CALL TO ORDER: Welcome to the Three Rivers Levee Improvement Authority (TRLIA) meeting. As a courtesy to others, please turn off cell phones, pagers, or other electronic devices which might disrupt the meeting. Thank you.

I  ROLL CALL – Directors Atwal, Brown, Griego, Nicoletti, Ritchie

II  ELECTION OF OFFICERS – Chair and Vice Chair for 2016

III  PUBLIC COMMUNICATIONS: Any person may speak about any subject of concern within the jurisdiction of TRLIA which is not on today’s agenda. The total amount of time allotted shall be limited to a total of 15 minutes and each individual or group will be limited to no more than 5 minutes. Prior to this time, speakers are requested to fill out a “Request to Speak” card and submit it to the secretary.

IV  CONSENT AGENDA CONSENT AGENDA: Matters listed are considered to be routine and can be enacted by one motion.

A. Approve meeting minutes of January 19, 2016.

V  ACTION ITEMS

A. Adopt resolution of necessity for taking of certain property identified as APN 020-330-007/APN 020-330-010/R.B. Satori, LP for Segment 3 of Feather River Levee Improvement Project.

B. Adopt resolution of necessity for taking of certain property identified as APN 018-220-056/R.B. Satori, LP for Upper Yuba Levee Improvement Project.

VI  BOARD AND STAFF MEMBER REPORTS

VII  ADJOURN
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

JANUARY 19, 2016

MINUTES

A meeting of the Board of Directors of the Three Rivers Levee Improvement Authority (TRLIA) was held on the above date, commencing at 2:09 p.m., within the Government Center, Marysville, California, with a quorum being present as follows: Directors Sarbdeep Atwal, Rick Brown, and Edward Ritchie. Directors Mary Jane Griego and John Nicoletti were absent. Also present were Executive Director Paul Brunner, Counsel Scott Shapiro, and Secretary/Clerk of the Board of Supervisors Donna Stottlemeyer. Vice Chair Brown presided.

I ROLL CALL – Directors Atwal, Brown, Griego, Nicoletti, Ritchie –Directors Griego and Nicoletti

II ELECTION OF OFFICERS – Chair and Vice Chair for 2016 – Postponed to February 2, 2016.

III SPECIAL PRESENTATION: Present commemoration plaque to Jerry Crippen for dedicated service. Executive Director Paul Brunner and Board members presented the plaque commending Mr. Crippen’s service.

IV PUBLIC COMMUNICATIONS: None.

V CONSENT AGENDA: Matters listed are considered to be routine and can be enacted by one motion.

MOTION: Move to approve MOVED: Atwal SECOND: Ritchie
AYES: Atwal, Brown, Ritchie
NOES: None ABSTAIN: None ABSENT: Griego, Nicoletti

A. Approve minutes of the meeting of December 15, 2015. Approved.

B. Approve Amendment No. 1 extending contract through December 31, 2017 with Herold W. Bertholf for appraisal services and authorize Executive Director to execute upon review and approval of Counsel. Approved.

VI ACTION ITEMS

A. Adopt resolution of necessity for the taking of certain property located along the northwest side of Riverside Avenue, 2.53 acres in fee, for Segment 3 of the Feather River Levee Improvement Project. Postponed due to lack of a quorum.

B. Authorize out of state travel for Chair to attend Cap to Cap in Washington D.C. April 9 – 13, 2016.

MOTION: Move to approve MOVED: Ritchie SECOND: Atwal
AYES: Atwal, Brown, Ritchie
NOES: None ABSTAIN: None ABSENT: Griego, Nicoletti

VII BOARD AND STAFF MEMBER REPORTS
Project Manager Doug Handen: 100 year Goldfields Project and Starbend access to Feather River (get PowerPoint)

Director Nicoletti joined the meeting at 2:30 p.m.

Executive Director Paul Brunner:
- Correspondence from Enterprise Rancheria regarding cultural resources field investigation for Western Pacific Interceptor Canal 200-year Standard Project and Feather River Setback Mitigation Bank Project
- Audit services by Moss, Levy and Hartzheim, LLP for funding agreement
- Hallwood Yuba River Project
- Public Records request

The Board returned to Item VI. A. which had been postponed due to not having four members present for consideration.

A. Adopt resolution of necessity for the taking of certain property located along the northwest side of Riverside Avenue, 2.53 acres in fee, for Segment 3 of the Feather River Levee Improvement Project. Special Counsel Kelly Pope provided a PowerPoint presentation relating to the taking of certain property advising the following:
- Unknown property owner and Assessor’s Parcel Number
- Publish the condemnation in the newspaper and post on site
- Described project area
- Appraised value less than $10,000

Ms. Pope responded to inquiries. No public present/comments.

MOTION: Move to approve MOVED: Nicoletti SECOND: Atwal
AYES: Atwal, Brown, Nicoletti, Ritchie
NOES: None ABSTAIN: None ABSENT: Griego

Adopted Resolution No. 2016-1 which is on file in Clerk of the Board of Supervisors Office.

