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

I  ROLL CALL – Directors Atwal, Brown, Ledbetter, Lofton, Vasquez

II  ELECTION OF 2019 CHAIR AND VICE CHAIR

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

A. Approve Special Meeting minutes of January 8, 2019.

V  ACTION ITEMS

A. Consider (1) Adoption of Resolution 2019-1 Certifying the Final Supplemental Environmental Impact Report for the Yuba Goldfields 200-year Flood Protection Project as having been prepared in compliance with the California Environmental Quality Act; (2) Adoption of Resolution 2019-2 Adopting Findings, Statement of Overriding Considerations, and a Supplemental Mitigation Monitoring and Reporting Program, and approving Modified Alternative 4 of the Yuba Goldfields 200-Year Flood Protection Project for implementation, and (3) Directing Staff to file a Notice of Determination under CEQA.

VI  BOARD AND STAFF REPORTS

VII  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.trlia.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 Americans 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

JANUARY 8, 2019
SPECIAL MEETING
MINUTES

Call to order 2:01 p.m. with a quorum being present as follows: Directors Rick Brown, Gary Ledbetter, Doug Lofton and Andy Vasquez. Director Sarbdeep Atwal was absent. Also present were Director Paul Brunner, Counsel Andrea Clark, and Secretary/Clerk of the Board Rachel Ferris. Vice Chair Vasquez presided.

I ROLL CALL – Directors Atwal, Brown, Ledbetter, Lofton, Vasquez – Director Atwal absent

II ACTION ITEMS

A. Approve meeting minutes of December 18, 2018. Approved as written

   MOTION: Move to approve
   MOVED: Brown    SECOND: Lofton
   AYES: Directors Brown, Ledbetter, Lofton, Vasquez
   NAYS: None    ABSENT: Director Atwal    ABSTAIN: None

III CLOSED SESSION: The Board retired into closed session at 2:04 p.m. and returned at 2:59 p.m. with all members present as indicated above. Vice Chair Vasquez advised there was nothing to report.

   A. CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION Significant exposure to litigation pursuant to Govt. Code Section 54956.9(d)(2): 1 potential case (Upcoming Certification of Goldfields Supplemental EIR)

IV BOARD AND STAFF MEMBERS REPORT: None

V ADJOURN: 2:59 p.m.

__________________________
Chair

ATTEST: RACHEL FERRIS
CLERK OF THE BOARD OF SUPERVISORS

__________________________
Approved: ____________________

1/8/2019 – TRLIA   PAGE 1
January 15, 2019

TO: Board of Directors

FROM: Paul Brunner, Executive Director
Andrea Clark, General Counsel

SUBJECT: Certification of Supplemental EIR, Adoption of Findings, Statement of Overriding Considerations, and Supplemental Mitigation Monitoring and Reporting Program, and Approval of Modified Alternative 4 for the Yuba Goldfields 200-Year Flood Protection Project

Recommendation:

Staff recommends that the Three Rivers Levee Improvement Authority (TRLIA) Board of Directors approve: (i) a resolution certifying the Supplemental Environmental Impact Report (SEIR) for the Yuba Goldfields 200-Year Flood Protection Project as having been prepared in compliance with the California Environmental Quality Act (CEQA) and (ii) a resolution adopting Findings and a Statement of Overriding Considerations, adopting a Supplemental Mitigation Monitoring and Reporting Program (MMRP), approving Modified Alternative 4 of the Yuba Goldfields 200-Year Flood Protection Project (Modified Alternative 4) for implementation, and directing staff to file a Notice of Determination pursuant to CEQA.

Background:

To protect human health and safety and prevent adverse effects on property and the regional economy, TRLIA was formed as a joint powers authority in 2004 through a joint exercise of powers agreement between the County of Yuba and Reclamation District No. 784 (RD 784) to finance and construct levee improvements in south Yuba County.

In 2015 TRLIA proposed the Yuba Goldfields 200-Year Flood Protection Project (Project) to provide a 200-year flood risk reduction solution that would prevent flood waters from flowing through the Goldfields and flanking the State Plan of Flood Control (SPFC). On September 15, 2015, TRLIA completed and certified the Final Environmental Impact Report (2015 Final EIR) and approved Alternative 4, a new levee south of the Yuba Goldfields (Goldfields), as the Project.

After Alternative 4 was approved, modifications to Alternative 4 became necessary as a result of additional technical evaluations and to better optimize flood risk reduction, minimize environmental impacts, and maximize public benefits. The proposed project is hereafter referred to as Modified
Alternative 4. TRLIA has prepared a supplement to the 2015 Final EIR (State Clearinghouse Number 2014062045) which updates the Project’s CEQA documentation to analyze the environmental impacts of Modified Alternative 4, and allows State and local agencies to issue permits for the modified Project.

Public Review Process

The public review process for the proposed project was initiated when the Notice of Preparation (NOP) of an EIR was published on June 12, 2014; two public scoping meetings were held on June 23, 2014 to receive oral and written comments regarding the general scope and content of the EIR, including the proposed project, project alternatives, potential significant effects, and any other related public issues. The 2015 Draft EIR was circulated for a 45-day public review period that began March 11, 2015 and ended April 24, 2015; two public meetings to receive oral and written comments on the contents of the 2015 Draft EIR were held on April 6, 2015. On September 15, 2015, TRLIA certified the EIR and approved Alternative 4, a new levee south of the Yuba Goldfields (Goldfields), as the proposed project. In October 2015, TRLIA approved an addendum to the EIR.

After Alternative 4 was approved, modifications to Alternative 4 became necessary as a result of additional technical evaluations and to better optimize flood risk reduction, minimize environmental impacts, and maximize public benefits. TRLIA issued an NOP for the Draft SEIR on May 10, 2018, to analyze environmental impacts of Modified Alternative 4. The NOP concluded that the project as modified may result in new or more severe impacts on the environment in certain impact areas, and informed agencies and the public that a Draft SEIR was being prepared. The public comment period for the NOP ended on June 11, 2018. The Draft SEIR was circulated for a 45-day public review period beginning September 14, 2018, and one public meeting to receive oral and written comments on the contents of the Draft SEIR was held at the Yuba County One Stop in Marysville on September 24, 2018. The public comment period on the Draft SEIR closed on October 29, 2018.

TRLIA prepared the Final SEIR and on December 31, 2018, sent the Final SEIR to agencies that provided comments on the Draft SEIR within the public comment period for the Draft SEIR. Comments on the Draft SEIR received after the public comment period was closed are addressed in a separate technical memorandum for consideration by the Board of Directors, which is attached to this staff report as Attachment 3. The public also has an opportunity to provide additional comments to the Board on January 15, 2019.

Final Supplemental EIR Certification

Section 15162 of the CEQA Guidelines states that when an EIR has been certified for a project, a subsequent EIR need not be prepared unless a substantial change in the project, a substantial change in the surrounding circumstances, or new information of substantial importance comes to light which shows that the project will have one or more significant effects not discussed in the previous EIR. When only minor additions or changes would be necessary to make the previous EIR adequate to describe the project in the changed situation, a supplement to the previous EIR may be prepared (Section 15163 of the CEQA Guidelines). The SEIR revisits each resource topic from the 2015 Final EIR, including cumulative effects, to determine whether Modified Alternative 4 or new information would result in new or substantially more severe significant effects that were not analyzed in the 2015 Final EIR. Effects previously analyzed in the 2015 Final EIR are also evaluated as they pertain to Modified Alternative 4.

Under CEQA, prior to approving modifications to a project that necessitate an SEIR, the lead agency must certify that the SEIR was completed in compliance with CEQA and that the agency reviewed and
considered the information in the Final SEIR. The Final SEIR reflects the agency’s independent judgment and analysis. Proposed Resolution 2019-1, attached hereto as Attachment 1, provides the TRLIA Board’s certification of the Final SEIR for the Project.

In addition, when project modifications may have significant impacts on the environment, the lead agency must make written Findings for each significant effect of the project modifications. The Findings must state that mitigation measures will avoid or substantially lessen the significant effect, where feasible, or that specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or alternatives considered for the Project. Further, as per CEQA Guidelines §15093, the lead agency shall make a finding that it has substantially lessened or eliminated all significant environmental effects where feasible, determined that the benefits of a project outweigh any significant and unavoidable adverse environmental impacts, and these impacts may be considered acceptable. This determination is made in a Statement of Overriding Considerations, which is part of the Findings document. Agencies must also adopt an MMRP that describes the mitigation measures required as part of project modifications. Proposed Findings and the Statement of Overriding Considerations (together referred to as “Findings”), and a Supplemental MMRP for Modified Alternative 4 are attached to Resolution 2019-2 as exhibits. Proposed Resolution 2019-2 is attached hereto as Attachment 2.

As detailed in the Final SEIR and the Findings document, Modified Alternative 4 will have significant and unavoidable adverse environmental impacts. The Findings document concludes that the benefits of Modified Alternative 4 outweigh these significant and unavoidable adverse impacts on the environment.

Staff also recommends approval by the TRLIA Board of Modified Alternative 4 as described and analyzed in the Final Supplemental EIR. Resolution 2019-2 includes this approval.

Technical Memorandum Addressing Comments Received After Comment Period Ended

TRLIA received three comments on the Draft SEIR after the public comment period deadline of October 29, 2018. While CEQA does not require a lead agency to respond to late comments (Pub. Res. Code, § 21091(d)(1)), TRLIA staff prepared a technical memorandum to address the major concerns raised in the late comments for consideration by the Board of Directors. That technical memorandum is attached hereto as Attachment 3.

Attached to this staff report are the following documents:

1. Proposed Resolution 2019-1 Certifying the Final Supplemental Environmental Impact Report for the Yuba Goldfields 200-Year Flood Protection Project

   Attachment A: Final Supplemental EIR


   Attachment A: Findings and Statement of Overriding Considerations
   Attachment B: Supplemental Mitigation Monitoring and Reporting Program

3. Technical Memorandum to TRLIA Board from Paul Brunner Addressing Comments Received After Comment Period Ended
Fiscal Impact:

Approval of the two resolutions and filing of the Notice of Determination will complete CEQA compliance for the Yuba Goldfields 200-Year Flood Protection Project and will have little, if any, additional cost. There will be continued, budgeted costs for additional regulatory permitting needed to complete the Project.
RESOLUTION NO. 2019-1

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY CERTIFYING THE FINAL SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT FOR THE YUBA GOLDFIELDS 200-YEAR FLOOD PROTECTION PROJECT

WHEREAS, in 2015 the Three Rivers Levee Improvement Authority ("TRLIA") proposed the Yuba Goldfields 200-Year Flood Protection Project (the "Project") to reduce flood risk in the Reclamation District No. 784 service area;

WHEREAS, TRLIA is the lead agency for environmental review of the Project under the California Environmental Quality Act ("CEQA");

WHEREAS, a Notice of Preparation for a Draft Environmental Impact Report ("Draft EIR") was prepared and released for public comment on June 12, 2014;

WHEREAS, the release of the Notice of Preparation ("NOP") initiated a 30-day public comment period that ended on July 14, 2014;

WHEREAS, a Draft EIR was prepared and circulated for public review and comment between March 11, 2015, and April 24, 2015;

WHEREAS, TRLIA certified the EIR, adopted the Mitigation Monitoring and Reporting Program, and approved the Project in the form of Alternative 4 on September 15, 2015;

WHEREAS, TRLIA approved an Addendum to the EIR on October 13, 2015 and modified the Mitigation Monitoring and Reporting Program accordingly;

WHEREAS, after Alternative 4 was approved, modifications to Alternative 4 ("Modified Alternative 4") became necessary as a result of additional technical evaluations and to better optimize flood risk reduction, minimize environmental impacts, and maximize public benefits;

WHEREAS, TRLIA issued an NOP for a Draft Supplemental EIR ("SEIR") on May 10, 2018 to address environmental impacts associated with Modified Alternative 4;

WHEREAS, the Draft SEIR was circulated for a 45-day public review period beginning on September 15, 2018 and ending on October 29, 2018, during which TRLIA held one public meeting on September 24, 2018 to receive oral and written comments on the contents of the Draft SEIR;

WHEREAS, comments were received on the Draft SEIR from individuals, public agencies, and private entities;

WHEREAS, a Final Supplemental Environmental Impact Report ("Final SEIR"), attached hereto as Attachment A, that incorporated the Draft SEIR by reference and provided responses to all public comments received during the formal public review period was prepared and made available to the public on January 10, 2019;
ATTACHMENT 1 TO STAFF REPORT

WHEREAS, TRLIA discussed the Final SEIR during its meeting on January 15, 2019, and provided the opportunity for the public to give comments on the Final SEIR during that meeting;

NOW, THEREFORE, the Board of Directors of the Three Rivers Levee Improvement Authority resolves as follows:

1. The Final SEIR is hereby certified as being prepared in full compliance with the provisions of CEQA and its implementing regulations.

2. The Final SEIR was presented to the Board, as the decision-making body of TRLIA, and the Board discussed the contents of the Final EIR during its meeting on January 15, 2019.

3. The Board has reviewed and considered the information contained in the Final SEIR.

4. The Board hereby ratifies and adopts the conclusions of the Final SEIR. The Final SEIR represents the independent judgment and analysis of the Board.

5. The Board hereby directs staff to file a Notice of Determination pursuant to the requirements of CEQA.

ADOPTED this 15th day of January, 2019.

________________________________________
Sarbdeep Atwal, Chair
Final
Supplemental Environmental Impact Report
Yuba Goldfields 200-Year Flood Protection Project

State Clearinghouse No. 2014062045

Prepared for:
Three Rivers Levee Improvement Authority

GEI Consultants
December 2018
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# ACRONYMS AND OTHER ABBREVIATIONS

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1 INTRODUCTION

1.1 OVERVIEW OF THIS DOCUMENT

This Final Supplemental Environmental Impact Report (SEIR) for the Three Rivers Levee Improvement Authority (TRLIA) Yuba Goldfields 200-Year Flood Protection Project (proposed project) includes comment letters and responses to comments on the Yuba Goldfields 200-Year Flood Protection Project Draft SEIR, as well as minor revisions to the Draft SEIR. This document, combined with the Draft SEIR, comprises the Final SEIR for the proposed project. An SEIR was required because modifications to Alternative 4 in the original 2015 Draft Environmental Impact Report (2015 EIR) (TRLIA 2015a) became necessary as a result of additional technical information and TRLIA’s need to better optimize flood risk reduction, minimize environmental impacts, and maximize public benefits.

1.2 ORGANIZATION OF THE FINAL SEIR

Section 1, “Introduction,” provides an overview and the organization of this Final SEIR and summarizes the environmental review process.

Section 2, “Summary Description of the Project Alternatives,” refers the reader to the specific chapters in the 2015 Draft EIR where alternatives and the alternatives selection process are discussed and in the Draft SEIR where options for project modifications are discussed.

Section 3, “Responses to Comments on the Draft SEIR,” contains all comments received during the Draft SEIR public review period and presents responses to significant environmental issues raised in the comments, as required by Section 15132 of the California Environmental Quality Act Guidelines (State California Environmental Quality Act [CEQA] Guidelines). All comment letters are labeled to correspond with an index table (Table 3-1, page 3-5) in Section 3. Each individual comment is assigned a number that corresponds with the response that follows the comment. Also included are notes summarizing verbal comments made during the public meeting and associated responses provided at the meeting.

Section 4, “Revisions to the Draft SEIR,” presents specific changes that were made to the text of the Draft SEIR in response to new/revised information. Revised text of the Draft SEIR is reproduced in Section 4.2, “Revisions.” Changes in the text are indicated by strikethrough (strikethrough) where text has been removed and by underline (underline) where text has been added.

Section 5, “References,” presents references cited in this Final SEIR.

Section 6, “Report Preparers,” identifies the preparers of this document.

1.3 ENVIRONMENTAL REVIEW PROCESS

The environmental review process for the proposed project was initiated when the Notice of Preparation (NOP) of an EIR was published on June 12, 2014; two public scoping meetings were held on June 23, 2014 to receive oral and written comments regarding the general scope and content of the EIR, including the proposed project, project alternatives, potential significant effects, and any other related public issues. The 2015 Draft EIR was circulated for a 45-day public review period that began March 11, 2015 and ended April 24, 2015; two public meetings were
held on April 6, 2015 to receive oral and written comments on the contents of the 2015 Draft EIR. On September 15, 2015, TRLIA certified the EIR and approved Alternative 4, a new levee south of the Yuba Goldfields (Goldfields), as the proposed project.

After Alternative 4 was approved, modifications to Alternative 4 became necessary as a result of additional technical evaluations and to better optimize flood risk reduction, minimize environmental impacts, and maximize public benefits. The proposed project is hereafter referred to as Modified Alternative 4. TRLIA issued an NOP for the Draft SEIR on May 10, 2018. The NOP concluded that the project as modified may result in new or more severe impacts on the environment in certain impact areas and informed agencies and the public that the Draft SEIR was being prepared. The public comment period for the NOP ended June 11, 2018. The Draft SEIR was circulated for a 45-day public review period beginning September 14, 2018, and one public meeting to receive oral and written comments on the contents of the Draft SEIR was held at the Yuba County One Stop in Marysville, CA on September 24, 2018. The public comment period on the Draft SEIR ended October 29, 2018.

This Final SEIR is being released and sent to agencies who commented on the Draft SEIR. Lead agencies are required to provide responses to the commenting agency’s comments on Draft SEIRs at least 10 days before the certification of the Final SEIR (Section 15088[b] of the CEQA Guidelines). After the 10-day agency review period, TRLIA will review the Draft SEIR and this Final SEIR document, which together form the complete Final SEIR. TRLIA will consider comments provided on this document and the whole of the administrative record (including the 2015 EIR and associated administrative record) to determine whether the Final SEIR should be certified as adequate under CEQA. If so, TRLIA will adopt a resolution certifying the Final SEIR, pursuant to Section 15090 of the CEQA Guidelines.

