements and support the approval of the proposed project refinements, if TRLIA so chooses.

3.1.9  AIR QUALITY

There are no new circumstances since certification of the FRLRP EIR that would influence air quality impacts associated with FRLRP Alternative 2 or the project modifications evaluated in this addendum, and there is no new information requiring analysis for verification of the EIR conclusions regarding air quality.

Regarding the issue of air quality, the EIR assumed restoration of native habitat in the entirety of the expanded floodway and analyzed impacts to air quality from that activity. Therefore, planting of native vegetation in the FRET mitigation area and as part of the vegetated wave buffer is consistent with assumptions already included in the EIR. These project refinements simply provide specific locations and planting plans for actions already assumed in the EIR. Establishment of the FRET mitigation area and vegetated wave buffer, along with associated activities in those areas (see Chapter 2 of this addendum), would not result in a change in the type, significance, or severity of impacts on air quality or in the need for, or effectiveness of mitigation measures.

Given these conditions, implementation of the FRET mitigation area and vegetated wave buffer are consistent with the CEQA requirements for use of an addendum (See Section 1.2 of this addendum). The analysis of air quality issues for FRLRP Alternative 2 in the FRLRP EIR and for the proposed project refinements in this addendum is sufficient to meet CEQA requirements and support the approval of the proposed project refinements, if TRLIA so chooses.

3.1.10  NOISE AND VIBRATION

There are no new circumstances since certification of the FRLRP EIR that would influence noise and vibration impacts associated with FRLRP Alternative 2 or the project modifications evaluated in this addendum, and there is no new information requiring analysis for verification of the EIR conclusions regarding noise and vibration effects.

Regarding the issue of noise and vibration, the EIR assumed restoration of native habitat in the entirety of the expanded floodway and analyzed noise and vibration impacts from that activity. Therefore, planting of native vegetation in the FRET mitigation area and as part of the vegetated wave buffer is consistent with assumptions already included in the EIR. These project refinements simply provide specific locations and planting plans for actions already assumed in the EIR. Establishment of the FRET mitigation area and vegetated wave buffer, along with associated activities in those areas (see Chapter 2 of this addendum), would not result in a change in the type, significance, or severity of impacts on noise and vibration or in the need for, or effectiveness of mitigation measures.

Given these conditions, implementation of the FRET mitigation area and vegetated wave buffer are consistent with the CEQA requirements for use of an addendum (See Section 1.2 of this addendum). The analysis of agricultural resources and noise and vibration issues for FRLRP Alternative 2 in the FRLRP EIR and for the proposed project refinements in this addendum is sufficient to meet CEQA requirements and support the approval of the proposed project refinements, if TRLIA so chooses.
3.1.11 TRANSPORTATION AND CIRCULATION

There are no new circumstances since certification of the FRLRP EIR that would influence transportation and circulation impacts associated with FRLRP Alternative 2 or the project modifications evaluated in this addendum, and there is no new information requiring analysis for verification of the EIR conclusions regarding transportation and circulation effects.

Regarding the issue of transportation and circulation, the EIR assumed restoration of native habitat in the entirety of the expanded floodway and analyzed transportation and circulation impacts from that activity. Therefore, planting of native vegetation in the FRET mitigation area and as part of the vegetated wave buffer is consistent with assumptions already included in the EIR. These project refinements simply provide specific locations and planting plans for actions already assumed in the EIR. Establishment of the FRET mitigation area and vegetated wave buffer, along with associated activities in those areas (see Chapter 2 of this addendum), would not result in a change in the type, significance, or severity of impacts on transportation and circulation or in the need for, or effectiveness of mitigation measures.

Given these conditions, implementation of the FRET mitigation area and vegetated wave buffer are consistent with the CEQA requirements for use of an addendum (See Section 1.2 of this addendum). The analysis of transportation and circulation issues for FRLRP Alternative 2 in the FRLRP EIR and for the proposed project refinements in this addendum is sufficient to meet CEQA requirements and support the approval of the proposed project refinements, if TRLIA so chooses.

3.1.12 PUBLIC SERVICES, UTILITIES, AND SERVICE SYSTEMS

There are no new circumstances since certification of the FRLRP EIR that would influence public services, utilities, and service systems impacts associated with FRLRP Alternative 2 or the project modifications evaluated in this addendum, and there is no new information requiring analysis for verification of the EIR conclusions regarding effects regarding these issues.