VIII CLOSED SESSION: The Board retired into closed session at 3:05 p.m. and returned at 4:08 p.m. with all present as indicated above, including Director Nicoletti. There was no report.

A. Conference with Legal Counsel – Existing Litigation, Govt. Code 54956.9(d)(1) – A. Teichert & Son, Inc. v. TRLIA and TRLIA Board of Directors, Yuba County Superior Court No. CVPT 15-0000922


C. Pending litigation pursuant to Government Code §54956.9(a) - TRLIA vs. Latigo Farms LLC, et al., YCSCV 14-0000222, APNs 014-360-011 and 014-360-013


and Ann Marie Peck Trust and TRLIA/Brenda Schimpf/Kelly Pope. Under Negotiation: Price and Terms of Payment


IX ADJOURN: 4:09 p.m.

______________________________
Chair

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

______________________________
Approved: ______________________
February 2, 2016

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director
Kelly Pope, Legal Counsel

SUBJECT: Consider Adopting Resolution of Necessity for Acquisition of Property Interests from APNs 020-330-007 and 020-330-010 for Segment 3 of the Feather River Levee Improvement Project

Recommendation

Staff recommends that the Board of Directors of the Three Rivers Levee Improvement Authority ("TRLIA") adopt the attached proposed Resolution of Necessity for the acquisition of certain property interests in the property bearing Assessor’s Parcel Numbers 020-330-007 and 020-330-010 for Segment 3 of the Feather River Levee Improvement Project (the "Project").

The property bearing Assessor’s Parcel Numbers 020-330-007 and 020-330-010 is currently owned by R.B. Satori, LP. As described and depicted in the exhibits to the attached proposed Resolution of Necessity, the property interests proposed for acquisition are 9.056 acres in fee necessary for the Project.

Required Findings for Adoption of a Resolution of Necessity

The attached proposed Resolution of Necessity lists the findings required by California Eminent Domain Law. Importantly, the Board is recommended to find:

1. The public interest and necessity require the Project;
2. 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;
3. The property interests are necessary for the proposed Project; and
4. The offer of just compensation required by Government Code section 7267.2 has been made to the owner or owners of record of the property.

Support for Findings

Finding 1: The Public Interest And Necessity Require The Project.

The Project is necessary to correct underseepage, through-seepage and freeboard problems in Segment 3, which covers an approximately 2.8 mile-long stretch along the Feather River in Yuba County from
Shanghai Bend to Highway 70. The Project is also necessary to provide TRLIA with sufficient right of way to operate and maintain the levee in Segment 3, and in order to provide a 200-year level of flood protection as defined by the California Department of Water Resources.

Through the Project TRLIA can acquire fee title to the levee and the necessary operation and maintenance (“O&M”) corridors alongside the levee in order to (1) provide a 15-foot vegetation free zone from the land side levee toe required by the Army Corps; and (2) provide necessary room for maintenance, inspection, patrolling during high water, and flood fighting using the most efficient and cost-effective methods.

TRLIA’s goal for the Project is to obtain both a 100-year level of flood protection as defined by FEMA, and a 200-year level of flood protection as defined by the California Department of Water Resources.

**Finding 2: 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.**

In order to meet TRLIA’s goals for the Project, the Project must comply at a minimum with the Urban Levee Design Criteria (“ULDC”), released by DWR in May 2012 pursuant to Senate Bill No. 5. SB 5 calls for 200-year flood protection to be the minimum level of protection for urban and urbanizing areas in the Sacramento-San Joaquin Valley. SB 5 will ultimately limit the conditions for approval of development by local governments if adequate progress towards achieving 200-year protection is not met. That is, the land use agency will have to make a finding that an area protected by levees has made adequate progress towards 200-year protection before it can approve development plans or permits. SB 5 requires that the 200-year level of flood protection be consistent with criteria established by DWR. Thus, DWR developed the ULDC pursuant to SB 5 to set forth the minimum criteria that must be met for an area to meet a 200-year level of flood protection.

The ULDC provides that in order to allow adequate room for maintenance, inspection, patrolling during high water, and flood-fighting, fee title or an easement for the entire levee prism extending to a minimum of 15 feet beyond the waterside toe of the levee and a minimum of 20 feet beyond the landside toe of the levee needs to be acquired in undeveloped areas. The ULDC notes that from a levee encroachment control perspective, an easement is less desirable than fee title. The ULDC also notes that these are minimum right of way requirements and that the facts and circumstances for a specific levee system may require the acquisition of additional property.

TRLIA staff therefore recommends that TRLIA acquire the following for the Project: (1) fee title to the entire levee prism, (2) a 15-foot O&M corridor on the waterside of the levee, and (3) a minimum of 20 feet for an O&M corridor on the landside of the levee in order to maintain the visibility and access that is necessary to enable inspection of the levee and flood-fighting. Ownership of the levee and the O&M corridors is also necessary for maintenance activities such as managing animal burrows that can damage levees, maintaining firebreaks, and maintaining healthy groundcover (i.e., grasses) in order to prevent erosion of the levee.