If the Final SEIR is certified, TRLIA will approve the modified project. TRLIA will adopt findings of fact, pursuant to Section 15091 of the CEQA Guidelines, for each significant environmental effect of the proposed project. For each significant environmental effect identified in the Draft SEIR, TRLIA must issue a written finding reaching one or more of three permissible conclusions. According to Section 15091 of the CEQA Guidelines, the three possible findings are:

- Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final SEIR;
- Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency; or
- Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final SEIR.

In addition, if TRLIA approves the modified project, TRLIA will adopt a separate mitigation monitoring and reporting program (MMRP), consistent with Section 15097 of the CEQA Guidelines, that describes when each of the mitigation measures adopted for the proposed project will be implemented, identifies who is the responsible implementing party, and provides a mechanism for monitoring their implementation. The new MMRP will include only modifications and updates to the 2015 MMRP that are required for Modified Alternative 4 presented in the 2018 Draft SEIR.
2 SUMMARY DESCRIPTION OF THE PROJECT ALTERNATIVES

Chapter 2 of the 2015 Draft EIR describes the four project alternatives that were evaluated at equal level of detail, including Alternative 4 that was approved by TRLIA for implementation. Alternative 4 was subsequently modified, as a result of additional technical evaluations and to better optimize flood risk reduction, minimize environmental impacts, and maximize public benefits. Modified Alternative 4 is fully described in Chapter 2 of the 2018 Draft SEIR. Because project alternatives are a key environmental issue identified by several affected landowners, Master Response 1 in Section 3.1, “Master Responses,” has been developed to provide a more extensive summary of the alternatives development and selection process.
RESERVES TO COMMENTS ON THE DRAFT SEIR

This section of the Final SEIR contains written and oral comments received on the Draft SEIR during the public review period. In conformance with Section 15088(a) of the CEQA Guidelines, written responses were prepared addressing comments on environmental issues received from reviewers of the Draft SEIR during the public review period. When there is significant public comment, CEQA allows lead agencies to summarize or consolidate responses to similar comments, as long as all substantive issues are represented.

There was an array of similar comments about particular topics that addressed different aspects of common issues. To present responses that address all aspects of these related comments, two master responses were prepared. The master responses are a means of providing a broader context to the response than may be possible when making individual responses. In some cases, an individual comment may be answered by one or more of the master responses. Master responses include the following:

- Master Response 1: Project Alternatives Development and Selection
- Master Response 2: Impacts on Agricultural Resources

Individual responses to comments that are addressed by a master response include reference to the master response where the comment is addressed. The responses to comments clarify and amplify text in the Draft SEIR, as appropriate, and do not alter the conclusions of the Draft SEIR.

3.1 MASTER RESPONSES

3.1.1 Master Response 1: Project Alternatives Development and Selection

Comments addressed in this master response are: MILLS-4, SANDERS-4, SMITH-9, SMITH-11, PLG-2, PLG-5, PLG-6, PLG-12, PLG-16, PLG-17; Public Meeting comments 9, 10.

Several letters, and comments made during the public meeting, questioned whether TRLIA has adequately evaluated potential alternatives that would further minimize or avoid impacts on agricultural lands and residents on the project site. CEQA requires that an EIR, in addition to analyzing the environmental effects of a proposed project, consider and analyze project alternatives that would reduce adverse environmental impacts (Public Resources Code [PRC] Section 21061; In re Bay Delta Programmatic EIR Coordinated Proceedings [2008] 43 Cal.4th 1143 [Bay Delta Proceedings], 1163). Section 15126.6 of the CEQA Guidelines indicates that an EIR must "describe a range of reasonable alternatives to the project ... which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project. ..." However, "[a]n EIR need not consider every conceivable alternative to a project." (CEQA Guidelines Section 15126.6[a]; Citizens of Goleta Valley v. Board of Supervisors [1990] 52 Cal.3d 553, 574 [Goleta].)

"There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason" (CEQA Guidelines Section 15126.6[a]). The rule of reason "requires the EIR to set forth only those alternatives necessary to permit a reasoned choice" and to "examine in detail only the ones that the lead agency determines could feasibly attain most of the basic objectives of the project" (CEQA Guidelines Section 15126.6[f]). Moreover, "alternatives shall be limited to ones that would avoid or substantially lessen any of the
significant effects of the project.” (CEQA Guidelines Section 15126.6[f]; North Coast Rivers Alliance v. Martin Municipal Water Dist. Bd. of Directors [2013] 216 Cal.App.4th 614, 649-650; Tracy First v. City of Tracy [2009] 177 Cal.App.4th 912, 928-929.) An EIR does not have to consider alternatives “whose effect cannot be reasonably ascertained and whose implementation is remote and speculative” (CEQA Guidelines Section 15126.6[f][3]). Further, “a lead agency may structure its EIR alternative analysis around a reasonable definition of underlying purpose and need not study alternatives that cannot achieve that basic goal” (Bay Delta Proceedings, supra, 43 Cal.4th at 1166).

Formulation of the 200-Year Goldfields Levee Project began in earnest in 2013 when TRLIA’s team developed 17 initial alternatives. This initial array of alternatives was quickly screened down to seven alternatives. The seven alternatives were subsequently reduced to a reasonable range of four alternatives that were fully analyzed at an equal level of detail in the 2015 Draft EIR in Chapter 3, “Environmental Setting, Impacts, and Mitigation Measures.” These alternatives were adequately described, and the potential environmental impacts of each was comprehensively analyzed. Each alternative lessened the environmental impacts of the proposed project to some degree, though all of them necessitated trade-offs among particular environmental impacts, concerns about relative practical and economic feasibility, and relative satisfaction of project objectives. The 2015 Draft EIR also summarized seven of the additional alternatives that were screened and provided the basis for eliminating those alternatives from more detailed consideration (see Section 2.9 of the 2015 Draft EIR, “Alternatives Considered but Not Carried Forward for Further Evaluation”). In the 2015 Final EIR, TRLIA identified Alternative 4, a levee alignment south of the Yuba Goldfields, as the preferred alternative, because it was determined to best meet the most project objectives, as described in the Goldfields Flood Risk Reduction Feasibility Study Final Report: 200-Year Project Selection (see Appendix A of the 2015 Final EIR). This process of identifying, evaluating, screening, and further evaluating potential project alternatives ensured the scope of the alternatives analysis was sufficient to “foster informed decision making and public participation,” and satisfy the standard articulated in the CEQA Guidelines and case law for alternatives analysis. Because the 2015 EIR’s consideration and analysis of alternatives was never challenged, the reasonableness of the range of alternatives considered at that time is presumed to have complied with CEQA. (See PRC Sections 21167.2, 21166; Committee for Re-Evaluation of T-Line Loop v. San Francisco Municipal Transportation Agency [2016] 6 Cal.App.5th 1237, 1251-1256; Laurel Heights Improvement Assn. v. Regents of University of California [1993] 6 Cal.4th 1112, 1130.)

After Alternative 4 was approved, modifications to the levee design and approved alignment were considered to help further reduce flood risks, minimize environmental impacts on mineral resources and biological resources, and maximize public benefits. Specifically, after approval of the original Alternative 4, TRLIA gained additional knowledge regarding the practical and financial feasibility of the Alternative 4 alignment, which led to the consideration of the proposed Modified Alternative 4 alignment. Because TRLIA evaluated a range of reasonable alternatives in the 2015 Draft EIR, TRLIA was not required to develop and evaluate more alternatives in its consideration of the Modified Alternative 4 alignment. Nevertheless, in identifying and evaluating Modified Alternative 4, TRLIA considered four alignments for the portion of the levee that extends from the Upper Yuba Levee Improvement Project (UYLIP) levee to Hammonont-Smartville Road, in an attempt to minimize impacts to an affected landowner and agricultural resources and production, while still feasibly attaining most of the project objectives. TRLIA conducted geotechnical investigations along the three alignments, and biological and cultural resources surveys along the three alignments and one subalignment. The costs, geotechnical and engineering feasibility, and preliminary environmental impacts of each alignment and subalignment were evaluated. The Modified Alternative 4 alignment evaluated in the Draft SEIR was selected. The Modified Alternative 4 alignment proposed and analyzed in the Draft SEIR was retained (as opposed to the other four possible variations
of the Modified Alternative 4 alignment) because differences in potential environmental impacts among the alignments were found to be relatively minor (with no differences in impact significance); none of the alignments was determined to be geotechnically superior; and the proposed Modified Alternative 4 alignment would cost $2.5-5.5 million less than the other alignments and subalignment. Because the 2015 EIR is presumed to have complied with CEQA and, in any event, an EIR “need not consider in detail each and every conceivable variation of the alternatives stated”—particularly those that are infeasible or would not “avoid or lessen” a significant impact of the project or achieve most project objectives—the Draft SEIR was not required to bring those other variations forward. (See, e.g., Los Angeles Conservancy v. City of West Hollywood [2017] 18 Cal.App.5th 1031, 1038 [internal quotations omitted].)

During the public review period for the Draft SEIR, a levee alignment was proposed by two landowners that would be affected by implementing Modified Alternative 4. The landowner-recommended alignment has three general segments, described from west to east:

1. Approximately 1.5 miles on lands mined by Western Aggregates, beginning at the end of the UYLIP levee and extending east, congruent with a tailings mound along the southern edge of the Goldfields.

2. Approximately 0.5 mile extending north to the Western Aggregates ponds.

3. Approximately 0.5 mile extending east between Western Aggregates mining ponds on the north side and Teichert mining ponds on the south side.

The western segment is similar to and slightly south of TRLIA’s 100-year embankment described in the 2015 Draft EIR (see Exhibit 3.1-1). Improvement of the 100-year embankment for use as a 200-year embankment was evaluated in the 2015 EIR (see Section 2.4, “Alternative 1: 100-Year Project Enlargement”). The primary issues associated with this segment include: 1) conflict with Western Aggregates mining plan, thus increasing the impacts on mineral resources and requiring compensation for loss of mining; 2) need for a seepage berm that would remove habitat for Federally and State-listed wildlife species, thus increasing impacts on biological resources and requiring compensation for loss of habitat; and 3) conflict with Teichert’s mining operation, thus again increasing impacts on mineral resources and requiring additional compensation for loss of mining. Additionally, to meet the State levee design criteria, the tailings mound would need to be degraded to native soil or sufficiently deep to allow construction of a traditional clay embankment. If this segment was shifted slightly farther south, it would be similar to Alternative 4 evaluated in the 2015 EIR. While this portion of the alignment would be technically effective and constructible, it would be cost prohibitive and is not economically feasible for TRLIA to implement.

The eastern segment, between the mining ponds, is similar to an alignment that was evaluated by TRLIA in 2015. The Teichert pond is currently 100 feet deep and is proposed to be mined to 200 feet. To meet or exceed the Federal and the State levee design criteria, a levee constructed between these two ponds must mitigate seepage through the native granular soil. Borings conducted in this area indicated granular soil to depths of over 200 feet. The maximum depth of a cutoff wall used to remediate levee seepagepage is 135 feet. While slurry walls can be constructed to greater depths using specialty methods, such as deep soil mix augers or a Hydromill Trench Cutter, such methods have not been used for levee purposes and are unlikely to receive technical approval from the State and Federal agencies regulating the project. A seepage berm at this location is not technically effective as it does not reduce the volume of water flowing beneath the levee, which could erode and undermine the embankment.
Further, the area between the mining ponds is not wide enough to accommodate a seepage berm. In addition, a levee along this segment would prohibit access of the hydraulic dredge, thus requiring additional compensation for loss of mining. For these reasons, this alternative is infeasible and would not satisfy most project objectives or substantially lessen environmental impacts.

Because TRLIA evaluated a range of reasonable alternatives in the 2015 Draft EIR and the landowner-proposed alternatives are economically infeasible and do not achieve most project objectives or substantially lessen the environmental impacts of the project, the Final EIR need not evaluate those variations in the alignment further.

3.1.2 MASTER RESPONSE 2: IMPACTS ON AGRICULTURAL RESOURCES

Comments addressed in this master response are: SANDERS-5, SMITH-2, SMITH-3, SMITH-5, SMITH-6, PLG-2; Public Meeting comments 4, 5, 8, 11, 12.

Three of the letters and comments expressed by the three public meeting attendees highlighted dissatisfaction with the amount of agricultural land that would be affected by Modified Alternative 4. Impacts on agricultural land are unavoidable with a levee constructed south of the Goldfields, including Modified Alternative 4. However, TRLIA has continued to minimize these impacts as much as feasible during preliminary and final project designs. Potential impacts on agricultural land that are quantified in the Draft SEIR represent a worst-case scenario. As indicated on page 2-5 in Section 2, “Project Description,” of the Draft SEIR, a seepage berm is anticipated to be constructed in Reaches 1 and 2 and a cutoff wall in Reaches 3A and 3B. However, a cutoff wall may be constructed for seepage remediation throughout all reaches, if technical analysis confirms that the cutoff wall would provide adequate seepage remediation and the review agencies concur during their review of the project design. In the latter case, up to approximately 600 feet of seepage berm would still be required at the tie-in to the UYLIP levee (in addition to the cutoff wall) to provide redundancy and resiliency at the critical transition from the new levee to the existing UYLIP levee, where there is an existing seepage berm and increased potential for underseepage. To fully disclose the potential effects of the proposed project, impacts quantified in the Draft SEIR correlate with construction of a seepage berm in Reaches 1 and 2. Therefore, page 3.3-2 in Section 3.3, “Agricultural Resources,” of the Draft SEIR states that approximately 91 acres of Important Farmland within the levee, seepage remediation, and maintenance corridor could be permanently removed. However, this amount would be reduced to less than 55 acres, if cutoff walls and approximately 600 feet of seepage berm are determined to provide adequate seepage remediation in Reaches 1 and 2. TRLIA staff have instructed the project engineers to use cutoff walls for seepage remediation, wherever feasible, to minimize impacts to agricultural resources.

Additional impacts on agricultural land could result from on-site borrow extraction. As indicated in the Draft SEIR, material for constructing the levee embankment could come from various on-site and/or off-site borrow sources. Several comments referred to an existing and available nearby soil stockpile of suitable material at the Teichert site. TRLIA has been informed by Teichert that this stockpile is allocated to other uses and is not available for TRLIA’s proposed project. However, Teichert has agreed to identify other potential material sources and provide TRLIA with a cost estimate for purchase of such material. The cost and environmental impact of importing such material will be considered in relation to cost and environmental impact of excavating on-site borrow. If all borrow is obtained onsite, the total acreage of impacts to Important Farmland from borrow extraction would be up to 160 acres. As with seepage remediation, TRLIA continues to evaluate ways to minimize the amount of Important Farmland that would be permanently converted as a result of onsite borrow extraction, but borrow plans cannot be finalized until the project design is complete and the final borrow needs
and sources are determined. In addition, TRLIA intends to preserve the capability of on-site borrow areas to produce crops after construction is complete. Therefore, not the entire 160 acres that could be affected by borrow extraction are anticipated to be permanently removed from agricultural production. Again, to be conservative, the Draft SEIR identifies the worst-case scenario.

These efforts to minimize impacts on agricultural land are in addition to the mitigation already required in the 2015 EIR and the Draft SEIR (Mitigation Measure 3.3-1). Even if the acreage of impact is further reduced and the identified mitigation is implemented, none of the variations of the Modified Alternative 4 alignment or the originally approved Alternative 4 would avoid significant impacts to Important Farmland, and those impacts would remain significant and unavoidable. Conversely, Alternative 4 described in the 2015 EIR and some of the variations in Modified Alternative 4 may increase the severity of impacts in other environmental resource areas (e.g., biological resources, geology, and climate change). The original 2015 EIR and the Draft SEIR discuss and acknowledge these trade-offs and the significant and unavoidable nature of the agricultural impacts.

Agricultural land that would be within the expanded floodway is expected to continue in agricultural production, similar to the expanded floodway lands elsewhere in the region. As described in the Draft SEIR, ramps that are designed to accommodate agricultural equipment would be constructed over the new levee to maintain w interside access. Although constructing the levee diagonally through existing orchards on Wilbur Ranch would change the configuration of the remaining orchard, it would not prevent the land from continuing to be cultivated. A levee alignment that follows the eastern boundary of the Wilbur Ranch orchard would remove approximately 9 acres more of Important Farmland (orchard) than Modified Alternative 4, which would cross the orchards diagonally.

### 3.2 INDIVIDUAL COMMENTS AND RESPONSES

Table 3-1 presents a code for each comment letter received, the author of the comment letter, the date of the comment letter, and the number of individual comments identified and addressed in each comment letter.