Regarding the issues of public services, utilities, and service systems, the EIR assumed restoration of native habitat in the entirety of the expanded floodway and analyzed public services, utilities, and service systems impacts from that activity. Therefore, planting of native vegetation in the FRET mitigation area and as part of the vegetated wave buffer is consistent with assumptions already included in the EIR. These project refinements simply provide specific locations and planting plans for actions already assumed in the EIR. Establishment of the FRET mitigation area and vegetated wave buffer, along with associated activities in those areas (see Chapter 2 of this addendum), would not result in a change in the type, significance, or severity of impacts on public services, utilities, and service systems or in the need for, or effectiveness of mitigation measures.

Given these conditions, implementation of the FRET mitigation area and vegetated wave buffer are consistent with the CEQA requirements for use of an addendum (See Section 1.2 of this addendum). The analysis of public services, utilities, and service systems issues for FRLRP Alternative 2 in the FRLRP EIR and for the proposed project refinements in this addendum is sufficient to meet CEQA requirements and support the approval of the proposed project refinements, if TRLIA so chooses.

3.1.13 PALEONTOLOGICAL RESOURCES

There are no new circumstances since certification of the FRLRP EIR that would influence paleontological resource impacts associated with FRLRP Alternative 2 or the project modifications evaluated in this addendum, and there is no new information requiring analysis for verification of the EIR conclusions regarding effects regarding paleontological resources.
Regarding the issue of paleontological resources, the EIR assumed restoration of native habitat in the entirety of the expanded floodway and analyzed paleontological resource impacts from that activity. Therefore, planting of native vegetation in the FRET mitigation area and as part of the vegetated wave buffer is consistent with assumptions already included in the EIR. These project refinements simply provide specific locations and planting plans for actions already assumed in the EIR. Establishment of the FRET mitigation area and vegetated wave buffer, along with associated activities in those areas (see Chapter 2 of this addendum), would not result in a change in the type, significance, or severity of impacts on paleontological resources or in the need for, or effectiveness of mitigation measures.

Given these conditions, implementation of the FRET mitigation area and vegetated wave buffer are consistent with the CEQA requirements for use of an addendum (See Section 1.2 of this addendum). The analysis of paleontological resource issues for FRLRP Alternative 2 in the FRLRP EIR and for the proposed project refinements in this addendum is sufficient to meet CEQA requirements and support the approval of the proposed project refinements, if TRLIA so chooses.

3.2 CONCLUSIONS REGARDING THE ENVIRONMENTAL ANALYSIS OF THE FRLRP REFINEMENTS

3.2.1 ENVIRONMENTAL RESOURCE IMPACTS

As described in the preceding sections, the proposed project refinements evaluated in this addendum (i.e., FRET mitigation area, vegetated wave buffer) would not change any of the impact conclusions of the FRLRP EIR and would not substantially increase the severity of identified impacts. The project refinements also would not alter the need for, or effectiveness of mitigation measures.

3.2.2 CUMULATIVE IMPACTS

In Chapter 6 of the DEIR, “Cumulative Impacts,” the FRLRP is considered together with related projects and regional development for each of the environmental issue areas evaluated in the DEIR. Consistent with the intent of a cumulative analysis, where the combined effects of multiple projects are to be considered, the various elements of the FRLRP are generally evaluated as a whole. The FRLRP would not contribute to significant cumulative impacts related to geology, soils, and mineral resources; water resources and river geomorphology; fisheries; terrestrial biological resources; recreation; aesthetic resources; cultural resources; transportation and circulation; public services, utilities, and service systems; or paleontological resources. It would contribute to significant and unavoidable cumulative impacts related to land use and planning, air quality, and noise.

As documented throughout this addendum, implementing the proposed project refinements (i.e., FRET mitigation area, vegetated wave buffer) would not result in any new significant impacts or substantially more severe impacts and would not require any new or different mitigation measures. Furthermore, there are no new circumstances since certification of the EIR that would result in new significant impacts or that would substantially increase the severity of previously identified impacts. There is no other new information requiring analysis or verification. Therefore, the project refinements evaluated in this addendum would remain consistent with the conclusions of the cumulative impact analysis in Chapter 6 of the EIR.