Staff recommends that TRLIA acquire the levee and the O&M corridors in fee, rather than easement, because fee title will give TRLIA, and any agencies that ultimately own and/or maintain the levee, the rights needed to prevent damage to the levee and interference with maintenance that could occur if TRLIA does not acquire fee. For example, holding fee title rather than easement will give TRLIA the rights it needs to prevent the following types of activities that are harmful to levees:
• Cattle grazing by property owners;

• Farming activities by property owners that damage the levee and the maintenance corridors;

• Unauthorized pedestrian, motorcycle, and motor vehicle traffic over the levee, creating erosion sites that threaten the integrity of the levee and necessitate emergency repairs;

• Installation of gates into fences abutting the levee, and cutting steps into the levee;

• Piling of garbage, tree trimmings and other debris near the levee that interfere with maintenance activities and create rodent habitats that lead to rodent damage which can threaten the integrity of the levee, and increase maintenance costs;

• Construction of unpermitted encroachments.

Acquiring fee title to the levee and the maintenance corridors is necessary to give TRLIA the control over the levee and the O&M corridors it needs in order to maintain levee stability and decrease maintenance costs. It also eliminates any potential dispute as to the rights of the public entity that is charged with operating and maintaining the levees. Fee ownership gives TRLIA exclusive property rights necessary to assure public safety.

Finding 3: The Property Interests Are Necessary For The Proposed Project.

The property proposed to be acquired consists of 9.056 acres located just South of Island Avenue and West of Feather River Boulevard. 8.562 acres of the property proposed to be acquired is located within Assessor’s Parcel Number 020-330-010, and is necessary for the Project because it consists of the levee prism and the O&M corridors. The remaining 0.494 acres proposed to be acquired, located within Assessor’s Parcel Number 020-330-007, is necessary for operation and maintenance of the pump station adjacent to the levee, which is a necessary part of the flood control system.

Finding 4: TRLIA Made The Offer Required By Government Code Section 7267.2.

Based on an appraised value of the proposed fee acquisition, TRLIA initially made an offer pursuant to Government Code section 7267.2 to purchase the necessary property interests on October 1, 2014. After recently learning that title to the property had changed to R.B. Satori, L.P., TRLIA made a new offer on January 6, 2016 that reflected the change in ownership.

Fiscal Impact

The approved appraised value of the proposed acquisition is $45,100, and is within 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 Feather River Levee Improvement Project EIP funding agreement.

Documents Incorporated Into This Report

Attachment A – Draft Resolution of Necessity

Environmental documentation in compliance with CEQA is available for review on TRLIA’s website, http://www.trlia.org/EnvironmentalDocs.asp.
RESOLUTION NO. 2016-__

A RESOLUTION OF THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
DECLARING THE PUBLIC NECESSITY FOR THE TAKING OF CERTAIN PROPERTY
FOR SEGMENT 3 OF THE FEATHER RIVER LEVEE IMPROVEMENT PROJECT
(CODE CIV. PROC. § 1245.230)

Property Owner: R.B. Satori, LP (APNs 020-330-007 and 020-330-010)

WHEREAS, Three Rivers Levee Improvement Authority ("TRLIA") has determined
that it needs to acquire certain property interests from the parcels currently bearing Assessor's
Parcel Nos. 020-330-007 and 020-330-010 for Segment 3 of the Feather River Levee
Improvement Project (the "Project"); and

WHEREAS, The property interests that TRLIA needs to acquire for the Project are more
specifically described and depicted in Exhibits "A" and "B" attached hereto (the "Property"); 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 February 2,
2016, pursuant to Section 1245.235 of the California Code of Civil Procedure; and

WHEREAS, TRLIA is authorized to acquire Property for the Project pursuant to, among
other statutes, the California Constitution and California Eminent Domain Law, Code of Civil
Procedure section 1240.410, Government Code section 25350.5, and Water Code section 50930; 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, BE IT RESOLVED THAT:

Based upon the evidence presented, the Board of Directors by vote of two-thirds or more of its
members hereby finds and determines each of the following:

1. The public interest and necessity require the Project.

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

3. The property interests described and depicted in Exhibits "A" and "B" attached
hereto are necessary for the proposed Project.

4. The offer of just compensation required by Government Code section 7267.2 has
been made to the owner of record of the Property.
5. All conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the property interests described and depicted in Exhibits “A” and “B” attached hereto have been complied with by TRLIA.

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

The Board of Directors hereby authorizes and empowers legal counsel retained or employed by TRLIA to take the following actions:

1. To acquire in the name of TRLIA, by condemnation, the property interests described and depicted in Exhibits “A” and “B” attached hereto in accordance with the provisions of the Constitution of California and the Eminent Domain Law of California;

2. To prosecute in the name of TRLIA such proceedings in the proper court as necessary for such acquisition; and

3. To deposit the probable amount of compensation, based on an appraisal, and to apply to the court for an order permitting TRLIA to take possession of the property for public uses and purposes.