<table>
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<tr>
<th>Comment Code</th>
<th>Commenting Entity</th>
<th>Author</th>
<th>Date</th>
<th>No. of Comments</th>
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<tr>
<td>OPR</td>
<td>State Clearinghouse, Governor’s Office of Planning and Research</td>
<td>Scott Morgan, Director, State Clearinghouse</td>
<td>10/30/2018</td>
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<tr>
<td>CALTR</td>
<td>California Department of Transportation</td>
<td>Susan Zanelli, Branch Chief; System Planning Analysis, Modeling, and Forecasting Branch</td>
<td>10/26/2018</td>
<td>9</td>
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<tr>
<td>RWQCB</td>
<td>Central Valley Regional Water Quality Control Board</td>
<td>Jordan Hensley, Environmental Scientist</td>
<td>10/22/2018</td>
<td>18</td>
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<td>UAIC</td>
<td>United Auburn Indian Community</td>
<td>Marcos Guerrero, Cultural Resources Manager</td>
<td>10/26/2018</td>
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<tr>
<td>MILLSON</td>
<td>Angela Mills</td>
<td>Angela Mills, Resident</td>
<td>10/26/2018</td>
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<td>SANDERS</td>
<td>James Sanders</td>
<td>James Sanders, Landowner</td>
<td>10/26/2018</td>
<td>5</td>
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<td>SMITH</td>
<td>Smith Ranches</td>
<td>Brian Smith, Gary Smith, and Michelle Smith-Barker; Landowners</td>
<td>10/26/2018</td>
<td>11</td>
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<tr>
<td>PLG</td>
<td>Pioneer Law Group, LLP (representing Richard Wilbur and Wilbur Ranch)</td>
<td>Andrea Matarazzo, Attorney at Law</td>
<td>10/26/2018</td>
<td>18</td>
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The written individual comments received on the Draft SEIR and the responses to those comments are provided in this section. Each comment letter is reproduced in its entirety and is followed by the response(s) to the letter. Where a commenter has provided multiple comments, each comment is indicated by a line bracket and an identifying number in the margin of the comment letter.
October 30, 2018

Paul Brunner
Three Rivers Levee Improvement Authority
1114 Yuba Street, Suite 218
Marysville, CA 95901

Subject: Yuba Goldfields 200-Year Flood Protection Project
SCH#: 2014063045

Dear Paul Brunner:

The State Clearinghouse submitted the above named Supplemental EIR to selected state agencies for review. The review period closed on October 29, 2018, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Scott Morgan
Director, State Clearinghouse
<table>
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<tr>
<th>SCH#</th>
<th>2014082645</th>
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<tbody>
<tr>
<td>Project Title</td>
<td>Yuba Goldfields 200-Year Flood Protection Project</td>
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<tr>
<td>Lead Agency</td>
<td>Three Rivers Levee Improvement Authority</td>
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**Type**
SIR Supplemental EIR

**Description**
TRILIA is proposing to implement 200-year flood protection improvements south of the Yuba Goldfields to reduce the flood risk to southwest Yuba County. On Sep 15, 2016, TRILIA certified the environmental impact report for the project and approved alternative 4 as the proposed project. Since then, minor modifications have been made to alternative 4. TRILIA has prepared this Supplemental EIR to address these minor modifications. The modified Alternative 4 levee would be constructed approx 1,500 to 4,700 ft farther south than Alternative 4 described in the 2016 EIR and would be 2.5 miles long.

**Lead Agency Contact**
- Name: Paul Bonner
- Agency: Three Rivers Levee Improvement Authority
- Phone: 530-743-5679
- Email:
- Address: 1114 Yuba Street, Suite 218, Marysville, CA 95901
- Fax:

**Project Location**
- County: Yuba
- City: Marysville
- Region:
- Lot/Long: 39° 22'22"N 121° 28'24"W
- Cross Streets: Hammonston-Smartville Road; Bispilly Rd, Road 1084
- Parcel No.

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<th>Range</th>
<th>Section</th>
<th>Base</th>
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<tr>
<td>15N</td>
<td>4E</td>
<td>715-1</td>
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</table>

**Proximity to:**
- Highways: Beale Air Force Base
- Airports: Beale Air Force Base
- Railways: Yuba River
- Waterways: Yuba River
- Schools: Beale Air Force Base
- Land Use: EK AE 80

**Project Issues**
- Drainage/Absorption; Flood Plain/Flooding; Forest Land/Fire Hazard; Geologic/Seismic; Minerals; Noise; Population/Housing; Balance; Public Services; Recreation/Parks; Soil Erosion/Compaction/Smoothing; Toxic Hazardous; Traffic/Circulation; Vegetation; Water Quality; Wildlife/Riparian; Growth Inducing; Landuse; Cumulative Effects; Aesthetic/Visual; Agricultural Land; Air Quality; Archaeological/Historic; Water Supply; Biological Resources; Septic System; Soil; Waste

**Reviewing Agencies**
- Resources Agency; Department of Fish and Wildlife, Region 2; Department of Parks and Recreation; Department of Water Resources; CalTrans; Division of Aeronautics; CalTrans, District 3 N; Office of Emergency Services, California; State Water Resources Control Board, Division of Water Quality; State Water Resources Control Board, Division of Water Rights; Regional Water Quality Control Bd., Region 5 (Sacramento); Department of Toxic Substances Control; Native American Heritage Commission; State Lands Commission

**Date Received** 09/13/2018  
**Start of Review** 09/13/2018  
**End of Review** 10/29/2018

Note: Blanks in data fields result from insufficient information provided by lead agency.
Scott Morgan, Director, State Clearinghouse, Governor’s Office of Planning and Research
October 30, 2018

OPR-1

Comment noted. TRLIA has no questions concerning the environmental review process. No further response is required.
From: Soto, Dianira@DOT <dianira.soto@dot.ca.gov>
Sent: Friday, October 26, 2018 1:55 PM
To: Brunner, Paul
Subject: Yuba Goldfields 200-Year Flood Protection Project (SCH #2014062045) (08-YUB-2018-00094)

Mr. Paul Brunner:

Thank you for including the California Department of Transportation (Caltrans) in the review process for the project referenced above. The mission of Caltrans is to provide a safe, sustainable, integrated and efficient transportation system to enhance California’s economy and livability. The Local Development-Intergovernmental Review (LD-IGR) Program reviews land use projects and plans through the lenses of our mission and state planning priorities of infill, conservation, and travel-efficient development. To ensure a safe and efficient transportation system, we encourage early consultation and coordination with local jurisdictions and project proponents on all development projects that utilize the multimodal transportation network.

Please provide our office with copies of any further actions regarding this project. We would appreciate the opportunity to review and comment on any changes related to this development.

If you have any question regarding these comments or require additional information please do not hesitate to contact me.

Sincerely,

Dianira Soto
Associate Transportation Planner
Bike Coordinator
Planning North Branch
Planning, Local Assistance & Sustainability 703 B Street, Marysville, CA 95901 (530) 740-4903
October 26, 2018

GTS# 03-YUB-2018-00234
03-YUB-20 PM 6:847
SCH # 2014062045

Paul Brunner
Three Rivers Levee Improvement Authority
114 Yuba Street, Suite 218.
Marysville, CA 95901.

Yuba Goldfields 200-Year Flood Protection Project

Dear Mr. Paul Brunner:

Thank you for including the California Department of Transportation (Caltrans) in the environmental/application review process for the project referenced above. The mission of Caltrans is to provide a safe, sustainable, integrated and efficient transportation system to enhance California’s economy and livability. The Local Development-Intergovernmental Review (LD-IGR) Program reviews land use projects and plans through the lens of our mission and state planning priorities of infill, conservation, and travel-efficient development. To ensure a safe and efficient transportation system, we encourage early consultation and coordination with local jurisdictions and project proponents on all development projects that utilize the multimodal transportation network.

Three Rivers Levee Improvement Authority (TRLJA) is proposing to implement a 200-year flood protection improvement south of Yuba Goldfields to reduce flood risk to the southwest portion of Yuba County. On September 15, 2015 TRLJA certified the Environmental Impact Report (EIR) for the project (State Clearinghouse No. 20140622045) and approved Alternative 4 as the preferred site. Since then, modifications have been made to Alternative 4 (hereafter called “Modified Alternative 4”) to optimize flood risk reduction and minimize environmental impacts. The project location is just south of Yuba Goldfields and north of Hamilton-Smartville Road, intersecting Brophy Road. These comments are based on the draft Supplemental Environmental Impact Report (SEIR).

Hydraulics

Caltrans responded to the Notice of Preparation (NOP) and Draft Environmental Impact Report (DEIR) dated June 6, 2018 and noted several areas of concern not addressed in the submitted draft SEIR and are still applicable. The comments below, need to be addressed:

"Provide a safe, sustainable, integrated, and efficient transportation system to enhance California’s economy and livability."
Mr. Paul Brunner, Three Rivers Levee Improvement Authority
October 26, 2018

Page 2

1. Please refer to the project’s original NOP and DEIR Hydraulics review comments for previous concerns to address in the Final SEIR for the modified Alternative 4.

2. Hydrologic/Hydraulic modeling of the impacts of the proposed levee alternative must be performed and a Floodplain Study must be completed to assess impacts to the floodplain and determine if a Federal Emergency Management Agency of Map Revision will be required.

3. Provide Caltrans with all planning and design documents associated with this proposed Modified Alternative 4 for review and comment, include all flow model runs.

If you have questions regarding these comments or require additional information, please contact Diamira Soto, Intergovernmental Review Coordinator for Yuba County, by phone (530) 740-4905 or via email at diamira.soto@dot.ca.gov.

Sincerely,

Susan Zanchi

SUSAN ZANCHI, Branch Chief
System Planning Analysis, Modeling, and Forecasting Branch

"Provide a safe, sustainable, integrated, and efficient transportation system to enhance California’s economy and livability"
CALTR-1  Comment noted. No further response is required.

CALTR-2  As per the commenter's request, TRLIA will provide future CEQA documentation related to the proposed project to the California Department of Transportation (Caltrans) office, indicated.

CALTR-3  TRLIA will contact Ms. Seto at the telephone number or email address provided with any questions, if needed.

CALTR-4  Comment noted. No further response is required.

CALTR-5  The 2015 Final EIR included TRLIA's responses to comments related to hydraulics that were provided on the 2015 Draft EIR. Please see TRLIA's response to comment CALTR-6 below regarding response to Caltrans' prior hydraulic comments submitted for the 2015 Draft EIR, which remain applicable to the SEIR.

CALTR-6  TRLIA's responses provided in the 2015 Final EIR to Caltrans comments in 2015 remain applicable and are summarized and updated in this response, for comments that specifically apply to Modified Alternative 4. Modified Alternative 4 would not change the hydraulic flow conditions in the Yuba River in a manner that would increase the Yuba River flood flows or water surface elevations, increase risk at other locations in the Yuba-Feather River System, or increase the water surface elevations currently being used for floodplain management along the Yuba River. Modified Alternative 4 also would not encroach into the existing Federal Emergency Management Agency's (FEMA's) 100-year Zone A Special Flood Zone Hazard Area.

TRLIA is required to demonstrate to the Central Valley Flood Protection Board (CVFPB) and U.S. Army Corps of Engineers (USACE) that Modified Alternative 4 would not have a downstream hydraulic impact. Results of hydraulic modeling will be provided to these agencies as part of their review of the proposed project. TRLIA recognizes Caltrans as an interested party, but does not view Caltrans' role as regulatory in nature, especially for hydraulic impacts. The regulatory responsibility for flood risk evaluations falls under the jurisdiction of CVFPB and USACE. TRLIA's hydraulic models have been peer reviewed and will be reviewed by CVFPB and USACE. TRLIA does not see the need for or any added value from additional review by Caltrans. TRLIA is coordinating with CVFPB staff and will apply for an encroachment permit to implement Modified Alternative 4; CVFPB will review the hydraulic analysis during this permit process. USACE will review the hydraulic analysis during their review of the project design.

CALTR-7  Hydraulic modeling of Modified Alternative 4 has been conducted. Section 3.10, "Hydrology and Water Quality," of the 2015 Draft EIR describes under "Issues Not
Discussed Further” (pages 3.10-12 and 3.10-13) why revision of the FEMA Flood Insurance Rate Map would not be necessary. Because of the porous nature of the Goldfields tailings material, some water infiltrates into the Goldfields during flood events and raises the elevations of the numerous ponds of the Goldfields. FEMA recognizes this infiltration and has designated the Goldfields as a Zone A. This means that some flooding is expected, but the depth is unknown. Zone A does not indicate flow capacity. Floodplains on both sides of the Yuba River in this reach were developed with the assumption that all flows of the Yuba River are contained within the tailing mound embankment banks of the Yuba River and no significant storage occurs in the Goldfields. No flow is assumed to occur through the Goldfields themselves. Constructing the proposed levee would not change the hydrologic assumptions made for development of the FEMA Flood Insurance Rate Maps or change the current flow conditions or the existing floodplains. The proposed levee would prevent flows from a future breach of the South Bank Tailings Mound from exiting the Goldfields and flooding the Reclamation District (RD) 784. The current floodplain on the north side of the Yuba River would not be impacted by preventing these future breached flows from flooding RD 784. Because some infiltration into the Goldfields would continue even with the proposed levee, the Zone A designation for the Goldfields would continue to be appropriate and no change in the current Flood Insurance Rate Map would be pursued by TRLIA. This would not increase FEMA’s base flood elevations downstream of the Goldfields, because such elevations are not based on a breach failure within the Goldfields or on significant flow or storage within the Goldfields.

**CALTR-8**

TRLIA will make the future planning and design documents associated with the proposed project available to Caltrans as per the commenter’s request.

**CALTR-9**

TRLIA will contact Ms. Soto at the telephone number or email address provided with any questions, if needed.
22 October 2018

Paul Brunner  
Three Rivers Levee Improvement Authority  
1114 Yuba Street, Suite 218  
Marysville, CA 95901

CERTIFIED MAIL  
7014 3490 0001 3008 4545

Central Valley Regional Water Quality Control Board

COMMENTS TO REQUEST FOR REVIEW FOR THE DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT, YUBA GOLDFIELDS 200-YEAR FLOOD PROTECTION PROJECT, SCH# 2014062045, YUBA COUNTY

Pursuant to the Three Rivers Levee Improvement Authority's 14 September 2018 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the Request for Review for the Draft Supplemental Environmental Impact Report (draft SEIR) for the Yuba Goldfields 200-Year Flood Protection Project, located in Yuba County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

Central Valley Water Board staff in the Mercury Total Maximum Daily Load (TMDL) Unit has reviewed the draft SEIR for the Three Rivers Levee Improvement Authority Yuba Goldfields 200-Year Flood Protection Project. The draft SEIR states that the proposed Modified Alternative 4 will, "...prevent Yuba River flood flows during a 200-year flood event from flowing through the Yuba Goldfields." The environmental analysis appears to be based on this assumption. To evaluate the extent and location of the 200-year flood plain, Central Valley Water Board staff contacted the project proponent for clarification regarding the direction of flow through the Yuba Goldfields. It is our current understanding that Modified Alternative 4 will direct floodwater from the Yuba River during 200-year flood events to inundate the Goldfields and then return to the Yuba River. Because of this clarification, we have the following comments with respect to flooding the Yuba Goldfields.

Mercury was used extensively to amalgamate gold in mining operations, including dredging operations in the Yuba Goldfields. Operating from 1904 to 1968, the Yuba Goldfields are the largest gold dredge field in California and is located off-stream of the Yuba River. The Yuba River is identified on the Clean Water Act Section 303(d) List as impaired by mercury because of elevated methylmercury concentrations in fish that pose a risk to wildlife and humans who consume fish. The Porter-Cologne Water Quality Control Act requires the Central Valley Water Board to protect water quality to support beneficial uses of these waters. The Central Valley
Water Board is in the process of developing a mercury control program that will include the lower Yuba River watershed.

The draft SEIR should be revised to clarify the flow path and floodplain conditions. The report should also include a revised analysis of the potential environmental impacts and modeling efforts to account for the altered flow path. The modeling should estimate the flow path, flow velocity, erosion potential, and sediment transported out of the Goldfields. The draft SEIR should describe any potential for mercury disturbance and downstream deposition during flooding events and propose any feasible mitigation measures or plans to limit mercury transport in the Yuba River.

If you have any questions regarding mercury concerns, please contact Patrick Morris at (916) 464-3281 or by email at Patrick.Morris@waterboards.ca.gov.

1. Regulatory Setting

**Basin Plan**

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State's water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38.

The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has adopted a Basin Plan amendment in noticed public hearings, it must be approved by the State Water Resources Control Board (State Water Board), Office of Administrative Law (OAL), and in some cases, the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues.

For more information on the Water Quality Control Plan for the Sacramento and San Joaquin River Basins, please visit our website: http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/.
Antidegradation Considerations

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 88-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Policy is available on page IV-15.01 at: http://www.waterboards.ca.gov/centralvalleywater_issues/basin_plans/sacog.pdf.

In part it states:

Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.

This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

II. Permitting Requirements

Construction Storm Water General Permit
Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit). Construction General Permit Order No. 2009-009-UWO. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP).

For more information on the Construction General Permit, visit the State Water Resources Control Board website at: http://www.waterboards.ca.gov/water_issues/programs/stormwater/conspermits.shtml.
Phase I and II Municipal Separate Storm Sewer System (MS4) Permits

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/ms4permits/

For more information on the Phase II MS4 permit and who it applies to, visit the State Water Resources Control Board at:

Industrial Storm Water General Permit

Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 2014-0057-DWQ.

For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at:

Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACE). If a Section 404 permit is required by the USACE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Wildlife for information on Streambed Alteration Permit requirements.

If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACE at (916) 557-0250.

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1 Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.
Clean Water Act Section 401 Permit – Water Quality Certification

If an USACOE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications.

Waste Discharge Requirements – Discharges to Waters of the State

If USACOE determines that only non-jurisdictional waters of the State (i.e., “non-federal” waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation.

For more information on the Water Quality Certification and WDR processes, visit the Central Valley Water Board website at: http://www.waterboards.ca.gov/centralvalley/business_help/permit2.shtml.