3.2.3 CONCLUSION

Based on the analysis of the categories of environmental impacts evaluated above, implementing the FRLRP with the proposed refinements described in this document would result in none of the conditions described in Section 15162 of the State CEQA Guidelines calling for preparation of a subsequent EIR. In summary, there are no
altered circumstances or new information of substantial importance since certification of the FRLRP EIR, and the project refinements evaluated in this addendum:

- would not result in any new significant environmental effects,
- would not substantially increase the severity of previously identified effects,
- would not result in mitigation measures or alternatives previously found to be infeasible becoming feasible, and
- would not result in availability/implementation of mitigation measures or alternatives that are considerably different from those analyzed in the previous document that would substantially reduce one or more significant effects on the environment.

These conclusions confirm that this addendum to the FRLRP EIR is the appropriate CEQA document to evaluate and record the project refinements described in this document.
January 11, 2011

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director
       Andrea Clark, TRLIA Counsel
       Larry Dacus, Design Manager
SUBJECT: Consider Approval of a License from the Central Valley Flood Protection Board for Use of the Anderson Mitigation Site

Recommended Action:
Approve and grant authority to Executive Director to sign a license with the Sacramento San Joaquin Drainage District (SSJDD) (Attached) for use of the Anderson Mitigation Site to provide Elderberry Shrub Impact Mitigation for the Upper Yuba Levee Improvement Project (UYLIP), in substantially the same form as attached hereto; and grant to Executive Director authority to enter into a joint use agreement with similar terms as the license agreement upon review and approval of counsel.

Background:
Construction of the UYLIP by TRLIA will require the transplanting of 34 elderberry shrubs and a limited number of associate plantings to mitigate for potential endangered species impacts. TRLIA proposes to use an existing U. S. Corps of Engineers (USACE) Elderberry mitigation site along the Feather River near Anderson Avenue (Anderson Mitigation Site). The land on which the Anderson Mitigation Site is located is owned by the SSJDD, an entity created by the California Legislature in 1913 to examine the San Joaquin and Sacramento rivers and their tributaries and to prepare a report to the Reclamation Board (now the Central Valley Flood Protection Board) advising the Board on controlling the floodwaters of the rivers. The SSJDD can acquire, own, hold, use, and enjoy any and all properties necessary for its purposes, and its management and control are vested in the Central Valley Flood Protection Board (CVFPB). TRLIA has filed an encroachment permit application with the CVFPB to use the Anderson Mitigation Site for the UYLIP elderberry transplants.

Discussion:
In addition to the CVFPB encroachment permit for use of the Anderson Mitigation Site, TRLIA will have to enter into a formal agreement with the SSJDD for use of their lands. For expediency it has been agreed that TRLIA will first get a license for use of these lands which will be followed by a negotiated long-term joint use agreement. The license will suffice for initial use but the joint use agreement will ensure that TRLIA can continue to use these lands without threat of having a license revoked. The attached license has been reviewed and approved by TRLIA counsel. In addition to a standard indemnity clause that protects the State from damages related to TRLIA’s use of the
property, the State is requiring that TRLIA indemnify it for damage that occurs to the plantings as a result of flood maintenance or flood fighting activities.

**Fiscal Impact:**
Under the regulations that require the license or joint use agreement, payment or other form of consideration to SSJDD is required. The CVFPB will charge a $100 license fee that will cover this payment, and TRLIA will discuss payment options for the joint use agreement when that document is negotiated. Two options being discussed are (i) fair market rental value for the property being utilized for this mitigation and (ii) a waiver of payment in light of the maintenance costs that will be incurred by TRLIA. DWR staff has indicated a willingness to consider the latter option. Therefore, the anticipated fiscal impact is limited to the $100 license fee, which will be paid with local funding. TRLIA staff will inquire with the State about cost-sharing this amount.

Attachment:
SSJDD License
State of California

Department of Water Resources

California Natural Resources Agency

Maint. Yard:
Location:
Parcel No.:__________________________

State of California

CENTRAL VALLEY FLOOD PROTECTION BOARD

LICENSE

THE SACRAMENTO AND SAN JOAQUIN DRAINAGE DISTRICT, acting by and through the Central Valley Flood Protection Board of the State of California, hereinafter referred to as BOARD, licenses revocable, nonexclusive use of State property, hereinafter referred to as PREMISES, at the location and under conditions set forth in Sections 1, 2, and 3 of this License.