PASSED AND ADOPTED by the Board of Directors of the Three Rivers Levee Improvement Authority this 2nd day of February, 2016, by a two-thirds (2/3) or greater vote as follows:

AYES:
NOES:
ABSTAIN:
ABSENT:

_____________________________________
CHAIRPERSON

ATTEST:

Donna Stottlemeyer, Secretary

APPROVED AS TO FORM
ANDREA CLARK
GENERAL COUNSEL

By:___________________________
Exhibit ‘A’

All that real property situated in the County of Yuba, State of California, being a portion of the property conveyed by deed to R.B. Satori LP, a California limited partnership, recorded in Document No. 2013-015596 in the Official Records of said County, situated in the Northeast Quarter of Section 36, Township 15 North, Range 3 East of the Mount Diablo Base and Meridian, being more particularly described as follows:

PARCEL NO. 14029

Commencing at the intersection of the North line of that certain parcel conveyed to the State of California, recorded in Document No. 93-03209, Official Records and the landward toe of a levee and easement to Reclamation District 784, recorded in Book 61, Page 170, Official Records, said point being also the Southwest corner of that certain parcel of land described in the deed to Reclamation District Number 784, hereinafter referred to as “RD784” property, dated May 9, 2007 and recorded in Document No. 2008-008120, Official Records and from which a 4” concrete monument at the Northwest corner of Lot 9, Block 36 as shown on the plat of Farm Land Colony No. 1 recorded in the office of the County Recorder of Yuba County in Book 1 of Maps, Page 23 bears South 07°41′14″ East, 1913.54 feet and from which a 5/8” rebar stamped RCE 16000 at the Northwest corner of Parcel 2 as shown on that certain Parcel Map recorded in the office of the County Recorder of Yuba County in Book 61 of Maps, Page 2 bears North 03°29′31″ West, 3384.83 feet; thence along the toe of said levee the following two (2) courses:
1. North 26°23′56″ East 427.00 feet; thence
2. North 65°53′59″ East 26.59 feet to the Point of Beginning, being also the Northeast corner of said “RD784” property; thence

continuing along the toe of said levee, North 65°53′59″ East, 50.84 feet to a point on the Westerly line of that certain parcel of land conveyed to Reclamation District Number 784 by deed dated March 3, 1978 and recorded in Book 672, Page 143, Official Records of Yuba County; thence along said Westerly line, South 17°46′33″ East, 428.51 feet to an angle point in said Westerly line; thence continuing along said Westerly line, North 89°07′00″ West, 27.17 feet to an angle point in said Westerly line and the Northeast corner of said State of California parcel; thence along the North line of said State of California parcel, North 89°07′00″ West, 27.56 feet to the Southeast corner of said “RD784” property; thence along the Easterly line of said “RD784” property, North 17°31′00″ West, 407.01 feet to the Point of Beginning, containing 0.494 acres, more or less.

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

End of description

The Basis of Bearings for this description is the California Coordinate System, CCS83 (2007.00), Zone 2, based on observations between NGS Stations Rio Oso, Algolodon and HPGN D CA 03 GH. Distances contained herein are ground distances. Multiply the ground distances by 0.999991003 to obtain grid distances.

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

[Signature]

Kevin A. Heene, PLS.5914

[Date]

Page 1 of 1
Exhibit 'A-1''

All that real property situate in the County of Yuba, State of California, being a portion of the property conveyed by deed to R.B. Satori J.P., a California limited partnership, recorded in Document No. 2013-015596, Official Records of said County, being a portion of Section 36, Township 15 North, Range 3 East, M.D.M., and being more particularly described as follows:

PARCEL NO. 14029

Beginning at a point on the North line of Lot 10, Block 36, as shown on the plat of "Farmland Colony No. 1", filed in the office of the County Recorder of Yuba County in Book 1 of Maps, Page 23, said point being the Southwest corner of that parcel of land granted to the State of California in Document No. 1993-3209, records of said County, said point lying South 89°07'00" West, 765.58 feet from a concrete monument at the Northeast corner of said Lot 10 and also lying North 27°59'59" West, 4483.27 feet from a 3/4" iron pipe marking the Southeast corner of Lot 1, Block 1 of said Farmland Colony No. 1 as shown on that certain Parcel Map recorded in the office of the County Recorder of Yuba County in Book 65 of Maps, Page 30; thence from said Point of Beginning, along the North line of said Lot 10, South 89°07'00" West, 133.65 feet; thence leaving said North line, North 06°02'35" West, 550.27 feet; thence North 07°53'14" East, 232.37 feet; thence North 18°33'49" East, 134.66 feet; thence North 17°59'09" East, 243.70 feet; thence North 32°35'49" East, 120.96 feet; thence North 25°42'24" East, 282.74 feet; thence North 26°10'54" East, 364.45 feet; thence North 26°56'57" East, 190.17 feet; thence North 27°45'53" East, 201.64 feet; thence North 28°25'21" East, 161.93 feet; thence North 37°27'14" East, 95.64 feet; thence North 05°10'39" East, 108.51 feet; thence North 17°46'46" West, 44.90 feet more or less to a point on the South line of Lot 9 of the map entitled "Partition of the 1373 acre Tract", filed in Book 12 of Deeds, Page 569, Official Records of Yuba County; thence along said South line, North 89°46'36" West, 83.07 feet to a point on the Westerly line of that parcel of land, described in the deed to the Sacramento San Joaquin Drainage District, recorded in Book 267, Page 509, Official Records of Yuba County; thence along the Westerly line of said Sacramento San Joaquin Drainage District parcel and the Southerly projection thereof, South 17°46'33" East, 224.39 feet; thence leaving the projection of said Westerly line, South 65°53'59" West, 77.43 feet; thence South 26°23'56" West, 427.00 feet, more or less to the Northwesterly corner of said State of California parcel; thence along the Westerly line of said State of California parcel, South 25°38'31" West, 427.89 feet; thence South 26°31'28" West, 610.75 feet; thence South 15°43'47" West, 283.96 feet; thence South 10°05'31" West, 159.64 feet; thence South 01°09'56" East, 123.10 feet; thence South 06°33'20" East, 347.97 feet; thence South 08°14'46" East, 77.76 feet to the Point of Beginning, containing 8.562 acres, more or less.