Dewatering Permit

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Risk General Order) 2003-0003 or the Central Valley Water Board’s Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Risk Waiver) RS-2013-0145. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Discharges seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

For more information regarding the Low Risk General Order and the application process, visit the Central Valley Water Board website at:


For more information regarding the Low Risk Waiver and the application process, visit the Central Valley Water Board website at:

Regulatory Compliance for Commercially Irrigated Agriculture

If the property will be used for commercial irrigated agricultural, the discharger will be required to obtain regulatory coverage under the Irrigated Lands Regulatory Program. There are two options to comply:

1. Obtain Coverage Under a Coalition Group. Join the local Coalition Group that supports land owners with the implementation of the Irrigated Lands Regulatory Program. The Coalition Group conducts water quality monitoring and reporting to the Central Valley Water Board on behalf of its growers. The Coalition Groups charge an annual membership fee, which varies by Coalition Group. To find the Coalition Group in your area, visit the Central Valley Water Board's website at: http://www.waterboards.ca.gov/centralvalley/water_issues/irrigated_lands/for_growers/appl_coalition_group/index.shtml or contact water board staff at (916) 464-4811 or via email at IrrLands@waterboards.ca.gov.

2. Obtain Coverage Under the General Waste Discharge Requirements for Individual Growers, General Order R5-2013-0100. Dischargers not participating in a third-party group (Coalition) are regulated individually. Depending on the specific site conditions, growers may be required to monitor runoff from their property, install monitoring wells, and submit a notice of intent, farm plan, and other action plans regarding their actions to comply with their General Order. Yearly costs would include State administrative fees (for example, annual fees for farm sizes from 10-100 acres are currently $1,084 + $6.70/Acre); the cost to prepare annual monitoring reports; and water quality monitoring costs. To enroll as an individual Discharger under the Irrigated Lands Regulatory Program, call the Central Valley Water Board phone line at (916) 464-4811 or e-mail board staff at Irr.Lands@waterboards.ca.gov.

Low or Limited Threat General NPDES Permit

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for Dewatering and Other Low Threat Discharges to Surface Waters (Low Threat General Order) or the General Order for Limited Threat Discharges of Treated/Untreated Groundwater From Cleanup Sites, Wastewater from Superficial Projects, and Other Limited Threat Wastewaters to Surface Water (Limited Threat General Order). A complete application must be submitted to the Central Valley Water Board to obtain coverage under these General NPDES permits.

For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at:

For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:

**NPDES Permit**

If the proposed project discharges waste that could affect the quality of surface waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit.

For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at:

If you have questions regarding these comments, please contact me at (916) 484-4312 or Jordan.Hensley@waterboards.ca.gov.

[Signature]

Jordan Hensley
Environmental Scientist

cc: State Clearinghouse unit, Governor's Office of Planning and Research, Sacramento

[Via email only]

Patrick Morris
Central Valley Regional Water Quality Control Board
Mercury Total Maximum Daily Load (TMDL)
Patrick.Morris@waterboards.ca.gov

Lauren Smithman
Central Valley Regional Water Quality Control Board
Mercury Total Maximum Daily Load (TMDL)
Lauren.Smithman@waterboards.ca.gov
RWQCB-1

Comment noted. No further response is required.

RWQCB-2

The proposed project would not alter flood flows in the Goldfields. Under the existing conditions, high flows in the Yuba River could inundate the Goldfields and areas farther south. Potential for this to occur will get progressively worse as the Yuba River continues to erode the South Training Wall. If there is a breach in this training wall, such as the one that occurred in 1950, flood waters would flow through the Goldfields and on through the urban communities of Linda, Olivehurst, and Plumas Lake, before reentering downstream waterways, including the Feather River. The Modified Alternative 4 levee would redirect water back into the Yuba River, rather than flooding the urban area and reentering the Feather River. The same would have been true for Alternative 4 described in the 2015 EIR; as indicated in the 2015 Draft EIR Impact 3.10-5 discussion (page 3.10-25), all of the project alternatives evaluated would intercept and block breach flows, holding them long enough to allow flood peaks to pass. The blocked flows would then return to the Yuba River or percolate into underlying groundwater aquifers. Therefore, the proposed minor project modifications that are the subject of the Draft SEIR and this Final SEIR would not change the circumstances already analyzed for Alternative 4 in the 2015 EIR.

RWQCB-3

Comment noted. No further response is required.

RWQCB-4

Flow paths and floodplain conditions are described in response to comment RWQCB-2 above. Under the existing conditions, flood waters could pick up contaminants from the Goldfields and urban areas before ponding against the downslope levee system until the levee breaches and drains the area. The potentially contaminated water would then flow back into the riverine system. Although flood waters would reenter the riverine system in a different location, the proposed project would not increase the potential for mercury disturbance and downstream deposition during the flood events. Therefore, TRLIA does not feel additional modeling is required for flow paths and floodplain conditions, as requested by the commenter.

RWQCB-5

TRLIA will contact Mr. Morris at the telephone number or email address provided with any questions, if needed.

RWQCB-6

The Water Quality Control Plan for the Sacramento River Basin and the San Joaquin River Basin (Basin Plan) is referred to on page 3.10-8 of the Hydrology and Water Resources Regulatory Setting of the 2015 Draft EIR; this discussion also applies to Modified Alternative 4.

RWQCB-7

evaluates potential impacts to surface and groundwater quality. As indicated on page 3.10-1 of the Draft SEIR, the overall nature and severity of potential impacts and associated significance conclusions related to Impact 3.10-1 also apply to Modified Alternative 4.

TRLIA will obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities. TRLIA also will prepare and implement a Storm Water Pollution Prevention Plan. See Mitigation Measure 3.10-1: “Prepare a Storm Water Pollution Prevention Plan and Implement Best Management Practices” on page 3.10-17 in Section 3.10, “Hydrology and Water Quality,” of the 2015 Draft EIR. As indicated in the Draft SEIR, this mitigation measure also applies to Modified Alternative 4.

The project area is not within the Urban Service Area boundary of Yuba County. Therefore, TRLIA is not subject to Phase I or Phase II MS4 permits.

TRLIA will contact Mr. Hensley to determine if coverage under the Industrial Storm Water General Permit would be required for Modified Alternative 4. If required, TRLIA will obtain coverage under this general permit.

TRLIA has completed a preliminary delineation of potential waters of the United States that are anticipated to be impacted by Modified Alternative 4. TRLIA will coordinate with USACE to obtain a permit pursuant to Clean Water Act (CWA) Section 404. See Mitigation Measure 3.5-1: “Minimize and Compensate for Loss of Federally Protected Wetlands” on page 3.5-48 in Section 3.5, “Biological Resources,” of the 2015 Draft EIR. As indicated in the Draft SEIR, this mitigation measure also applies to Modified Alternative 4. TRLIA also will coordinate with the California Department of Fish and Wildlife to obtain a Streambed Alteration Agreement for canal realignment.

TRLIA will obtain a Water Quality Certification under CWA Section 401 from the Central Valley Regional Water Quality Control Board (RWQCB). See Mitigation Measure 3.5-1: “Minimize and Compensate for Loss of Federally Protected Wetlands” on page 3.5-48 in Section 3.5, “Biological Resources,” of the 2015 Draft EIR. As indicated in the Draft SEIR, this mitigation measure also applies to Modified Alternative 4.

Because jurisdictional waters of the United States would be affected by Modified Alternative 4 and a Water Quality Certification would be obtained, a Waste Discharge Requirement permit does not apply.

TRLIA does not anticipate discharging construction or groundwater dewater to land; however, if this activity is deemed necessary, TRLIA will seek coverage under the State Water Resources Control Board’s General Water Quality Order (Low Risk General Order) 2003-0003 or the Central Valley RWQCB Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Risk Waiver) R5-2013-0145.

The proposed project will not be used for commercially irrigated agriculture and, therefore, will not require regulatory coverage under the Irrigated Lands Regulatory Program.
TRLIA does not anticipate discharging construction dewater into waters of the United States; however, if this activity is deemed necessary, TRLIA will seek coverage under Order No. R5-2013-0074 (Dewatering/Low Threat Discharges) and/or Order No. R5-2013-0073 (Treat/Untreated Groundwater) from the Central Valley RWQCB.


TRLIA will contact Mr. Hensley at the telephone number or email address provided with any questions, if needed.
Good morning Paul/Barry,

Hope all is well. Regarding the Goldfields SDEIR, first thank you for your response letter dated August 24 which included summary of previous consultations. As you are aware, UAIC has been consulting on the newly proposed alternative and the Tribe has been working with GEI in the field during geotechnical and cultural resources work.

I did have one question about the SDEIR. Would it be possible to have a standalone TCR section per CEQA Appendix G. See Appendix G attached. TCRs are a separate category and UAIC would prefer for the section to be separate from the Cultural Resources section.

I would be happy to discuss this further. Have a good day.

Marcos Guerrero

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From: Scott, Barry |mailto:bscott@geiconsultants.com|
Sent: Tuesday, November 6, 2018 5:00 AM
To: Marcos Guerrero <mguerrero@auburnbrancheria.com>
Subject: RE: Goldfields SDEIR: TCR Section

Marcos,

As a follow-up to your question, my SDEIR project manager at GEI asked for a couple clarifications:
1) Since your question came in an informal email without your title etc., is this nevertheless intended as a UAIC comment (rather than a question from you personally); and 2) Is your question intended to be meant as a formal comment and included in the final SEIR? Thanks

Barry

Barry Scott, RPA
Senior Archaeologist,

GEI Consultants

GEI Consultants, Inc.
2856 Prospect Park Drive, Suite 400, Rancho Cordova, CA 95670
Tel: 916.912.4932 Fax: 916.213.2787
www.geiconsultants.com | LinkedIn | Twitter | Facebook
From: Marcos Guerrero <mguerrero@auburnrancheria.com>
Sent: Tuesday, November 06, 2018 7:42 AM
To: Scott, Barry <bscott@geiconsultants.com>
Cc: Matthew Moore <mmoore@auburnrancheria.com>
Subject: RE: Goldfields SubIR: TCR Section

Hello Barry,

Yes, it was a question. However, just to be clear, Matt Moore, THPO, and the UAIC recommend that the Goldfields SubIR include a standalone TCR section per CEQA Appendix G. Please consider this a formal comment, and let me know if you need a letter from the Tribe.

We also received and reviewed an August 24 letter which summarized the consultation to date, so you should be familiar with the Tribe's concerns regarding the preferred alignment and mitigation measures.

Our THPO extends his gratitude for continuing to allow for tribal monitors to be on site during ground disturbing work activities like survey, geotechnical, construction, or archeological excavation.

With respect, UAIC appreciates GEI and TRJIA continuing to consult on this important project.

Marcos Guerrero, RPA
United Auburn Indian Community
Cultural Resources Manager
916-300-8752

Nothing in this e-mail is intended to constitute an electronic signature for purposes of the Electronic Signatures in Global and National Commerce Act (E-Sign Act), 15, U.S.C. §§ 7001 to 7006 or the Uniform Electronic Transactions Act of any state or the federal government unless a specific statement to the contrary is included in this e-mail.
UAIC-1

As noted by the United Auburn Indian Community (UAIC), Appendix G of the CEQA Guidelines was amended in 2016 to include a Tribal Cultural Resources (TCR) section. Because the 2015 Draft EIR was published before the changes to the CEQA Guidelines to implement Assembly Bill (AB) 52 were adopted, the 2015 Draft EIR did not include a separate TCR section. The Draft SEIR was organized to maintain consistency with the 2015 Draft EIR and maximize ease of comparison between the two documents; the SEIR supplements but does not replace the 2015 EIR. Therefore, the same resource sections and associated section numbers were used, and TCR updates were incorporated into the Draft SEIR Section 3.6, “Cultural Resources.” Appendix G is a sample form and its organization is not required to be followed by lead agencies, as long as the potential impacts of the proposed project are appropriately evaluated. Although TRLIA now includes a TCR section in its environmental documents, in this case TRLIA feels that organizational consistency with the document being supplemented (i.e., the 2015 Draft EIR) is a priority. However, in response to UAIC’s request, relevant TCR information from the Draft SEIR has been excerpted and adapted for consolidation below.

ENVIRONMENTAL SETTING

Native American Consultation and Coordination

TRLIA has engaged in consultation with culturally affiliated interested Native Americans, in compliance with CEQA requirements for Native American consultation under PRC 21080.3.1 (AB 52). TRLIA also consulted with Native American Tribes that have not requested consultation under AB 52, in a wider effort to identify any resources in the project area that may be important to Native Americans. The public draft of the 2015 EIR was completed prior to AB 52 requirements taking effect on July 1, 2015; AB 52 requirements are being met for this SEIR.

Assembly Bill 52 Consultation

UAIC is the only culturally affiliated interested Native American Tribe that has requested consultation pursuant to AB 52 for TRLIA projects within its ancestral territory, in accordance with PRC Section 21080.3.1 (b). Accordingly, on February 21, 2017, TRLIA sent a letter to UAIC formally inviting UAIC to consult with TRLIA on the project and requesting a response within 30 days. On March 10, 2017, UAIC sent a letter to TRLIA responding that UAIC does want to consult under AB 52 and would like to discuss the type of environmental review to be conducted, potential levee alignments, significant effects, mitigation measures, and other topics. UAIC also requested that UAIC representatives be allowed to observe and participate in all cultural resources investigations conducted for the project.
On March 29, 2017, TRLIA contacted UAIC by email to acknowledge UAIC’s request for consultation, request information on TCRs that may be known in the project area, and ask if UAIC would like to meet to discuss the project. UAIC responded by email on March 29, 2017 to request information sharing and suggest a meeting on or around April 11, 2017. In follow-up correspondence, it was determined that UAIC and TRLIA would meet on April 12, 2017.

TRLIA and GEI cultural resources staff met with UAIC on April 12, 2017. TRLIA described the proposed project and potential levee alignments under consideration at that time, the current CEQA process, proposed technical studies, and continued applicability of mitigation measures identified in the 2015 EIR Addendum, which modified two cultural resources mitigation measures in response to UAIC concerns (TRLIA 2015b). TRLIA also requested confidential information on TCRs. It was agreed that project information and information on areas that UAIC identifies as sensitive would be shared and that a future meeting would be conducted after technical studies are completed.

On October 16, 2017, GEI, on behalf of TRLIA, sent UAIC an email summarizing methods and results of cultural resources studies completed to date, identifying anticipated future studies and reports, and requesting any available information on resources of importance to UAIC. On October 24, 2017, UAIC responded by email and indicated that the project area overlaps a large, multi-component village site. UAIC also indicated that even if materials associated with the site are in a disturbed condition, they still retain cultural value to UAIC and should be respected and protected. UAIC requested to have tribal monitors present during all ground-disturbing activities, including cultural resources studies.

UAIC observed and participated in the archaeological pedestrian survey conducted in May 2017; was sent the draft geoarchaeological sensitivity assessment and work plan on June 16, 2017; and observed the geotechnical/geoarchaeological trenching conducted in October 2017 and February and March 2018.

During consultation, UAIC provided confidential information they assert is based on ethnographies, oral histories, and historic maps. A map identifying the multi-component village site location and other areas they consider sensitive for cultural resources on and near the project site was provided by UAIC. The map is not included in this Draft SEIR because UAIC considers the map confidential. Consultation between TRLIA and UAIC under AB 52 is ongoing.

Other Tribal Consultation

A request for a search of the Sacred Lands File (SLF) and a consultation list was submitted to the Native American Heritage Commission on March 7, 2017. The response received on March 24, 2017 indicated negative results from the SLF search and included a list of Native American contacts for the project area.

On April 13, 2017, letters were sent to Estom Yumeka Maidu Tribe of the Enterprise Rancheria (Enterprise Rancheria), Moortown Rancheria of the Maidu Indians, Strawberry
Valley Rancheria, and Tsi Akim Maidu. Although Enterprise Rancheria did not formally respond to TRLIA’s April 13, 2017 letter, Enterprise Rancheria indicated in subsequent informal email correspondence with GEI that they are interested in consulting, and they requested to observe the archaeological pedestrian survey and geotechnical/geoarchaeological trenching. No responses from other recipients of TRLIA’s April 13, 2017 letters were received.

Enterprise Rancheria observed and participated in the archaeological pedestrian survey conducted in May 2017; was sent the draft geoarchaeological sensitivity assessment and work plan on June 16, 2017; and observed the geotechnical/geoarchaeological trenching conducted in October 2017 and February and March 2018. Consultation between TRLIA and Enterprise Rancheria is ongoing.

Field Surveys and Findings

Archaeological Field Survey

On May 10-12, 2017, three GEI archaeologists conducted a pedestrian archaeological survey of the project site. The survey was conducted to intensive standards (transects spaced no more than 15 meters apart). No archaeological resources were identified during the pedestrian archaeological survey.

Geoarchaeological Field Surveys

Geoarchaeological investigations were conducted by a GEI geoarchaeologist and archaeologist on the northwestern portion of the project site, which the desktop study determined to have moderate sensitivity to contain buried and in situ archaeological resources. The investigations were conducted on October 6, 2017; February 22, 23, and 26, 2018; and March 12, 2018, during excavation of 37 geotechnical investigation trenches. No archaeological resources were identified during the geoarchaeological investigations.

Regulatory Setting

State Plans, Policies, Regulations, and Laws

Assembly Bill 52

AB 52 amends CEQA and adds new sections relating to Native American consultation and TCRs, including (1) sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American Tribe that is either on or eligible for inclusion in the California Register of Historical Resources (CRHR) or a local historic register; or (2) the lead agency (in this case, TRLIA), at its discretion and supported by substantial evidence, chooses to treat the resource as a TCR. Additionally, a cultural landscape may also qualify as a TCR if it meets the criteria to be eligible for inclusion in the CRHR and is geographically defined in terms of the size and scope of the landscape. Other historical resources (as described in PRC 21084.1), a unique archaeological resource (as defined in PRC 21083.2[8]), or non-unique archaeological resources (as described in
PRC 21083.2[h]) may also be TCRs if they conform to the criteria to be eligible for inclusion in the CRHR.