SECTION 1

LICENSEE: Three Rivers Levee Improvement Authority and agents of TRLIA

LICENSEE ADDRESS AND PHONE: c/o Paul Brunner
1114 Yuba Street, Ste 218
Marysville, CA 95901
(530)749-7841

STATE ADDRESS: The Central Valley Flood Protection Board
c/o Department of Water Resources
Division of Engineering
Real Estate Branch
Post Office Box 942836
Sacramento, California 94236-0001

LOCATION: Yuba County. See Section 3 (map)

LICENSED USE: Planting, maintenance and operation of mitigation area

IMPROVEMENTS LICENSED FOR USE:

TERM: Ten years

LICENSE FEE: $0 annual fee

INSURANCE REQUIRED: _____ yes X no

CONSENT OF TENANT REQUIRED: _____ yes X no

SPECIAL CONDITIONS:
SECTION 2

1. **USE OF PREMISES:** LICENSED USE is to be strictly construed. LICENSEE shall not use or permit use of any part of PREMISES for any purpose or purposes other than the use hereinabove specified. This License is revocable permission, grants no interest in real property to LICENSEE for the use herein licensed, and BOARD does not warrant that the land is capable of being used for the licensed use. This License and the uses licensed hereunder are not assignable.

LICENSEE shall exercise reasonable care that no damage shall occur to PREMISES and shall not do or permit any act or thing to be done upon the PREMISES which is a nuisance or which may disturb the quiet enjoyment by BOARD or interfere with the operations of BOARD or any tenant of property.

BOARD makes no warranty or representation as to its title to the area covered by this License. Licensed uses shall be subordinate to all existing easements, covenants, servitudes, licenses and rights of way for canals, ditches, levees, roads, highways, telegraph, telephone and electric power lines, railroads, pipeline and other purposes whether recorded or not and rights of others under any existing oil, gas, mineral lease or other leases or uses affecting the PREMISES or any portion thereof, whether recorded or not.

LICENSEE agrees to hold BOARD and the State of California harmless for any damage that may occur to the plantings or the mitigation site as a result of any reasonably necessary flood maintenance or flood fighting activities. LICENSEE acknowledges that the premises is subject to an inherent risk of inundation and agrees to hold BOARD and the State of California harmless for any damage to the plantings therefrom.

2. **COMPLIANCE WITH LAW:** LICENSEE shall, at its expense, promptly comply with any and all laws, ordinances, rules, regulations, requirements and orders whatever, present or future, of the national, State, county or municipal government which may in any way apply to the use, maintenance or occupation of the operations on the PREMISES by LICENSEE hereunder.

3. **INDEMNIFICATION:** This License is made upon the express condition that the State of California is to be held harmless from all liability and claims for damages by reason of any injury to any person or persons, including LICENSEE, or property of any kind whatsoever and to whomsoever belonging, including LICENSEE, from any cause or causes related to LICENSEE’s use of the premises as herein specified, while LICENSEE is in, upon, or in any way connected with the PREMISES during the term of this License, or any occupancy hereunder, except those arising out of the sole negligence of BOARD. LICENSEE agrees to defend, indemnify and save harmless the State of California, its officers, employees, contractors and agents from all liability, loss, cost or obligation on account of or arising out of any such injury or loss, however occurring.

4. **DAMAGE:** In the exercise of the rights herein granted, LICENSEE is responsible for any damage, destruction or loss occurring to the PREMISES or facilities of BOARD, its water contractors, lessees, LICENSEES, permittees or other members of the public. LICENSEE shall indemnify and save harmless BOARD for all such damage, destruction or loss, or at the option of BOARD, LICENSEE shall repair or replace said property to the satisfaction of BOARD.

5. **FUTURE MOVING OF INSTALLATION:** LICENSEE shall at the LICENSEE’s sole cost and expense, remove, alter, relocate or reconstruct all or any part of the work herein approved immediately upon the order of BOARD to do so, and in the manner prescribed thereby, should said work or any portion thereof not conform to the provisions of this order, or should said work or any portion thereof be injurious to or damage any works necessary to any plan of BOARD or the Legislature, or should it interfere with the successful execution, functioning or operation of any such plan of flood control, or should such removal, alteration, relocation or reconstruction be necessary under or in conjunction with any present or future flood control plans for the area in which the work herein approved is to be accomplished, and in case applicant delays acting upon any such order of BOARD, BOARD may proceed to perform the required work, and the cost thereof shall be paid by LICENSEE.

6. **MAINTENANCE:** The LICENSEE shall properly maintain any encroachment placed by LICENSEE on BOARD’s property.