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

End of Description

The Basis of Bearings for this description is the California Coordinate System, CCS83 (2007.00), Zone 2, based on observations between NGS Stations Rio Oso, Algodon and HPGN D CA 03 GH. Distances contained herein are ground distances. Multiply the ground distances by 0.99991703 to obtain grid distances.

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

[Signature]
Kevin A. Heeney, PLS 5314

Portion of:
APN 020-330-010

F:\-CTA OFFICE 06-008-003 Three Rivers Right of Way Services Word-Miscellaneous 2011\Legal Descriptions 020-330-010-TAC.dec
February 2, 2016

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director, Kelly Pope, Legal Counsel
SUBJECT: Consider Adopting Resolution of Necessity for Acquisition of Property Interests from APN 018-220-056 for the Upper Yuba Levee Improvement Project

**Recommendation**

Staff recommends that the Board of Directors of the Three Rivers Levee Improvement Authority ("TRLIA") adopt the attached proposed Resolution of Necessity for the acquisition of certain property interests in the property bearing Assessor’s Parcel Number 018-220-056 for Upper Yuba Levee Improvement Project (the "Project").

The property bearing Assessor’s Parcel Number 018-220-056 is currently owned by R.B. Satori, LP. As described and depicted in the exhibits to the attached proposed Resolution of Necessity, the property interests proposed for acquisition are 3.379 acres in fee necessary for the Project.

**Required Findings for Adoption of a Resolution of Necessity**

The attached proposed Resolution of Necessity lists the findings required by California Eminent Domain Law. Importantly, the Board is recommended to find:

1. The public interest and necessity require the Project;
2. 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;
3. The property interests are necessary for the proposed Project; and
4. The offer of just compensation required by Government Code section 7267.2 has been made to the owner or owners of record of the property.

**Support for Findings**

**Finding 1: The Public Interest And Necessity Require The Project.** The Project is necessary 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 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 Project is also necessary to provide TRLIA with sufficient right of way to operate and maintain this section of the levee, and in order to provide a 200-year level of flood protection as defined by the California Department of Water Resources.

Through the Project TRLIA can acquire fee title to the levee and the necessary operation and maintenance ("O&M") corridors alongside the levee in order to (1) provide a 15-foot vegetation free zone from the land side levee toe required by the Army Corps; and (2) provide necessary room for maintenance, inspection, patrolling during high water, and flood fighting using the most efficient and cost-effective methods.

TRLIA’s goal for the Project is to obtain both a 100-year level of flood protection as defined by FEMA, and a 200-year level of flood protection as defined by the California Department of Water Resources.


In order to meet TRLIA’s goals for the Project, the Project must comply at a minimum with the Urban Levee Design Criteria ("ULDC"), released by DWR in May 2012 pursuant to Senate Bill No. 5. SB 5 calls for 200-year flood protection to be the minimum level of protection for urban and urbanizing areas in the Sacramento-San Joaquin Valley. SB 5 will ultimately limit the conditions for approval of development by local governments if adequate progress towards achieving 200-year protection is not met. That is, the land use agency will have to make a finding that an area protected by levees has made adequate progress towards 200-year protection before it can approve development plans or permits. SB 5 requires that the 200-year level of flood protection be consistent with criteria established by DWR. Thus, DWR developed the ULDC pursuant to SB 5 to set forth the minimum criteria that must be met for an area to meet a 200-year level of flood protection.

The ULDC provides that in order to allow adequate room for maintenance, inspection, patrolling during high water, and flood-fighting, fee title or an easement for the entire levee prism extending to a minimum of 15 feet beyond the waterside toe of the levee and a minimum of 20 feet beyond the landside toe of the levee needs to be acquired in undeveloped areas. The ULDC notes that from a levee encroachment control perspective, an easement is less desirable than fee title. The ULDC also notes that these are minimum right of way requirements and that the facts and circumstances for a specific levee system may require the acquisition of additional property.