AB 52 provides that a project with an effect that may cause a substantial adverse change in the significance of a TCR may have a significant effect on the environment. AB 52 requires the lead agency (in this case, TRL1A) to begin consultation with a California Native American Tribe that is traditionally and culturally affiliated with the geographic area of the project if the tribe requests, in writing, to be informed by the lead agency through formal notification of projects that are proposed in that geographic area and the tribe subsequently requests consultation. PRC Section 21084.3 states that “public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource.”

ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES

IMPACT ANALYSIS

The impact discussion and significance conclusion (no impact) for Impact 3.6-1 (Ground-Disturbing Activities Could Result in the Loss of Integrity of Cultural Deposits, Loss of Information, and the Alteration of Site Setting of Known Archaeological Sites Eligible for Listing on the CRHR) for Alternative 4 described in the 2015 EIR applies to Modified Alternative 4. As with Alternative 4, Modified Alternative 4 would not disturb or alter known archaeological sites that are eligible for listing on the CRHR or National Register of Historic Places (NRHP).

Discussion of Impact 3.6-2 for Alternative 4 described in the 2015 EIR is supplemented by the Modified Alternative 4 impact discussion below that addresses information recently provided by UAIC. The conclusion associated with these impact discussion (potentially significant) remains the same as for Alternative 4 in the 2015 EIR. Mitigation Measures 3.6-2a and 3.6-2b described in the Addendum to the 2015 EIR (TRL1A 2015b) would be implemented to reduce the potentially significant impact from disturbance of unknown archaeological sites, human remains, and historic resources to a less-than-significant level.

Impact 3.6-2. Potential Disturbance to Unknown Archaeological Sites, Human Remains, and Historic Resources

UAIC has stated that the Modified Alternative 4 project area overlaps a large, multi-component village site, based on ethnographies, oral histories and historic maps. No physical remains of a Native American village, or other Native American archaeological remains, were identified by archaeologists or Native American monitors during the pedestrian archaeological survey or geotechnical trenching on the Modified Alternative 4 project site. Because no physical remains were discovered, it was not possible to evaluate this potential resource for eligibility for the CRHR or NRHP. However, buried archaeological materials associated with this village, intact or not, may be present and could be unearthed and disturbed during ground-disturbing activities associated with project construction. This potential impact would be potentially significant.
TRLIA appreciates UAIC’s review of TRLIA’s August 24, 2018 letter summarizing the consultation between TRLIA and UAIC to date regarding this project. TRLIA is aware of UAIC concerns regarding the levee alignment and mitigation measures and is fully committed to implementing the mitigation measures developed in consultation with UAIC and formalized in the Addendum to the 2015 EIR.

TRLIA will continue to coordinate with UAIC and allow Tribal monitors to be on-site during project-related ground disturbance (pending landowner authorization, when necessary).

TRLIA and its cultural resources consultant (GEI Consultants, Inc.) look forward to continued consultation with UAIC on the proposed project.
Good Afternoon,

My name is Angela Mills, I am the daughter of Ted and Nancy Nunes and live next to them on Brophy Road. We are 2 of the 7 residences that will be displaced and demolished by the proposed levee project.

I would like to start by giving you a history of my family. My grandfather and great grandfather owned a dairy and farmed the land on Brophy Road starting in 1940. My grandfather served in World War II, came home with honors and had a son—my father, Ted, who farmed the land with him until 1995. My father has resided on Brophy Road for his entire life, 75 years. He and my mother, like all farmers, worked hard, raising my sister and I, and saving for their forever home, that they built in 1989—which they had planned to reside in the rest of their lives. My husband and I moved next door to them in 2003 after the birth of my first child to be close to my parents and to start my own business.

Like several of our neighbors, we live as a family unit and have enjoyed being a part of this agricultural community for many years. We have all been good, hard working citizens and taxpayers that include teachers, county workers, nurses, goldfield employees, business owners, dairyman and farmers.

That being said, as long time residents, we all feel strongly about the taking of our homes and prime agricultural land. This proposal disrupts the financial stability of us all. The homeowners are mostly retired, and of an elderly age. Some have lost their spouses recently, some have spouses in nursing homes, and others are dealing with medical issues. At this point in their lives they should not have the stress or burden of an unknown future that this proposal has caused.

We feel that this more sensible and less detrimental course should be considered by the board.

We have heard time and again that this levee and our sacrifice is necessary for the survival of Yuba County. But who is sacrificing for us? Are we not part of Yuba County?
<table>
<thead>
<tr>
<th>Mills Letter Response</th>
<th>Angela Mills, Resident</th>
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<td>Letter not dated (received October 26, 2018)</td>
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MILLS-1  
Comment noted. No further response is required.

MILLS-2  
Comment noted. No further response is required.

MILLS-3  
Comment noted. No further response is required.

MILLS-4  
See Master Response 1. Two members of the TRLIA Board of Directors were present at a meeting to specifically discuss the levee alignment proposed by the landowners that would be affected by implementing Modified Alternative 4. These discussions will be taken into consideration when the Board of Directors decides what action to take regarding the proposed project.
Paul Brunner, P.E., Executive Director
Three Rivers Levee Improvement Authority
1114 Yuba Street, Suite 218
Marysville, CA 95901

Dear Mr. Brunner:
This letter is intended to provide my thoughts and position regarding the levee project extending the 784 levee as far as Hammonton Rd. and possibly further east to higher ground.
I have no opposition whatsoever in the need of some sort of levee to protect Linda and areas further south.

In 1950 I experienced what the flooding in the Goldfields could do and the damage caused to Linda and further south. The high water exited the mining area primarily where the proposed new levee is to be built. That part of the project is right on target. The problem, as I see it, is the location that is being settled on.

Yes, I am aware the Teichert Corp. convinced TRILIA that it would not be economically feasible to disrupt their mining operation; therefore, the corporation agreed to allow the levee on the southern perimeter of their property along Hammonton-Smitv Rd. This ill-conceived location was the only option left to TRILIA since the Army Corp of engineers forbid the construction of levees in the mining area owned by Western Aggregate Corp.

It would be interesting to read the document received by TRILIA from the Corp of Engineers to determine if the Corp issued a blanket statement prohibiting all levee building in the mining area, or if they would be somewhat flexible in areas where there was NO mining activity on Western Aggregate's property. Should the latter be the case, then this location's consideration would need Western Aggregate's blessing and approval. At this date I have no knowledge of Western's intentions. However, I strongly believe that the Wilbur Rancher's manager's recommendation to Yuba County Board of Supervisors should be listened to and at least be given some consideration as the most viable, practical and economical route for the new levee.

This route follows the southern most property line of Western Aggregate's property going east to Teichert's north-south property line and paralleling the Brophy Water District's canal. There is the remnant of a road-way atop this berm which was built after the 1950 Flood. I can assure anyone who would listen that this road-way was built on virgin ground and NOT on ground that was ever mined. The proposed levee site by Wilbur Rancher's manager, if it be considered, would eliminate the loss of valuable farm land, families losing their homes, and the disruption of the lives of those being affected by this project as it is currently planned.

The last objection I find of the current plan is the designation and use of "borrow sites." This would be a totally unnecessary practice when the Teichert Corporation has an enormous pile of topsoil which I understand is readily available and is less than a mile from the proposed project.

To conclude, I would like to note that I will gladly sell only that portion of my property which is necessary for the construction of the levee, and I will accept whatever amount that has been offered for similar property. The remainder of my property I would choose to retain on the grounds that is far enough away from the proposed project that it in no way it would be a hindrance to the project.

Sincerely,

James E. Sanders
SANDERS-1  Comment noted. No further response is required.

SANDERS-2  TRLIA determined that constructing the levee along the Alternative 4 alignment described in the 2015 Draft EIR would be substantially more costly than anticipated, based on independent evaluations made by TRLIA's real estate and acquisition consultants after Alternative 4 was approved. TRLIA conducted independent investigations and evaluations to identify the Modified Alternative 4 alignment. TRLIA discussed various alignments with Teichert to understand the impact on mining operations. Teichert's involvement in the evaluation process was limited to allowing access for geotechnical investigations and biological and cultural resource surveys, as well as providing comments to TRLIA on its property ownership, mining operations, and mineral rights relative to its property.

SANDERS-3  USACE did not comment on the alternatives developed. Modified Alternative 4 was identified as the preferred alternative after considering information on the technical feasibility, costs, and environmental effects of the range of alternatives available to address the flood risk associated with the Goldfields.

SANDERS-4  See Master Response 1. Two members of the TRLIA Board of Directors were present at a meeting to specifically discuss the levee alignment proposed by the Wilbur Ranch manager. These discussions will be taken into consideration when the Board of Directors decides what action to take regarding the proposed project.

SANDERS-5  See Master Response 2. TRLIA has been informed by Teichert that the referenced soil stockpile is allocated to other uses and is not available for TRLIA's proposed project. However, Teichert has agreed to identify other potential material sources and provide TRLIA with a cost estimate for purchase of such material. TRLIA has not finalized the borrow plans, and, as indicated in the Draft SEIR, material could come from on-site or off-site sources. Likewise, an evaluation of the real estate acquisition needs for construction in, and maintenance of, the proposed levee corridor is ongoing. If TRLIA decides to proceed with the Modified Alternative 4 alignment, TRLIA will negotiate with Mr. Sanders regarding land acquisitions at the appropriate time.
October 25, 2018

Paul Bruner
Three Rivers Levee Improvement Authority
1114 Yuba Street, Suite 218
Marysville, CA 95901

Our letter is written in reference to the Yuba Goldfields 200-Year Protection Project and the 'Draft' Supplemental Environmental Impact Report we received 9/15/2018. Our ranch will be directly affected (again) by the construction of the proposed project.

As stated in your May 10, 2018 letter to The Governor's Office of Planning and Research, regarding the Notice Of Preparation Of A Supplemental EIR, on page 7, "After the levee is constructed, land uses in the expanded floodway, including agricultural production and permitted aggregate mining and gold dredging, are anticipated to continue." This is not an accurate statement – over 260 acres of valuable farmland is reduced with the newly proposed modification. Also, listed on page 4: "Project Purpose, Objectives and Need," you have 7 Project Objectives. You mention "minimize impacts on aggregate mining operations and minimize impacts on gold dredging operations

..........where is the objective to "minimize impacts on agriculture operations?"

We already lost 10 acres of prime farmland in the last levee project of 2010. In June we wrote a letter commenting about the Notice of Preparation for the Supplemental EIR that we received in May 2018. In our letter, which is page A-32 of the Draft Supplemental EIR, we reference how Agriculture is Yuba County's single most important economic activity as stated in the 2030 General Plan. Since that letter we wrote, we received in September, a 'revised' Modified Alternative 4 design, and this latest revision invades ours and Wilbur Ranches farmland even deeper. Apparently, now Mr. Bruner and the Engineers feel that we don't need to build a 'levee' across our valuable farmland with a 70 foot
deep cut off wall to avoid under flow,’ now it has been decided to build a
seepage berm that now invades our prime farmland an additional 300-500 feet
in width. . . . . . taking more PRIME farmland from the farmers.

Mr. Bruner told us at 2 different meetings we have had with him, that our clay
soil is perfect for building the levee. After we reviewed our Soil Exploration
Data report, we don’t see where our ‘minimal’ clay soil as indicated on the
chart (attached), will help build a levee over 17 feet in height. Especially since
our neighbor, Teichert Construction, to the east one quarter mile, is selling the
exact needed certified clay material to other counties like Colusa and
Sacramento to build their levees.

If this plan is adopted, we, Smith Ranches, stand to lose 10% of our PRIME
Farmland. That is 10% of our livelihood, and our future family generations.
We are self-reliant on our soil to be sustainable in farming. And again, we
already lost 10 acres in the previous levee construction.

With the current situations now in the Goldfields involving the North Training
Wall and Middle Training Wall, we feel these situations and their outcomes
have bearing on the South Training Wall. TRLIA has determined that the
area involving the South Training Wall is at risk where flood flows could enter
the Goldfields along the south bank of the Yuba River. Therefore, the proposed
levee is needed across our prime farmland!

- With the North Training Wall being compromised and risk for possible
  failure that will likely result in flooding of Hallwood. A solution has not
  been provided yet (Yuba Water Agency 8/13/18 letter to Robert
  Bendorf/County Administrator - attached)
- The Hallwood Side Channel Project involving the Middle Training Wall,
  where over three million cubic yards of material are projected to be
  removed, resulting in a lower elevation of the Yuba River, which could
  result in reducing potential flood risks (Environmental
  Assessment/Initial Study prepared by U.S. Fish and Wildlife Service,
  October 2017)
- Is there a flood protection solution for the South Training Wall?

As Mr. Bruner told all of us, ‘we have impact, but we are trying to have the
least amount of impact.’ If this is true, then we think further discussions are
needed regarding the loss of prime farmland and seven residences being
demolished. We feel your engineers are not going far enough to explore all
options to answer to the citizens of Yuba County for this 41 million dollar
project cost. Especially since we have seen the vast changes in the 2 most
recent designs of the “New” Modified Alternative 4 between the 2017 and 2018
designs, where the Eastern portion of the levee was eliminated by 1 MILE in
length.
We understand Yuba County needs a 200-year certification and provide the highest level of flood protection for our citizens, however, we need to be careful in considering the valuable land use and economic importance for all of us. I (Michele) was a Commissioner on the Yuba County Planning Commission when our 2030 General Plan was adopted in 2011. And as we all know, it is stated in the General Plan as our policy, goals and actions for land use – AGRICULTURE is promoted, supported and encouraged.

We do have until 2025 to have this project completed and this is 2018. Let’s slow this project down, and have further discussions and come up with the ‘best’ solution that serves everyone.

[Signature]

[Signature]
August 13, 2018

Robert Bendorf
County Administrator
Yuba County Government Center
915 8th Street, CA 95901

Dear Robert,

Steve Springer from Hallwood alerted me to a flood risk concern in the Hallwood area associated with the right bank training wall, cobble berm and aggregate mining activities in the area. The area is downstream from the Daguerre Point Dam on the north side of the Yuba River. The cobble berm and training wall act like a levee and it protects the Hallwood community from high water events on the river. I asked MBK Engineers to investigate the concern and they did so by reviewing historical photos. The photo investigation did not identify an increased flood risk. When this was shared with Steve Springer he requested that we walk the area to get a better perspective of the concern.

On May 15th, Steve Springer, Mike Filice, Rick Reinhardt and I walked the area. After seeing the concern I asked MBK Engineers to investigate the situation and the attached memo was prepared. As you will see, the memo concludes that there is increased flood risk apparently from river erosion and mining activities. Since this matter deals with land use and public safety issues, I am providing this memo to you for County consideration and follow-up. While the Agency works on flood protection in terms of planning and funding it does not maintain, improve, or manage levees or training walls in the County.

Please let me know if you would like our further assistance.

Sincerely,

Curt Atkens
General Manager
Yuba County Water Agency

Attachment
cc: Ric Reinhardt, MBK Engineers
SMITH-1. Comment noted. No further response is required.

SMITH-2. See Master Response 2. The proposed project’s design is being developed in a manner that minimizes impacts on agricultural production to the greatest extent feasible by using cutoff walls for seepage remediation, where possible, and preserving the capability of areas from which borrow is extracted to produce crops after the construction is complete. Therefore, not the entire 250 acres of important farmland identified in the Draft SEIR that could be affected by the proposed project are anticipated to be permanently removed from agricultural production. To be conservative, the SEIR identifies the worst-case scenario. In addition, the agricultural land that would not be directly impacted by the proposed project but would be within the expended floodway is expected to continue in agricultural production, as other agricultural lands do under similar conditions throughout the region.

SMITH-3. See Master Response 2. The project objectives listed in the Draft SEIR are the same as those identified in the 2015 EIR. Although minimizing impacts on agricultural production and operations was not specifically identified when the project objectives were developed, TRILIA has and will continue to minimize such impacts as the project design is developed. For example, TRILIA will construct cutoff walls rather than seepage berms, wherever feasible, if the technical analysis confirms that cutoff walls would provide adequate seepage remediation and are cost effective. TRILIA also is evaluating the options for on-site borrow extraction and opportunities to obtain borrow from off-site locations.

SMITH-4. TRILIA received the NOP comment letter submitted by Smith Ranches. TRILIA acknowledges that Smith Ranches was affected by the UYLIP and that the Yuba County 2030 General Plan identifies agricultural production as the single most important economic activity in the County.

SMITH-5. Modified Alternative 4 was not revised during the time between when TRILIA released the NOP in May and the Draft SEIR in September. Page 6 of the NOP indicated that seepage remediation would be addressed by constructing either a cutoff wall in the levee foundation or a seepage berm at the levee toe. This is consistent with Chapter 2, “Project Description,” of the Draft SEIR. However, the Draft SEIR provides greater detail and depicts specific reaches where seepage berms are known to or could be required. Because the NOP provided a summary project description, this level of detail was not provided, and it was not clear that the Smith Ranches property is in the area where seepage berms are known to or could be required. Please see Master Response 2 for TRILIA’s response to comments regarding the project impacts to agricultural lands.

SMITH-6. Soil for constructing the levee embankment is anticipated to be excavated from the upper 5 to 10 feet of the potential borrow sites. The exploration profile provided shows soil that meets the State requirements for levee embankment material in the upper approximately 6
feet. Nearby explorations on the Smith Ranches property show similar suitable embankment soil at shallow depths. Therefore, soil conditions on the property are excellent for constructing the proposed levee embankment.