7. **INSURANCE:** If required by Section 1, LICENSEE shall furnish to BOARD a Certificate of Insurance at the time the License is signed, stating that there is liability insurance presently in effect for LICENSEE.
with bodily injury and property damage limits of not less than $1,000,000 per occurrence. The certificate of insurance will provide:

a. That the insurer will not cancel the insured's coverage without thirty (30) days' prior written notice to BOARD.

b. That BOARD, its officers, agents, employees and servants are included as additional named insureds, but only insofar as the operations under this License are concerned.

c. That BOARD will not be responsible for any premiums or assessments on the policy.

d. That PREMISES included in this License is covered by the policy.

LICENSEE agrees that the bodily injury liability insurance herein provided for shall be in effect at all times during the term of this License. In the event said insurance coverage expires at any time or times during the term of this License, LICENSEE agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the License, or for a period of not less than one (1) year. In the event LICENSEE fails to keep insurance coverage in effect at all times as herein provided, BOARD may, in addition to any other remedies it may have, terminate this License upon the occurrence of such event.

8. **HAZARDOUS MATERIALS:** LICENSEE shall not possess, use or dispose of any hazardous materials or waste on BOARD's property, or cause to be possessed, used or disposed, without the express written consent of BOARD.

9. **TERMINATION:** Either party herein reserves the right to terminate this License upon providing written notice to the other party. This License is revocable by BOARD without cause or fault.

10. **VACATION:** LICENSEE agrees to vacate PREMISES within twenty-four (24) hours in the event of emergency as determined by BOARD.

11. **TERMINATION AND RESTORATION OF THE PREMISES:** Termination of this License in any manner as to all or any part of the PREMISES, shall not relieve LICENSEE from any obligation or liability theretofore accrued hereunder, nor prejudice, or in any way affect the right of BOARD to enforce any right or remedy it may have had before such termination. Upon any such termination, LICENSEE shall within three (3) days remove all of LICENSEE's improvements and personal property from the PREMISES and restore them to a condition satisfactory to BOARD. At its option, BOARD may remove the same and restore the PREMISES, and LICENSEE agrees to reimburse BOARD for the cost thereof upon demand.

12. **DEFAULT, ENFORCEMENT, OR BREACH COSTS:** LICENSEE shall pay, upon demand, all costs and expenses (including attorney's fees in a reasonable amount) incurred by BOARD to enforce any of the covenants, conditions and provisions of this License, or to dispossess LICENSEE, irrespective of whether or not court action shall be brought.

13. **NOTIFICATION:** Any notice or demand by either party to the other in connection with this License shall be deemed to be fully given or made when written and deposited in a sealed envelope in the United States mail, registered or certified and postage prepaid, and addressed to the party to whom given at the address specified in Section 1. Either party may change its address by giving the other party written notice of its new address as herein provided. BOARD may give notice by phone to LICENSEE in emergency situations which may require LICENSEE to vacate PREMISES within twenty-four (24) hours.
SACRAMENTO AND SAN JOAQUIN DRAINAGE DISTRICT, acting by and through the Central Valley Flood Protection Board of the State of California

ACCEPTED:

Licensee

Date: ________________________________

Date: ________________________________

APPROVED as to Legal Form and Sufficiency:

Address ________________________________

Address ________________________________

Legal Counsel for the Central Valley Flood Protection Board

Date: ________________________________

Phone: ________________________________

Consent of Tenant(s)

We as tenant(s) of the land described in this License do hereby consent to the execution of said License for the purposes herein set forth.

Tenant: ________________________________

Tenant: ________________________________

Address: ________________________________

Address: ________________________________

Address: ________________________________

Address: ________________________________
SECTION 3 (MAP)
January 11, 2011

TO: Three Rivers Levee Improvement Authority Board  
FROM: Paul Brunner, Executive Director  
Larry Dacus, Design Manager  
SUBJECT: Consider Approval of an Agreement with Reclamation District 784 for Long Term Maintenance of a Portion of the Anderson Mitigation Site

**Recommended Action:**  
Approve an agreement with Reclamation District (RD) 784 (Attached) for long term maintenance of the Anderson Mitigation Site which provides Elderberry Shrub Impact Mitigation for the Upper Yuba Levee Improvement Project (UYLIP).