TRLIA staff therefore recommends that TRLIA acquire the following for the Project where possible: (1) fee title to the entire levee prism, (2) a 15-foot O&M corridor on the waterside of the levee, and (3) a minimum of 20 feet for an O&M corridor on the landside of the levee in order to maintain the visibility and access that is necessary to enable inspection of the levee and flood-fighting. Ownership of the levee and the O&M corridors is also necessary for maintenance activities such as managing animal burrows that can damage levees, maintaining firebreaks, and maintaining healthy groundcover (i.e., grasses) in order to prevent erosion of the levee.

Staff recommends that TRLIA acquire the levee and the O&M corridors in fee, rather than easement, because fee title will give TRLIA, and any agencies that ultimately own and/or maintain the levee, the rights needed to prevent damage to the levee and interference with maintenance that could occur if
TRLIA does not acquire fee. For example, holding fee title rather than easement will give TRLIA the rights it needs to prevent the following types of activities that are harmful to levees:

- Cattle grazing by property owners;
- Farming activities by property owners that damage the levee and the maintenance corridors;
- Unauthorized pedestrian, motorcycle, and motor vehicle traffic over the levee, creating erosion sites that threaten the integrity of the levee and necessitate emergency repairs;
- Installation of gates into fences abutting the levee, and cutting steps into the levee;
- Piling of garbage, tree trimmings and other debris near the levee that interfere with maintenance activities and create rodent habitats that lead to rodent damage which can threaten the integrity of the levee, and increase maintenance costs;
- Construction of unpermitted encroachments.

Acquiring fee title to the levee and the maintenance corridors is necessary to give TRLIA the control over the levee and the O&M corridors it needs in order to maintain levee stability and decrease maintenance costs. It also eliminates any potential dispute as to the rights of the public entity that is charged with operating and maintaining the levees. Fee ownership gives TRLIA exclusive property rights necessary to assure public safety.

**Finding 3: The Property Interests Are Necessary For The Proposed Project.**

The property proposed to be acquired consists of 3.379 acres located on the water side of the Yuba River South Levee and between the levee and the southern boundary of Simpson Dantoni Road. The property is necessary for the Project because it consists of the levee prism and the O&M corridors.

**Finding 4: TRLIA Made The Offer Required By Government Code Section 7267.2.**

Based on an appraised value of the proposed fee acquisition, TRLIA made an offer pursuant to Government Code section 7267.2 to purchase the necessary property interests on June 17, 2015. After recently learning that title to the property had changed to R.B. Satori, L.P., TRLIA made a new offer on January 6, 2016 that reflected the change in ownership.

**Fiscal Impact**

The approved appraised value of the proposed acquisition is $2,400, and is within 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 Levee Improvement Project EIP funding agreement.

**Documents Incorporated Into This Report**

Attachment A – Draft Resolution of Necessity

Environmental documentation in compliance with CEQA is available for review on TRLIA’s website, http://www.trlia.org/EnvironmentalDocs.asp.
RESOLUTION NO. 2016--

A RESOLUTION OF THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY DECLARING THE PUBLIC NECESSITY FOR THE TAKING OF CERTAIN PROPERTY FOR THE UPPER YUBA LEVEE IMPROVEMENT PROJECT (CODE CIV. PROC. § 1245.230)

Property Owner: R.B. Satori, LP (APNs 018-220-056)

WHEREAS, Three Rivers Levee Improvement Authority ("TRLIA") has determined that it needs to acquire certain property interests from the parcels currently bearing Assessor’s Parcel No. 018-220-056 for the Upper Yuba Levee Improvement Project (the "Project"); and

WHEREAS, The property interests that TRLIA needs to acquire for the Project are more specifically described and depicted in Exhibits “A” and “B” attached hereto (the “Property”); 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 February 2, 2016, pursuant to Section 1245.235 of the California Code of Civil Procedure; and

WHEREAS, TRLIA is authorized to acquire Property for the Project pursuant to, among other statutes, the California Constitution and California Eminent Domain Law, Code of Civil Procedure section 1240.410, Government Code section 25350.5, and Water Code section 50930; 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, BE IT RESOLVED THAT:

Based upon the evidence presented, the Board of Directors by vote of two-thirds or more of its members hereby finds and determines each of the following:

1. The public interest and necessity require the Project.

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

3. The property interests described and depicted in Exhibits “A” and “B” attached hereto are necessary for the proposed Project.

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

5. All conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the property interests described and depicted in Exhibits “A” and “B” attached hereto have been complied with by TRLIA.
6. TRLIA possesses the statutory authority to acquire the Property by eminent domain.

The Board of Directors hereby authorizes and empowers legal counsel retained or employed by TRLIA to take the following actions:

1. To acquire in the name of TRLIA, by condemnation, the property interests described and depicted in Exhibits “A” and “B” attached hereto in accordance with the provisions of the Constitution of California and the Eminent Domain Law of California;

2. To prosecute in the name of TRLIA such proceedings in the proper court as necessary for such acquisition; and

3. To deposit the probable amount of compensation based on an appraisal, and to apply to the court for an order permitting TRLIA to take possession of the property for public uses and purposes.