TRLIA has been informed by Teichert that the referenced soil stockpile is allocated to other uses and is not available for TRLIA’s use for the proposed project. However, Teichert has agreed to identify other potential material sources and provide TRLIA with a cost estimate to purchase such material. TRLIA has not finalized borrow plans and, as indicated in the Draft SEIR, material could come from on-site or off-site sources. Please see Master Response 2 for further discussion.

SMITH-7

TRLIA acknowledges that Smith Ranches lost Prime Farmland as a result of the UYLIP activities and would lose additional prime farmland if Modified Alternative 4 is implemented. TRLIA will negotiate with Smith Ranches regarding land acquisition required to implement Modified Alternative 4 and fair compensation for this loss.

SMITH-8

Yuba County is developing alternatives to address the deficiencies with the North Training Wall. TRLIA’s proposed project is based on the assumption that the North Training Wall remains in place. If the North Training Wall fails, it will lower flood stages in the Goldfields. TRLIA has evaluated the effects of the proposal to remove the Middle Training Wall and supports removal of this wall, because it would further reduce flood stages. However, Modified Alternative 4 is still needed, even if the Middle Training Wall is removed. Converting the South Training Wall into a flood control feature was screened out in the early consideration of alternatives for the Yuba Goldfields 200-year Flood Protection Project because it would be prohibitively expensive, compared to the cost of other alternatives. It would require riprap along most of the training wall to address erosion; require closure of openings needed for drainage, such as Waterway 13; and require fill to restore the integrity of the wall. Such a project also would not meet the State’s requirement to construct the levee of soil fill that meets levee specification requirements.

SMITH-9

See Master Response 1. TRLIA has conducted a thorough evaluation of a wide range of potential alternatives for providing the necessary flood risk reduction. The substantial shortening of the proposed levee alignment was a result of recently completed and updated hydraulic analyses conducted to determine the water surface elevation in the project area, if there are breaches in the tailings mound embankments at critical erosion sites along the south bank of the Yuba River during a 200-year event. Results of these analyses indicated the location at which ground surface elevation is high enough to contain the anticipated flood water elevation. This location is approximately 1 mile farther west than was anticipated before updated hydraulic analyses were completed.

SMITH-10

TRLIA acknowledges the economic importance of the land that would be affected and is minimizing the loss of such land to the greatest extent feasible, while also achieving most of the basic project objectives and the overall purpose of the proposed project to provide sustainable 200-year flood risk reduction to the RD 784 service area.
State funding agreements require the proposed project to be completed, including all approvals and other administrative processes that follow project construction, by June 30, 2023. Therefore, time is of the essence, and it is critical for TRLIA to move forward with proposed project approval, final design, and permitting. TRLIA staff and two members of the TRLIA Board of Directors have engaged in recent discussions with the affected landowners regarding the alternative levee alignment proposed by those landowners. TRLIA feels that a reasonable range of feasible alternatives has been fully evaluated, as indicated in Master Response 1, and Modified Alternative 4 represents the best feasible balance to achieve most of the basic project objectives while minimizing impacts on local landowners and the environment.
October 26, 2018

Via Electronic Mail

Paul Brunner, Executive Director
Three Rivers Levee Improvement Authority
1114 Yuba Street, Suite 218
Marysville, CA 95901

Re: Supplemental EIR for Yuba Goldfields 200-Year Flood Protection Project
Our File No. 5216-001

Dear Mr. Brunner:

We write on behalf of Richard Wilbur and the owners of the Wilbur Ranch ("the Wilburs") regarding the Draft Supplemental Environmental Impact Report ("Draft Supplemental EIR") prepared for the above-referenced project (State Clearinghouse No. 2014062045).

As expected, the Draft Supplemental EIR's evaluation of TRLIA's preferred alignment known as "Modified Alternative 4" is little more than a pro forma exercise that skirts important environmental issues and advocates for TRLIA's preferred path -- the most destructive one, which will bulldoze through the middle of the Wilbur Ranch, through 60 acres of the Smith Ranch, and over the homes of at least seven of the community's senior residents.

TRLIA's alignment will demolish seven private homes and displace the seniors who live there, and the only two-sentence acknowledgment of this devastating fact in the entire Draft Supplemental EIR is that "the project region has sufficient housing stock available to meet this housing need." (Supplemental Draft EIR, p. 1-5.) TRLIA claims to have evaluated project impacts associated with land use, population and housing in section 3.11-1 of the Draft Supplemental EIR (see Draft Supplemental EIR, p. 2-17) -- yet the documents circulated for public review, the copy of the Draft Supplemental EIR the Wilburs received, and the documents posted on TRLIA's website omit this section. (http://www.trlia.org
[Notice of Availability of Draft Supplemental Environmental Impact Report for the
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Three Rivers Improvement Authority Yuba Goldfields 200-year Flood Protection Project). 1 TRLIA failed to comply with CEQA because it did not circulate the Draft Supplemental EIR for public review for the required 45 days. (Pub. Resources Code, § 21091(a); CEQA Guidelines, § 15105(a).) This is a failure to proceed in the manner required by law and is per se prejudicial. 2

The omission of this information is fatal but not surprising, because according to TRLIA, environmental considerations and the homes of private citizens mean little in comparison to the mining interests and exaggerated, erroneous assertions of cost savings that are advanced by way of Modified Alternative 4. (See, e.g., Draft Supplemental EIR, pp. ES-2 – ES-3.) The record is clear – to TRLIA, CEQA is paperwork and a box to check before calling in the bulldozers. TRLIA must do more than generate paper, however. TRLIA must provide an adequate, complete, and good-faith effort at full disclosure of the impacts of its actions, and meaningfully consider less destructive alternatives.

A. TRLIA’s pre-commitment to the Project violates CEQA.

Since it entered the closed-session settlement agreement with Telchert, TRLIA has deliberately avoided and unreasonably delayed compliance with its CEQA duties. Instead, TRLIA irrevocably committed to the Modified Alternative 4 alignment before any environmental review occurred. Its public statements, financial commitments, and other actions have made it clear that TRLIA is committed to the Modified Alternative 4 alignment no matter what. CEQA compliance must be real and meaningful, not mere lip service, yet the Draft Supplemental EIR shows that TRLIA’s CEQA review is an empty exercise in furtherance of a decision already made. This violates CEQA.

1 / A true and correct copy of the Notice of Availability of the Draft Supplemental EIR and the Draft Supplemental EIR as posted on TRLIA’s website are attached hereto as Exhibit A.

2 / TRLIA gave mining interests a privileged position in design and evaluation of the project and ignored the input of public agencies regarding impacts, mitigation measures, and alternatives, including recommendations from Caltrans concerning safety and flood control issues, and gave only after-the-fact notice of the project to the Department of Conservation, in violation of CEQA. (See, e.g., Draft Supplemental EIR, pp. A-17 – A-26.)
B. TRLIA's preferential treatment of mining interests is unconstitutional.

TRLIA struck a deal with Teichert in February 2017 stating that TRLIA's new and foremost project objective would be to avoid any effect on Teichert's property, and which also stated that TRLIA would comply with state law by conducting CEQA review of the modified project in a supplemental EIR. Before news of TRLIA's pact with Teichert even hit the newsstand, TRLIA had redesigned its levee through the middle of Wilbur Ranch. (Declaration of Andrea A. Matarazzo, ¶¶ 2, 3, 4, and 5 and exhibits thereto, attached hereto as Exhibit B.) TRLIA's agreement with Teichert is unconstitutional and void ab initio because it takes the Wilburs' property for the benefit of a private entity and violates the Wilburs' rights to due process.

Due process is best defined in one word -- fairness. Both the federal and state constitutions provide minimum standards for fair treatment of citizens by federal, state, and local governments. Due process rights, established by the Fifth and Fourteenth Amendments, guarantee that the government cannot take a person's basic rights to life, liberty or property without due process of law. TRLIA violated the Wilburs' due process rights by taking their ranch without notice, behind closed doors.

C. The Draft Supplemental EIR's description of the project is inaccurate and misleading.

The Draft Supplemental EIR states that Modified Alternative 4 "is the result of additional technical evaluations and changes to Alternative 4 to better optimize flood risk reduction, minimize environmental impacts, and maximize public benefits." (Draft Supplemental EIR, p. 2-1.) This statement is false. Modified Alternative 4 is the alignment TRLIA hoped would be the path of least resistance in order to prioritize mining interests in light of TRLIA's settlement agreement with Teichert. (Draft Supplemental EIR, pp. 2-2 - 2-3.) The project's objectives remain biased and unduly narrow, in violation of CEQA.

D. The Draft Supplemental EIR fails to identify measures to mitigate significant impacts to tribal cultural resources.

UAIC has identified substantial evidence showing that Modified Alternative 4 overlaps a large, multi-component village site. (Draft Supplemental EIR, p. 3-8-
E. The Draft Supplemental EIR fails to adequately identify and analyze alternatives to mitigate impacts, including but not limited to the significant loss of agricultural resources, by selecting a less impactful, feasible alternative.

The Wilburs have been the owners and stewards of farmland in the Yuba/Sutter area since the family’s deed for the first 100+ acres they purchased from the United States government was issued to Mr. Richard Wilbur’s great great uncle by President Ulysses S. Grant in 1869. (Declaration of Richard G. Wilbur, attached hereto as Exhibit C.) A substantial portion of the property TRLJA intends to build on is part of the Wilbur Ranch consisting of approximately 200 contiguous acres of prime prune orchard. Orchards are dynamic environments and successful commercial fruit production is an art as well as a science. The Wilburs have mastered orchard stewardship through 150 years of hard work, experience, and consistent investment.

The Wilburs planted new trees and installed a new irrigation system in all 200 acres of this orchard in 2012. The fifth and sixth years of an orchard’s life will give partial production, and this orchard was first harvested in 2016, its fifth year. The orchard also was harvested in 2017, its sixth year. Now in the seventh year, the orchard’s mature trees are considered prime. For the Wilburs, this means that their orchard’s production is in its peak period, which typically lasts until the trees are 25-30 years old. As an independent grower, packer, and processor of prunes, the Wilbur family’s vertically integrated farming operations and the local residents they employ depend on the successful functioning of Wilbur Packing Company. The Wilburs have invested millions of dollars in each vital component of the path from farm to table in order to lend a farmer’s perspective to quality food production, and its family-operated packing company depends on the peak production capability of this orchard. Based on preliminary appraisals, the Wilburs estimate their compensable damages from TRLJA’s implementation of Modified Alternative 4 (taking 50% of 201.7 acres) to be at least $12 million, and possibly substantially more depending on the extent of borrow and other activities.
As noted above, however, these facts matter not at all to TRLIA and its commitment to work in consultation with mining interests to design a levee that ensures this “new flood protection feature” will burden the Wilburs and destroy their farm instead. (Exhibit B, ¶ 3 [Exh. B].) Nor does TRLIA concern itself with the destruction of 60 acres of the Smiths’ ranch, or demolition of seven single-family homes and the displacement of their elderly residents. (See, e.g., Exhibit D [photographs of three of the seven homesteads TRLIA plans to demolish].) TRLIA’s calculations are wholly uninterested in these factors. The preparation and proper circulation of an EIR is more than just another set of technical hurdles for TRLIA to overcome, however, and “callin’ it your job don’t make it right.” (Donn Pearce and Frank R. Pierce, “Cool Hand Luke,” 1967.)

The Wilburs fully support the effort to improve flood protection. All they have asked is that the effort not destroy their farmland, the Smiths’ farmland, and the homes of their neighbors, when reasonable and feasible alternatives are available. As an example, a feasible alternative route to the north of prime farmland was recommended by Caltrans as early as April 2015. (Draft Supplemental EIR, pp. A-22 -A-23; see also landowner proposal presented at TRLIA Board Meeting, October 23, 2016 (Exhibit E).)

A route to the north has engineering merit equivalent to or better than Modified Alternative 4; it would lessen or avoid the project’s allegedly “unavoidable” environmental impacts; and it would avail itself of nearby readily accessible and plentiful borrow material without permanently destroying hundreds of acres of agricultural and other environmental resources, including the seven single-family dwellings — most occupied by elderly residents who simply want to live out their lives in their lifelong homes — that TRLIA plans to demolish. A route to the north also is substantially less expensive than Modified Alternative 4. It avoids the area of mining interest, eliminates almost a mile (approximately 4,000 linear feet) of levee, reducing both construction and maintenance costs, and provides an easy borrow solution by using Teichert’s existing supply, which is virtually onsite. A less costly “win-win” alternative has been presented that is feasible and more than reasonable. (Exhibit E.)

TRLIA purports to have studied the impacts of Modified Alternative 4 in a Supplemental EIR and considered alternatives, but an inaccurate and misleading project description, misleading and impermissibly narrow project objectives, flawed assumptions, wholly absent or inadequate evidence to support feasibility
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determinations, legally impermissible predetermination with respect to alternatives, failure to consider a reasonable alternatives, and TRLIA’s aggressive pursuit of only one option render TRLIA’s belated Supplemental EIR process an unlawful post hoc rationalization for a decision already made. TRLIA thus thwarted the fundamental purposes of CEQA.

As they always have, the Wilburs fully support the effort to improve flood protection. All they have asked is that the effort not destroy their farmland, the Smiths’ farmland, and the homes of their neighbors, when reasonable and feasible alternatives are available.

Very truly yours,

PIONEER LAW GROUP, LLP

ANDREA A. MATARAZZO

AAM:jis
Enclosures

cc: Rick Wilbur
PLG-1

Comment noted. No further response is required.

PLG-2

The Draft SEIR supplements the previously certified 2015 EIR and addresses project modifications, changed circumstances, and new information that was not known and could not have been known with the exercise of reasonable diligence at the time the prior document was certified, as required under CEQA Guidelines (California Code of Regulations [CCR] Section 15163). All environmental resources relevant to this CEQA analysis are fully evaluated, including a discussion of potential impacts on agricultural resources. In the worst-case scenario evaluated in the Draft SEIR, Modified Alternative 4 would affect less than 25 acres of orchard on the Smith Ranches property (not 60 acres, as indicated in the comment). Master Response 2 provides additional response to comments regarding agricultural resource impacts. Response PLG-3, below, specifically addresses demolition of residences on the project site.

PLG-3

As indicated in the Draft SEIR, up to seven residences and associated outbuildings that are within the levee and maintenance corridor footprint or located waterside of the new levee would be acquired and demolished. In compliance with CEQA Guidelines, the Draft SEIR focuses on whether Modified Alternative 4 would have any significant environmental effects not known or disclosed in the 2015 EIR or would increase the severity of previously identified significant effects disclosed in the 2015 EIR. Therefore, the Draft SEIR does not address resources and associated impacts if the 2015 EIR concluded they would not be significantly impacted by the original Alternative 4 and there is no potential for them to be significantly impacted by Modified Alternative 4. Residence removal was not addressed in the 2015 Draft EIR, because such removal was not anticipated to be required at that time. The Draft SEIR discloses this new impact, but does not provide a detailed analysis, because loss of seven residences would not physically divide an established community or displace substantial numbers of existing housing or people and, therefore, would not meet the identified threshold for a significant impact on land use, population, and housing. The proposed project itself also reduces flood risk to approximately 39,000 people and potential damage to approximately 12,000 structures within the floodplain that will be protected by the new levee.

The Draft SEIR does not claim to include an analysis of impacts on land use, population, and housing in Section 3.11. In fact, the document clearly states in Section 1.3, “Scope and Focus of this Draft SEIR,” that such analysis is not included, because there would be no new significant environmental effects not known or disclosed in the 2015 EIR. This is reiterated in Section 3.1.2, “Organization of Environmental Analysis,” which states that Section 3.11 is excluded. The NOP for the Draft SEIR also states that impact conclusions with respect to land use, population, and housing would not be changed from the 2015 EIR.
TRILIA complied with CEQA by circulating the complete Draft SEIR for the required 45-day review period, which began September 14, 2018 and ended October 29, 2018.

The need to displace residents from seven homes in the project area and the impact on those residents is of great importance to TRILIA. This is why TRILIA staff notified the affected residents at an early stage and have met with them on multiple occasions and will continue to do so as the proposed project progresses. TRILIA’s estimates of land acquisition costs are based on the analyses conducted by qualified real estate consultants with extensive local experience, and savings realized by minimizing acquisition of mining lands are essential for economically feasible construction of the needed flood risk reductions. The estimated cost savings associated with Modified Alternative 4 represent a reasonable estimate at this time and without the benefit of information that might be gleaned from later eminent domain proceedings (if any).

TRILIA prepared the Draft SEIR in a good-faith effort to disclose the proposed project modifications and fulfill CEQA requirements by providing a complete analysis of changes in impacts on environmental resources that would result from the proposed project modifications. As described in Master Response 1, TRILIA considered a wide range of alternatives and analyzed a reasonable range of feasible alternatives at an equal level of detail in the 2015 Draft SEIR. In addition, TRILIA evaluated several options related to Modified Alternative 4, at the request of Richard Wilbur, and has reconsidered the alternative recently proposed by affected landowners.