**Background:**  
Construction of the UYLIP by TRLIA will require the transplanting of 34 elderberry shrubs and a limited number of associate plantings to mitigate for potential endangered species impacts. TRLIA proposes to use an existing U. S. Corps of Engineers (USACE) Elderberry mitigation site along the Feather River near Anderson Avenue (Anderson Mitigation Site). The initial 3-year maintenance and establishment of the shrubs and associated plantings is contained in an already approved contract with Restoration Resources. In addition to this initial establishment maintenance, there will need to be long term maintenance of the mitigation area. RD 784 currently provides long term maintenance for the existing Anderson Mitigation Site. Other entities that also use this site for mitigation will pay RD 784 for this long term maintenance. The terms of these agreements with the other entities are still in negotiation. TRLIA has filed an encroachment permit application with the CVFPB to use the Anderson Mitigation Site for the UYLIP elderberry transplants.

**Discussion:**  
Review by Central Valley Flood Protection Board (CVFPB) Staff of the Encroachment Permit Application for the Anderson Mitigation Site has resulted in a comment from the CVFPB Staff that requests an agreement for long term maintenance for the Anderson Mitigation Site be in place for approval of the permit. Since RD 784 is currently maintaining this site for others, it was decided to enter into agreement with RD 784 for long term maintenance of the Anderson Mitigation Site area that TRLIA would utilize for mitigation of the UYLIP elderberry impacts. An agreement has been drafted and considered by the RD 784 Board.

**Fiscal Impact:**  
The agreement calls for a payment of $5,000 a year to RD 784 for maintenance of the area in the Anderson Mitigation site utilized by TRLIA lands. These annual funds would come from the maintenance assessment for the TRLIA Levee Repair Program

Attachment:
Agreement with RD 784
MAINTENANCE AGREEMENT
BETWEEN RECLAMATION DISTRICT 784
AND
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
FOR THE
ANDERSON MITIGATION SITE

This Agreement is entered into by and between Reclamation District 784, hereinafter referred to as the "District," and the Three Rivers Levee Improvement Authority, hereinafter referred to as "TRLIA", on this _____________ day of __________________ _________________, in view of the following circumstances:

WHEREAS, TRLIA is constructing levee repairs to the South Levee of the Yuba River ("Project") in partnership with the Department of Water Resources as an Early Implementation Program Project; and

WHEREAS, TRLIA is required under the Endangered Species Act to mitigate for impacts to 34 elderberry shrubs caused by the Project; and

WHEREAS, the Central Valley Flood Protection Board has granted a permit for the construction of the Project under Permit 18577; and

WHEREAS, the Anderson Mitigation Site is an existing mitigation site that was established by the Corps of Engineers and the Department of Water Resources to provide for mitigation for repair projects to the Sacramento River Flood Control Project; and

WHEREAS, the Project is a feature of the Sacramento River Flood Control Project; and

WHEREAS, the District currently maintains the Anderson Mitigation Site for other entities that created the mitigation site; and

WHEREAS, TRLIA wishes to utilize the existing Anderson Mitigation Site for elderberry shrub impacts caused by the Project, and has submitted an application for an encroachment permit from the Central Valley Flood Protection Board; and

WHEREAS, use of the existing Anderson Mitigation Site by TRLIA would add minimal additional maintenance requirements; and

WHEREAS, TRLIA and the District wish to enter into this Agreement in order to ensure long term maintenance of the transplanted elderberry shrubs.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants provided herein, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged by TRLIA and the District, it is hereby agreed as follows:
1. **Terms of Agreement.** The District agrees to maintain the TRLIA transplanted elderberry shrubs and additional seedlings on the Anderson Mitigation Site in the same manner as it currently maintains other existing plantings at the Anderson Mitigation Site. The District will continue to follow the existing manual, Mitigation Site Operations and Maintenance Manual, Sacramento River Flood Control Project, Phase II, Marysville-Yuba City Area Levee Reconstruction Project, established by the Corps of Engineers.

2. **Compensation.** For this additional maintenance TRLIA agrees to pay the District a sum of $5,000 annually.

3. **Obligations of TRLIA.** TRLIA or its agents shall perform or cause to be performed all monitoring required for the transplanted shrubs and associated seedlings.

4. **Termination of Agreement.** This Agreement may be terminated upon written notice of either party.

5. **Amendment.** This Agreement may not be modified or amended unless agreed to in writing by both parties.

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

RECLAMATION DISTRICT 784

By ____________________________

Date ________________

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

By ____________________________
Mary Jane Griego, President

Date ________________

APPROVED AS TO LEGAL FORM AND SUFFICIENCY:

By ____________________________

Date ________________

Scott L. Shapiro, General Counsel

Date ________________