PASSED AND ADOPTED by the Board of Directors of the Three Rivers Levee Improvement Authority this 2nd day of February, 2016, by a two-thirds (2/3) or greater vote as follows:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:  

________________________________________
CHAIRPERSON

ATTEST:  

______________________________
Donna Stottlemeyer, Secretary

APPROVED AS TO FORM  
ANDREA CLARK  
GENERAL COUNSEL

By: ______________________
Exhibit ‘A-1’

All that real property situate in the County of Yuba, State of California, being a portion of Lot 37 of the New Helvetia Rancho, as shown on the Plat thereof, filed in the office of the Bureau of Land Management, Sacramento, California, Township 15 North, Range 4 East, M.D.M., and being also a portion of the land underlying the railroad easement conveyed to Central Pacific Railway Company in Book 85 of Deeds, Page 308, Official Records of Yuba County and lying North of the Southwesterly line of Parcel 4, as described in Book 10 at Page 295, Official Records of Yuba County and being more particularly described as follows:

PARCEL 14074

COMMENCING at the Southernmost corner of Parcel 6, as shown on that certain Record of Survey No. 2001-10, filed in the office of the County Recorder of Yuba County in Book 73 of Maps, Page 12, from which a brass cap set in a monument well at the intersection of Dunning Avenue and Hampton-Smartsville Road bears South 46°37'29" West, 2383.35 feet, and from which a brass cap set in a monument well at the intersection of Dantoni Road and Hampton-Smartsville Road bears South 42°50'34" East, 2193.45 feet; thence from said Point of Commencement, South 02°14'28" East, 109.12 feet to a point on the Northerly line of said Central Pacific Railway Easement, being also a point on the Westerly line of the lands of Green Rose Investments, LLC as described in the deed recorded June 22, 2007 in Document No. 2007-010980, Official Records of Yuba County and the true POINT OF BEGINNING; thence along said Westerly line, South 28°32'22" East, 29.65 feet, more or less to a point on the Southerly line as described in the deed to Richard B. Wilbur, dated January 27, 1956 and recorded in Book 219 Page 13, Official Records of Yuba County; thence following said line, South 55°24'57" West, 293.39 feet; thence South 60°16'57" West, 3.17 feet to an angle point in the North line of Lot 57, as shown on the plat of “Dunning Subdivision”, filed in the office of the County Recorder of Yuba County in Book 3 of Maps, Page 14, being also an angle point in the North line of that parcel of land described in the deed to Three Rivers Levee Improvement Authority, recorded November 10, 2010, Document No. 2010-014119, Official Records of Yuba County; thence leaving said South line and along the Easterly line of said lands of Western Aggregates LLC, North 38°06'48" West, 33.36 feet, more or less, to a point on the Northerly line of said Central Pacific Railway Easement, being also an angle point on the Southerly line of Parcel 5 of the lands of Richard G. Wilbur, as Trustee of the Richard G. Wilbur Revocable Trust dated November 2, 1994 as described in the deed dated September 26, 1996 and recorded in Document No. 96010501, Official Records of Yuba County; thence along said Northerly line, North 55°48'36" East, 36.65 feet; thence North 55°24'36" East, 71.80 feet; thence North 53°31'06" East, 193.20 feet to the POINT OF BEGINNING, containing 0.208 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, CCS83 (2007.00), Zone 2, based on observations between NGS Stations Rio Oso, Algondon and HPGN D CA 03 GH. Distances contained herein are ground distances. Multiply the ground distances by 0.99991703 to obtain grid distances.

End of Description

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

[Signature]

Kevin A. Hennessy, PLS 5914

[Stamp]

Date: 12/3/2016

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Exhibit 'A-1'

All that real property situate in the County of Yuba, State of California, being a portion of Lot 37 of the New Helvetia Rancho, lying within projected Sections 20 and 21, Township 15 North, Range 4 East, M.D.M., being a portion of Parcel 5 of the lands of Richard G. Wilbur, as Trustee of the Richard G. Wilbur Revocable Trust dated November 2, 1994 as described in the deed dated September 26, 1996 and recorded in Document No. 96010501, Official Records of Yuba County and being more particularly described as follows:

PARCEL 14074

Beginning at the Northwest corner of Lot 51, as shown on the plat of the ‘Dunning Subdivision’, filed in the office of the County Recorder of Yuba County in Book 3 of Maps, Page 14, from which a brass cap in a standard County monument well located at the intersection of Linda Avenue and Hammonton-Smartville Road bears South 24°50'54" West, 1967.84 feet and from which a similar brass cap in a standard County monument well at the intersection of Dunning Avenue and Hammonton-Smartville Road bears North 87°48'46" East, 1708.67 feet; thence along the Northerly line of said ‘Dunning Subdivision’ South 83°01'22" East, 101.81 feet; thence North 88°58'38" East, 88.50 feet more or less to the intersection of the Northerly line of the Central Pacific Railway easement as described in the indenture dated June 25, 1926 and recorded in Book 85 of Deeds, Page 306, Official Records of Yuba County and the land of Western Aggregates LLC as described in the deed recorded May 4, 2007 in Document No. 2007-007862, Official Records of Yuba County; thence along said Northerly line the following twenty four (24) courses:

1. North 76°23'36" East, 498.73 feet; thence
2. North 72°24'51" East, 52.22 feet; thence
3. along a tapered curve to the left, (deflecting 1°00' every 30 feet) North 71°53'06" East, 74.31 feet; thence
4. along the arc of a curve to the left, having a radius of 1607.09 feet, the chord of which bears North 70°21'51" East, 41.37 feet; thence
5. along a tapered curve to the left (deflecting 1°00' every 30 feet), North 68°50'21" East, 74.31 feet; thence
6. North 68°18'36" East, 224.37 feet; thence
7. along a tapered curve to the left, (deflecting 1°00' every 30 feet) North 67°55'51" East, 59.53 feet; thence
8. along the arc of a curve to the left, having a radius of 1879.91 feet, the chord of which bears North 66°28'36" East, 61.24 feet; thence
9. along a tapered curve to the left, (deflecting 1°00' every 30 feet) North 65°00'51" East, 59.53 feet; thence
10. North 64°38'36" East, 170.21 feet; thence
11. along a tapered curve to the left, (deflecting 1°00' every 30 feet) North 64°15'36" East, 59.53 feet; thence
12. along the arc of a curve to the left, having a radius of 1879.91 feet, the chord of which bears North 62°32'36" East, 78.73 feet; thence
13. along a tapered curve to the left, (deflecting 1°00' every 30 feet) North 60°49'21" East, 59.53 feet; thence
14. North 60°26'36" East, 325.30 feet; thence
15. along the arc of a curve to the left, having a radius of 34347.47 feet, the chord of which bears North 60°17'36" East, 179.98 feet; thence
16. North 60°08'36" East, 564.26 feet; thence
Exhibit ‘A-1’

17. along the arc of a curve to the right, having a radius of 17218.74 feet, the chord of which bears North 69°24'36" East, 160.13 feet; thence
18. North 60°40'36" East, 445.15 feet; thence
19. along a tapered curve to the left, (deflecting 1°15’ every 30 feet) North 60°12'06" East, 59.41 feet; thence
20. along the arc of a curve to the left, having a radius of 1497.96 feet, the chord of which bears North 58°02'36" East, 78.87 feet; thence
21. North 55°53'06" East, 22.76 feet; thence
22. North 55°48'36" East, 36.65 feet; thence
23. North 55°24'36" East, 71.80 feet; thence
24. North 53°31'06" East, 193.20 feet to a point on the Westerly line of the lands of Green Rose Investments, LLC as described in the deed recorded June 22, 2007 in Document No. 2007-010680, Official Records of Yuba County; thence leaving the Northerly line of said Central Pacific Railroad easement and the lands of Western Aggregate LLC, and along said Westerly line, North 28°32'22" West, 2.03 feet; thence leaving said Westerly line South 54°34'46" West, 49.90 feet; thence South 57°22'56" West, 76.33 feet; thence South 56°27'23" West, 76.33 feet; thence South 58°11'28" West, 90.22 feet; thence South 59°31'18" West, 144.18 feet; thence along the arc of a curve to the right, having a radius of 4630.00 feet, the chord of which bears South 61°40'16" West, 347.30 feet; thence along the arc of a curve to the left, having a radius of 6200.00 feet, the chord of which bears South 62°43'03" West, 238.72 feet; thence South 61°36'51" West, 208.67 feet; thence South 60°54'09" West, 221.24 feet; thence South 60°22'58" West, 221.24 feet; thence South 59°55'25" West, 461.15 feet; thence South 61°35'59" West, 226.01 feet; thence South 63°40'33" West, 73.19 feet; thence along the arc of a curve to the right, having a radius of 3000.00 feet, the chord of which bears South 65°57'09" West, 238.33 feet; thence South 68°13'44" West, 89.39 feet; thence South 68°26'18" West, 159.16 feet; thence along the arc of a curve to the right, having a radius of 2350.00 feet, the chord of which bears South 72°58'54" West, 372.31 feet; thence South 77°31'30" West, 71.23 feet more or less to a point on the Southerly line of Simpson Dantoni Road; thence along said Southerly line and the arc of a curve, concave to the North, having a radius of 1929.91 feet, the chord of which bears South 87°58'26" West, 244.17 feet; thence leaving said Southerly line, South 82°06'31" West, 190.40 feet; thence South 65°06'06" West, 31.96 feet to a point on the Easterly line of that certain parcel of land to Western Aggregates as described as Parcel 2 in Document No. 9800196, Official Records of Yuba County; thence along said Easterly line, South 18°09'16" East, 41.13 feet to the Point of Beginning, containing 3.171 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, CCS83 (2007.00), Zone 2, based on observations between NGS Station Río Oso, Algundon and HPGN D CA 03 GH. Distances contained herein are ground distances. Multiply the ground distances by 0.99991703 to obtain grid distances.

End of Description

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

Kevin A. Heaney, PLS 5914

12/03/2015

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