TRILIA timed preparation of the Draft SEIR to occur after critical updated hydraulic and geotechnical analyses had been conducted and the information necessary to adequately describe and evaluate impacts of the proposed project modifications was available. As is standard practice in designing projects and conducting CEQA compliance, the Draft SEIR was published before project design and engineering analyses were finalized, necessitating some uncertainties in the description of project modifications, such as whether seepage remediation in some areas would be provided by constructing cutoff walls or seepage berms. CEQA does not require a specific timeline for supplemental environmental review (See generally, City of Irvine v. County of Orange [2015] 238 Cld.App.4th 526 [finding a SEIR prepared 16 years after approval of the original EIR appropriate]). TRILIA has not irrevocably committed to Modified Alternative 4, because the proposed project modifications (i.e., Modified Alternative 4) have not been approved by the TRLIA Board of Directors. CEQA applies when a public agency “approves” a project. (PRC Section 21080[a]; CEQA Guidelines Section 15004.) “Approval,” in turn, refers to the decision that “commits the agency to a definite course of action in regard to a project.” (CEQA Guidelines Section 15352[a].) For public agency projects, approval may occur when the agency has committed itself to a particular project by effectively precluding the agency from considering or adopting mitigation measures or alternatives to the project, including the alternative of not going forward with the project. (Save Tara v. City of West Hollywood [2008] 45 Cal.4th 116, 139.)
Here, the commenter suggests that TRLIA has "irrevocably committed" to the Modified Alternative 4 alignment. This is incorrect. TRLIA is undertaking environmental review and is not precluded from considering mitigation measures or alternatives—including the alternative of not proceeding with the Modified Alternative 4 alignment. Further, there is always planning and project design that must occur before CEQA review can commence or be concluded. That is entirely proper, as long as the lead agency does not "take any action" that significantly further a project 'in a manner that forecloses alternatives or mitigation measures that would ordinarily be part of CEQA review of that public project.' " (Cedar Fair, L.P. v. City of Santa Clara [2011] 194 Cal.App.4th 1150, 1165.)

As indicated in Master Response 1, while TRLIA was not required to develop and evaluate more alternatives in its consideration of the Modified Alternative 4 alignment for the Draft SEIR, TRLIA considered three alignments and one subalignment for the portion of the levee that extends from the UYLIP levee to Hammonton-Smartville Road, in an attempt to minimize impacts to an affected landowner and agricultural resources and production, while still feasibly attaining most of the project objectives. The costs, geotechnical and engineering feasibility, and preliminary environmental impacts of each alignment and subalignment were evaluated before the Modified Alternative 4 alignment evaluated in the Draft SEIR was identified as the preferred alignment. Moreover, the settlement agreement contemplated additional CEQA review prior to approval of any modified alignment. Thus, as indicated here and in Master Response 1, TRLIA complied with CEQA's requirements for alternatives analysis.

PLG-7
Comment noted. No further response is required.

PLG-8
Mining interests were not given a privileged position in design and evaluation of Modified Alternative 4, as they were notified of the proposed project modifications in the same manner and at the same time as other parties, including affected landowners. TRLIA has not ignored input from public agencies, such as Caltrans. As indicated in responses to the Caltrans comment letter above, TRLIA has conducted hydraulic analyses and is coordinating closely with USACE and CVFPB, the regulatory agencies with jurisdiction over hydraulic evaluations. Although the NOP was sent to the California Department of Conservation (DOC) after the NOP scoping period closed, comments provided by DOC (see Appendix A of the Draft SEIR) were addressed in augmentation of Mitigation Measure 3.9-2.

PLG-9
The settlement agreement did not, as the commenter alleges, state that TRLIA's new and foremost project objective would be to avoid effects on Teichert's property. Rather, the settlement agreement at Recital A reiterates the project objectives, and explicitly declines to commit to approving or carrying out any new alignment absent additional CEQA review. Because the settlement agreement was not an approval of any new project, execution of that agreement could not have resulted in a taking of Mr. Wilbur's property. Indeed, Mr. Wilbur's property has not changed hands and no due process rights have been violated by virtue of TRLIA's continuing CEQA review process. TRLIA has not even approved the
proposed project (Modified Alternative 4), let alone carry out condemnation proceedings for properties that would need to be acquired for the modified alignment.

The comment claims that the EIR's project objectives are unduly narrow and biased, and therefore do not meet CEQA requirements. The comment neglects to note that an EIR's statement of objectives includes those objectives "sought by the proposed project" and "should include the underlying purpose of the project." (CEQA Guidelines, Section 15124[b]; Center for Biological Diversity v. County of San Bernardino [2016] 247 Cal.App.4th 326, 346-348 [upholding agency's statement of objectives, and rejecting argument that groundwater project's "conservation" objective was "misleading or inaccurate"]). Lead agencies have broad discretion to "identify and pursue a particular project designed to meet a particular set of objectives." (California Oak Foundation v. Regents of University of California [2010] 188 Cal.App.4th 227, 276-277.)

Here, the objectives and overall purpose of the project have remained unchanged since the 2015 EIR. The overall, fundamental project purpose is "to provide sustainable 200-year flood risk reduction to the Reclamation District 784 service area." (Draft SEIR, page ES-1.) The seven project objectives were written broadly to include:

- Provide a 200-year flood risk reduction solution that will prevent flood waters from flowing through the Yuba Goldfields and flanking the State Plan of Flood Control.

- Provide a solution that is cost effective and can be implemented by 2025.

- Provide a solution that is sustainable for the long term.

- Minimize impacts on aggregate mining operations by avoiding areas of future mining operations, by being compatible with future mining operations, or by being capable of modification to be compatible with future mining operations.

- Minimize impacts on gold dredging operations by avoiding areas of future dredging operations, by being compatible with future dredging operations, or by being capable of modification to be compatible with future dredging operations.

- Minimize impacts on environmental resources.

- Provide environmental benefits, if feasible.

Nowhere does the comment state how these objectives are illegitimate or incorrect, and those objectives remain a valid standard for assessing the scope of reasonable alternatives. Since the objectives were crafted well before consideration of the Modified Alternative 4 alignment and ultimately supported consideration of a wide range of alternatives in the 2015 EIR, the comment cannot legitimately claim that they are too narrow or biased in favor of the Modified Alternative 4 alignment.
Further, technical evaluations conducted since the 2015 EIR was certified have allowed TRLIA to modify the project in a manner that optimizes flood risk reduction and maximizes public benefits, while substantially reducing impacts on several environmental resources. As indicated in Table 2-3 of the Draft SEIR, Modified Alternative 4 greatly reduces impacts on biological resources and mining resources. Although impacts on agricultural resources are anticipated to be greater under Modified Alternative 4, TRLIA continues to work to minimize permanent conversion of Important Farmland, and the actual loss will likely be far less than the worst-case scenario disclosed in the Draft SEIR. The seven project objectives listed in the Draft SEIR are the same as those identified in the 2015 EIR and meet CEQA requirements.

Consultation with UAIC regarding the proposed project has been ongoing since 2015 and will continue until project construction is complete. Consultation steps specifically related to Modified Alternative 4 are summarized in Section 3.6; “Cultural Resources,” of the Draft SEIR. CEQA does not require that consultation be completed prior to publication of a draft EIR. Measures to mitigate potentially significant impacts to archaeological resources and other tribal cultural resources were developed in close coordination with UAIC. As indicated on page 3.6-6 of the Draft SEIR, mitigation measures described in the Addendum to the 2015 EIR will be implemented to reduce the potentially significant impacts on cultural resources to a less-than-significant level. Also, see response to comment UAIC-1 regarding consultations conducted with the Tribe to date.

See Master Response 1. TRLIA considered a wide range of alternatives and analyzed a reasonable range of feasible alternatives at an equal level of detail in the 2015 Draft EIR. In addition, TRLIA evaluated several options related to Modified Alternative 4 and has reconsidered the alternative recently proposed by affected landowners.

Comment noted. No further response is required.

TRLIA acknowledges that loss of orchards on the Modified Alternative 4 project site could have an economic impact on the Wilbur family. TRLIA will negotiate with Mr. Wilbur regarding land acquisition required to implement Modified Alternative 4 and fair compensation for this loss pursuant to State law. An economic impact to individual landowners, however, is not by itself an environmental impact subject to CEQA. (CEQA Guidelines, Section 15382; Visalia Retail, LP v. City of Visalia [2018] 20 Cal.App.5th 1, 5 [“CEQA is concerned with significant effects on the environment . . . , not with purely economic impacts.”].) Indeed, “[t]he fact that a project may affect another business’s economic viability is not an effect covered by CEQA unless it results in a change in the physical environment (e.g., urban decay).” (Clews Land & Livestock, LLC v. City of San Diego [2017] 19 Cal.App.5th 161, 196.) Further, the potential “physical” environmental impacts associated with the commenter’s business interests—namely, conversion of farmland and impacts to agriculture—have been thoroughly evaluated and mitigated in the 2015 EIR and Draft SEIR.
PLG-15 TRLIA worked independently of mining interests to develop Modified Alternative 4. Effects of the proposed project on all entities are of concern, and TRLIA will continue to work with local landowners to minimize agricultural impacts and address concerns regarding resident relocations. See also response to PLG-14.

PLG-16 See Master Response 1 and PLG-12. An EIR need not consider every possible variation of particular alternatives to a project put forth in public comments; rather, the EIR need only address a "reasonable range" of alternatives. (CEQA Guidelines Section 15126.6[a]; Center for Biological Diversity v. California Department of Fish & Wildlife [2015] 234 Cal.App.4th 214, 256; City of Maywood v. Los Angeles Unified Sch. Dist. [2012] 208 Cal.App.4th 362, 420; Mam v. Community Redevelopment Agency [1991] 233 Cal.App.3d 1143 [opponent failed to present evidence that proposed alternative offered substantial environmental advantages over those studied in the EIR].) The California recommendation is similar to that proposed by the affected landowners. This alignment was previously determined to be technically and economically infeasible. TRLIA has been informed by Teichert that the referenced soil stockpile is allocated to other uses and is not available to TRLIA for the proposed project.

PLG-17 CEQA does not require new alternatives to be analyzed in a Supplemental EIR. (See, e.g., CEQA Guidelines Section 15126.6[d][2][C]; Citizens of Goleta Valley v. Board of Supervisors [1990] 52 Cal.3d 553, 573 [county properly relied on findings in local coastal plan to assess feasibility of alternative project sites]; California Native Plant Society v. City of Santa Cruz [2009] 177 Cal.App.4th 957, 995 [EIR not required to consider offsite alternative].) Here, TRLIA considered a wide range of alternatives and analyzed a reasonable range of feasible alternatives at an equal level of detail in the 2015 Draft EIR. The Draft SEIR focuses on modification of Alternative 4, which was selected as the project when the 2015 EIR was certified. TRLIA evaluated several options related to Modified Alternative 4 and has reconsidered the alternative recently proposed by affected landowners. See Master Response 1.

PLG-18 TRLIA has and will continue to minimize impacts on agricultural lands as the project design (including borrow plan) is finalized. TRLIA feels that a reasonable range of feasible alternatives has been fully evaluated and Modified Alternative 4 represents the best feasible balance to achieve most of the project objectives while minimizing impacts on local landowners and the environment.
3.3 OTHER COMMENTS AND RESPONSES

Oral comments received during the public meeting on the Draft SEIR that was held September 14, 2018, and responses to those comments that were provided in the meeting, are summarized in the meeting notes below. In addition to the public meeting, oral comments regarding the project were made by several interested parties at the October 23, 2018 meeting of the TRLIA Board of Directors. Comments provided at these meetings were consistent with those expressed in the written comments (all attendees at the formal Draft SEIR public meeting submitted a comment letter, and all but one of the attendees at the TRLIA Board of Directors submitted a comment letter); therefore, they are more fully addressed in the responses provided in Section 3.1. “Master Responses,” and Section 3.2, “Individual Comments and Responses.”

Comments received after the Draft SEIR comment period closed and comments received at TRLIA Board of Directors meetings will be included in the proposed project’s administrative record and fully considered by TRLIA. Formal responses to these comments, however, are not included in this Final SEIR, as the comments were not provided consistent with the 45-day public review period of the Draft SEIR commencing on September 14, 2018 and closing on October 29, 2018, or at the designated Draft SEIR public meeting held on September 14, 2018.
TRLA Yuba Goldfields 200-Year Flood Protection Project
Draft Supplemental EIR Public Meeting Notes
September 24, 2018
(by Andrea Clark, Phil Dunn, Paul Brunner)

Members of Public Present:
- Rick Wilbur – landowner of Wilbur Ranch
- Randy Baucom – CFO of Wilbur Ranch
- Michelle Smith-Barker – landowner of Smith Ranches

Members of TRLA Team Present:
- Paul Brunner (PB) – TRLA Executive Director
- Phil Dunn (PD) – GEI Consultants (TRLA’s Draft SEIR representative)
- Andrea Clark – Downey Brand (TRLA’s legal counsel)

Meeting Summary:
The meeting started at 6:15pm and lasted 1 hour and 15 minutes. Phil Dunn made a PowerPoint presentation covering the meeting purpose and objectives, project background, Modified Alternative 4, impact analysis results and mitigation, project schedule, and how to provide input on the Draft SEIR. Since there were only three attendees, the public asked questions and provided verbal comments regarding their concerns and the Draft SEIR throughout the PowerPoint presentation and the public meeting. It was very interactive. Numerous questions were asked about the project, its footprint, and differences between cutoff walls and seepage berms, which were addressed primarily by Paul Brunner. Other than clarification questions regarding Modified Alternative 4, the public input was almost exclusively focused on agricultural impacts, mitigation, the permanent loss of agricultural lands, and the Modified Alternative 4 alignment. Mr. Wilbur and Mr. Baucom stated that an alignment east of the Wilbur property (previously submitted to TRLA) would substantially reduce agricultural impacts without much increase in cost relative to the overall cost of the project. Mr. Baucom stated that the Draft SEIR ignored agricultural impacts and did not recognize the value of agricultural lands. The public members desired to address the TRLA Board regarding the Draft SEIR and Modified Alternative 4 before written comments were due on October 29. After the meeting closed, Mr. Brunner agreed to a TRLA Board meeting on October 23 to give the landowners an opportunity to speak to the TRLA Board in the public comment period before written comments on the Draft SEIR are due.

Public Input/Discussion:
Rick – Is there an opportunity to address the TRLA Board?
PB – Next meeting is October 2; public comments can be made at any TRLA Board meeting.
Michelle – Wants details of upcoming TRLA Board meetings as she cannot attend on October 2.
PB – TRLA Board likely will not meet the third Tuesday of October (out of town).
PD – reiterated that the TRLA Board will not make a decision on the Project until January 2019, and that input can be provided at any TRLA Board meeting up to and including January 2019.

(After meeting closed, PB agreed to a TRLA Board meeting on October 23 to give Michelle and Rick an opportunity to speak to the TRLA Board in the public comment period before the written comments on the Draft SEIR are due.)
Randy — Why did the original Alternative 4 levee go so far east?
PB — Additional hydraulics by the design team showed that Modified Alternative 4 could tie into high ground much farther west that with Alternative 4.

Rick — How high is the levee?
PB — About 17 feet at Brophy Road is highest part of levee, but as levee moves eastward it slopes downward such that it is about 3 feet high at high ground at the eastern end of the levee.

Rick — (Responding to PB’s statement that we did not include lots of detail in the Draft SEIR about the optional alignments, and the impacts between the optional alignments were not that different from each other) Why didn’t you include those analyses in the SEIR? Disagree with omitting discussion about the optional alignments. Rick and PD went back and forth on the farming impacts of the Wilbur options; Rick felt Draft SEIR did not appropriately address agricultural impacts and did not include the eastern alignment favored by Wilbur in the SEIR.
PD — Stated that we looked at an array of alternatives in 2015 EIR and Alternative 4 disclosed that there were agricultural impacts, and TRILIA is not required to look at every potential levee alignment as there would be hundreds of potential alignments.
PB — All options across Wilbur property impacted agriculture, some more than others. Environmentally, the impacts are similar.
Rick — He disagreed and reopened discussion of the options across his property. Coming across his property is much greater impact to agriculture. The impact is NOT the same.
PD — We will respond in Final EIR, but best if you put it specifically in written comments.
PD — TRILIA is trying to do a cutoff wall instead of a seepage berm along diagonal if feasible.

Rick, Randy, and Michelle — What are differences between cutoff wall and seepage berm and associated widths of acquisition with each?
PB and PD — Spent time reviewing Exhibit 2-2 in the Draft SEIR and the purple lines indicating width of levee with and without seepage berm, as well as discussing Exhibit 2-3 and 2-4 that illustrate the cutoff wall and the seepage berm.
PB — We are not sure if the cutoff wall will work on Wilbur property, and if it does we will build the seepage berm which requires more property. I am pushing our design team to, if possible, construct the cutoff wall rather than the seepage berm across Wilbur property.
Michelle — Why can you guarantee cutoff wall along Hammonot-Smartville Road but not on our property?
PB — We are still trying to verify that a cutoff wall will work along Wilbur property.
Rick — Looks like you can do the cutoff wall for Teichert but not for us.
PB — We got out earlier on the Teichert property and did studies as part of Alternative 4; studies related to Modified Alternative 4 on the Wilbur property occurred later. There were two phases of investigation. Initial 65% design will be done in a month or so. PB thinks at this point the potential for a cutoff wall through Wilbur property looks pretty good but no guarantees, as evaluations still ongoing for 65% design.

Rick — Michelle got her geotechnical reports last January. When will I get my reports?
PB — I just received Wilbur’s reports 2 days ago and will give reports to Wilbur tonight.
Rick – Can’t money be spent on mitigation? Then spend money to move the levee alignment east of our property to mitigate agricultural impacts.

PB – Please submit a written comment letter on this subject. Yes, TRLIA could spend money on mitigation if required. We will consider comments and determine whether the impacts are appropriately mitigated in the document.

PD – CEQA requires mitigation to be feasible. If mitigation is not deemed feasible by TRLIA, then it would not be implemented. TRLIA is committed to mitigate agricultural impacts to the extent feasible.

PB – Right now we are not spending money on mitigating agricultural lands lost, we are acquiring the lands.

Randy – The Draft SEIR says TRLIA will minimize impacts on future mining operations and minimize impacts on gold dredging operations by being compatible with it. But says nothing about farmland. Why don’t you specifically talk about agriculture? This is the second time you’re at this and you’ve completely failed to address agricultural impacts.

PD – The Draft SEIR does address agricultural impacts, as did the 2015 EIR. We concluded that the agricultural impacts are significant and unavoidable. Put your comments in a comment letter and be as specific as you can about the agricultural resource section. I hear you saying that the Draft SEIR did not go far enough in evaluating the agricultural impacts.

Randy – The SEIR says over and over that the impact is significant and unavoidable. But it is avoidable; there are plenty of other routes you could take. Just look to the north and see the rock piles; they destroyed farmland forever. Shame on us if we do the same thing to this farmland. Our grudolks have to live with these decisions. There must be a way to route it to avoid taking away prime farmland permanently. The impact is a permanent loss of this productive farmland. The Yuba County General Plan wants agricultural lands protected and not lost.

PB – Once you go south of Goldfields, all of the potential alignments impact farm land regardless.

Randy – Why wasn’t a Wilbur option alignment selected?

PB – The Wilbur option alignments cost much more. The impacts on mining property make it more costly.

Michelle – Teichert will get this land eventually for cents on the dollar and mine it. Michelle wants a guarantee that this will not happen.

PB – We are trying to minimize impacts to Wilbur’s orchards. We will keep as much of the orchard as is feasible.

Rick – The reason I’m here is to inquire about the route on the eastern edge of the property (Wilbur’s preferred alignment). Most of agricultural impacts can be mitigated by going along the side. You’ve spent $500 million on flood control, and the additional cost for Wilbur’s preferred alignment is minimal compared to that total cost.

PB – The cost of this project is $41 million and economics of this project are what is important.

Rick – You can minimize ag impacts with modest increase in the project cost.

PD – We have already discussed this. Please put these comments in your written comment letter and TRLIA will address it.
Randy – We understand that you are trying to save the Plumas Lake area (lots of assets). We think it seems reasonable that to get there we spend a little more up above to protect agriculture. Rick – I know the miners are important but we are, too.

Michelle – We already gave up land. We got paid for it, but it wasn’t enough. Nobody will compensate us for this level of impact. It has a huge financial effect. How can we pay the bills? We will lose customers.

PB – The negotiations involve long-term impacts/economic impacts. These issues should be addressed in that process of acquisition.

PD – Moving on with the presentation. Important farmland loss table - the 240 acres lost number assumes a setback term (maximum impact).

Randy – How many houses are affected by the Modified Alternative 4?
PB – About 7-10 Mostly along Hammerton-Smartville Road.
Michelle – The SEIR says 7.

PD – Presents slide summarizing impacts and mitigation and emphasizes the slide is very brief summary of impacts and mitigation. Need to really review the specifics in the Draft SEIR.
Randy – The impacts/mitigation slide doesn’t show “to the extent practicable and feasible” – why not?? The mitigation measure for agriculture in the Draft SEIR says “to the extent practicable and feasible.”

PD – It is only a summary and overgeneralization. It is condensed. All the proposed mitigation measures must be feasible to be implemented under CEQA. If it is not feasible, we cannot do it. The exact words in the Draft SEIR are what is important.

Randy – Page 3.5-2 of the Draft SEIR covers borrow area stockpiling. You’ll use as borrow and stockpile and put top soil back. Which is which? Document is confusing.
PB – These are all options at this point. Our design is still a little fluid with respect to borrow areas. We are trying to minimize impacts on the farmland as we make these conclusions. I’m trying to honor our discussion about minimizing impacts. I’m happy to come sit and get more input about your concerns. I’m also the person you’ll talk with about acquisition of the property. I don’t want to show you something tonight that we cannot do.

Rick – Farther east is more clay. For borrow areas, the Wilbur property to the west will be the least desirable because it’s sandy. You don’t want a sandy levee and you want clay for borrow, right?
PB – Our design team has tested the soils and thinks the soils are good for the levee, including soils on the Wilbur property.
Randy – Is Triangle property on east side of Drophy being considered for borrow? They will take off the topsoil anyway for mining.
PB – Yes, it is being considered for borrow. I have no deal with Teichert. If Teichert came in to construct the project, they can do that, but we have no deal with them. We will sit down across the table from them in the future like with anyone else. If Teichert wants to do something like this to win the work, fine. But as a public agency, we can’t give them a sweetheart deal. We will competitively bid the work.
Rick – Doesn’t it make sense to have them do the work with soil they already have so you don’t have to purchase from us?
PB – I can’t control what Teichert does.

PD – In closing I want to emphasize that written comments can be submitted tonight or to Paul by October 29. We have taken down your oral comments tonight, but it is always good to put them in writing, too.

Meeting adjourned.
4 REVISIONS TO THE DRAFT SEIR

4.1 INTRODUCTION

This section presents specific text changes made to the Draft SEIR since its publication and public review. The changes are presented in the order in which they appear in the Draft SEIR and are identified by the Draft SEIR page number. Text deletions are shown in strikethrough (strikethrough) and text additions are shown in underline (underline).

4.2 CORRECTIONS AND REVISIONS

CHAPTER 2 – PROJECT DESCRIPTION

PAGE 2-1

Section 2.1, “Required Approvals and Permits” is revised as follows:

Required approvals and permits described in the 2015 EIR (pages 2-5) would apply to Modified Alternative 4, except for consultation with National Marine Fisheries Service (NMFS), take authorization from the U.S. Fish and Wildlife Service (USFWS), and right-of-way approval from the U.S. Bureau of Land Management (BLM) and USACE. Because Modified Alternative 4 would not be constructed on BLM or USACE lands, and no Federally listed species managed by habitat for NMFS or USFWS-managed species would be affected, these approvals are not required.
5 REFERENCES


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6 REPORT PREPARERS

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MBK Engineers (Program Management and Hydraulics)
Richard Reinhardt, PE ................................................................................................ Program Manager, Comment Responses, and Document Review
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Don Trieu, PE ............................................................................................................... Hydraulics Comment Responses

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Phil Dunn ..................................................................................................................... EIR Director and Document Preparation/Review
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Charisse Case ............................................................................................................. Document Specialist
ATTACHMENT 2 TO STAFF REPORT

RESOLUTION NO. 2019-2

RESOLUTION OF THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
ADOPTING FINDINGS, THE STATEMENT OF OVERRIDE CONSIDERATIONS,
AND THE SUPPLEMENTAL MITIGATION MONITORING AND REPORTING
PROGRAM FOR THE YUBA GOLDFIELDS 200-YEAR FLOOD PROTECTION
PROJECT AND APPROVING MODIFIED ALTERNATIVE 4

WHEREAS, in 2015 the Three Rivers Levee Improvement Authority ("TRLIA")
proposed the Yuba Goldfields 200-Year Flood Protection Project (the "Project") to reduce flood
risk in the Reclamation District No. 784 service area;

WHEREAS, TRLIA is the lead agency for environmental review of the Project under the
California Environmental Quality Act ("CEQA");

WHEREAS, a Notice of Preparation for a Draft Environmental Impact Report ("Draft
EIR") was prepared and released for public comment on June 12, 2014;

WHEREAS, the release of the Notice of Preparation ("NOP") initiated a 30-day public
comment period that ended on July 14, 2014;

WHEREAS, a Draft EIR was prepared and circulated for public review and comment
between March 11, 2015, and April 24, 2015;

WHEREAS, TRLIA certified the EIR, adopted the Mitigation Monitoring and Reporting
Program, and approved the Project in the form of Alternative 4 on September 15, 2015;

WHEREAS, TRLIA approved an Addendum to the EIR on October 13, 2015 and
modified the Mitigation Monitoring and Reporting Program accordingly;

WHEREAS, after Alternative 4 was approved, modifications to Alternative 4 ("Modified
Alternative 4") became necessary as a result of additional technical evaluations and to better
optimize flood risk reduction, minimize environmental impacts, and maximize public benefits;

WHEREAS, TRLIA issued an NOP for a Draft Supplemental EIR ("SEIR") on May 10,
2018 to address environmental impacts associated with Modified Alternative 4;

WHEREAS, the Draft SEIR was circulated for a 45-day public review period beginning
on September 15, 2018 and ending on October 29, 2018, during which TRLIA held one public
meeting on September 24, 2018 to receive oral and written comments on the contents of the
Draft SEIR;

WHEREAS, comments were received on the Draft SEIR from individuals, public
agencies and private entities;

WHEREAS, a Final Supplemental Environmental Impact Report ("Final SEIR") that
incorporated the Draft SEIR by reference and provided responses to all public comments
received during the formal public review period was prepared and made available to the public on January 10, 2019; and

WHEREAS, TRLIA discussed the Final EIR during its meeting on January 15, 2019 provided the opportunity for the public to give comments on the Final EIR during that meeting;

WHEREAS, TRLIA has, by means of Resolution No. 2019-1, certified that the Final SEIR has been prepared in full compliance with the provisions of CEQA and its implementing regulations, that the Board has reviewed and considered the information contained therein, and that the Final SEIR represents the independent judgment and analysis of the Board;

WHEREAS, the TRLIA Board must make and adopt written findings for each significant effect of Modified Alternative 4, accompanied by a brief explanation of the rationale for each finding, pursuant to CEQA. The written findings, attached hereto as Attachment A, state that for each significant impact of Modified Alternative 4, either changes or alterations have been required in, or incorporated into, Modified Alternative 4 which avoid or substantially lessen the significant environmental effect as identified in the Final SEIR, or specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final SEIR;

WHEREAS, before TRLIA may consider approval of Modified Alternative 4 it must, pursuant to CEQA, adopt a Statement of Overriding Considerations, which is part of the written findings attached in Attachment A, determining that the social, economic, and environmental benefits of Modified Alternative 4 outweigh the potential significant effects on the environment found to be unavoidable and render those potential significant and unavoidable effects to be acceptable;

WHEREAS, TRLIA must adopt a Supplemental Mitigation Monitoring and Reporting Program pursuant to CEQA and attached hereto as Attachment B, regarding the changes which it has either required in Modified Alternative 4 or made a condition of approval to avoid or substantially lessen significant environmental effects;

WHEREAS, through this resolution TRLIA wishes to adopt the written findings, including the Statement of Overriding Considerations, and the Supplemental Mitigation Monitoring and Reporting Program.

NOW, THEREFORE, THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY RESOLVES AS FOLLOWS:

1. TRLIA hereby approves and adopts the findings as contained in "Findings of Fact and Statement of Overriding Considerations by the Three Rivers Levee Improvement Authority Related to the Certification of the Final Supplemental Environmental Impact Report for the Yuba Goldfields 200-Year Flood Protection Project," attached hereto as Attachment A, which are incorporated herein, pursuant to CEQA Guidelines §§ 15091 and 15092.
ATTACHMENT 2 TO STAFF REPORT

2. TRLIA hereby approves and adopts the Statement of Overriding Considerations for Modified Alternative 4, as contained in the findings attached hereto as Attachment A, which are incorporated herein, pursuant to CEQA Guidelines § 15093.

3. TRLIA hereby approves and adopts the Supprenmental Mitigation Monitoring and Reporting Program, which is attached hereto as Attachment B and incorporated herein by reference, pursuant to Public Resources Code section 21081.6.

4. Having certified the Final SEIR and adopted the Findings of Fact and Statement of Overriding Considerations for the Project, the Board now approves Modified Alternative 4 and hereby directs TRLIA staff to do all things necessary to carry out Project.

ADOPTED this 15th day of January, 2019

______________________________
Sarbdeep Atwal, Chair
Findings of Fact and Statement of Overriding Considerations by the Three Rivers Levee Improvement Authority Related to the Certification of the Final Supplemental Environmental Impact Report for the Yuba Goldfields 200-Year Flood Protection Project

I. INTRODUCTION

To protect human health and safety and prevent adverse effects on property and the regional economy, the Three Rivers Levee Improvement Authority (TRLIA) was formed as a joint powers authority in 2004 through a joint exercise of powers agreement between the County of Yuba and Reclamation District No. 784 (RD 784) to finance and construct levee improvements in south Yuba County.

In 2015 TRLIA proposed the Yuba Goldfields 200-Year Flood Protection Project (Project) to provide a 200-year flood risk reduction solution that would prevent flood waters from flowing through the Goldfields and flanking the State Plan of Flood Control (SPFC). On September 15, 2015, TRLIA completed and certified the Final Environmental Impact Report (2015 Final EIR) and approved the Project.

TRLIA has prepared a supplement to the 2015 Final EIR (State Clearinghouse Number 2014062045) which updates the Project’s California Environmental Quality Act (CEQA) documentation and allows State agencies to issue permits for the modified Project.

The environmental review process for the proposed project was initiated when the Notice of Preparation (NOP) of EIR was published on June 12, 2014; two public scoping meetings were held on June 23, 2014 to receive oral and written comments regarding the general scope and content of the EIR, including the proposed project, project alternatives, potential significant effects, and any other related public issues. The 2015 Draft EIR was circulated for a 45-day public review period that began March 11, 2015 and ended April 24, 2015; two public meetings to receive oral and written comments on the contents of the 2015 Draft EIR were held on April 6, 2015. On September 15, 2015, TRLIA certified the EIR and approved Alternative 4, a new levee south of the Yuba Goldfields (Goldfields), as the proposed project.

After Alternative 4 was approved, modifications to Alternative 4 became necessary as a result of additional technical evaluations and to better optimize flood risk reduction, minimize environmental impacts, and maximize public benefits. The proposed project is hereafter referred to as Modified Alternative 4. TRLIA issued an NOP for the Draft Supplemental EIR (SEIR) on May 10, 2018. The NOP concluded that the project as modified may result in new or more severe impacts on the environment in certain impact areas, and informed agencies and the public that the Draft SEIR was being prepared. The public comment period for the NOP ended on June 11, 2018. The Draft SEIR was circulated for a 45-day public review period beginning September 14, 2018, and one public meeting to receive oral and written comments on the contents of the Draft SEIR was held at the Yuba County One Stop in Marysville on September 24, 2018. The public comment period on the Draft SEIR closed on October 29, 2018. TRLIA prepared the Final SEIR and on December 31, 2018, sent the Final SEIR to agencies that provided comments on the Draft SEIR within the public comment period for the Draft SEIR.
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The purpose of these Findings is to comply with the CEQA requirements related to a public entity’s approval and certification of an EIR. Specifically, these Findings represent the TRLIA Board of Directors’ conclusions about the significant impacts of Modified Alternative 4 on the environment.

Section 15162 of the CEQA Guidelines states that when an EIR has been certified for a project, a subsequent EIR need not be prepared unless a substantial change in the project, a substantial change in the surrounding circumstances, or new information of substantial importance comes to light which shows that the project will have one or more significant effects not discussed in the previous EIR. When only minor additions or changes would be necessary to make the previous EIR adequate to describe the project in the changed situation, a supplement to the previous EIR may be prepared (Section 15163 of the CEQA Guidelines). The Supplemental EIR revisits each resource topic from the 2015 Final EIR, including cumulative effects, to determine whether Modified Alternative 4 or new information would result in new or substantially more severe significant effects that were not analyzed in the 2015 Final EIR. Effects previously analyzed in the 2015 Final EIR are also evaluated as they pertain to Modified Alternative 4.

II. DESCRIPTION OF THE PROPOSED ACTION

General Description

TRLIA’s project purpose is to provide a 200-year flood risk reduction solution by 2025 that will prevent flood waters from flowing through the Goldfields and flanking the SPFC. A 200-year flood is a flood that has a 0.5% chance of occurring in any given year, also referred to as a 0.5% annual exceedance probability (AEP).

To reduce the flood risk to properties within the RD 784 service area, TRLIA is proposing to construct a levee south of the Yuba Goldfields (hereafter referred to as “Goldfields”) that would prevent Yuba River flood flows during a 200-year flood event from flowing through the Goldfields and flanking the SPFC.

The levee would meet California Department of Water Resources (DWR) urban levee design criteria for 200-year flood risk reduction. Construction is proposed to begin in 2020. Construction would begin in spring and would require up to approximately 8 months to complete.

On September 15, 2015, TRLIA certified the 2015 Final EIR and approved Alternative 4 as the proposed project. Modified Alternative 4 was subsequently developed to optimize flood risk reduction, further minimize environmental impacts on mineral resources and biological resources, and maximize public benefits. Specifically, TRLIA gained additional knowledge regarding the practical and financial feasibility of the Alternative 4 alignment that led to the proposed Modified Alternative 4 alignment and the need to prepare an SEIR.

Project Objectives

The following objectives presented in the 2015 EIR provide additional detail in support of the project purpose above and remain unchanged for the SEIR:

2.
• Provide a solution that is cost effective and can be implemented by 2025.

• Provide a solution that is sustainable for the long term.

• Minimize impacts on aggregate mining operations by avoiding areas of future mining operations, by being compatible with future mining operations, or by being capable of modification to be compatible with future mining operations.

• Minimize impacts on gold dredging operations by avoiding areas of future dredging operations, by being compatible with future dredging operations, or by being capable of modification to be compatible with future dredging operations.

• Minimize impacts on environmental resources.

• Provide environmental benefits, if feasible.

III. DESCRIPTION OF THE ADMINISTRATIVE RECORD

For purposes of CEQA and these Findings, the administrative record before the TRLIA Board of Directors includes, without limitation, the following:

A. All applications for approvals related to the Project modifications:

The 2015 Final EIR for the Yuba Goldfields 200-Year Flood Protection Project and all appendices thereto.

The 2018 Draft SEIR for the Yuba Goldfields 200-Year Flood Protection Project and all appendices to the Draft SEIR;

The 2019 Final SEIR for the Yuba Goldfields 200-Year Flood Protection Project;

All staff reports and presentation materials related to the Project modifications;

All studies conducted for the Project modifications and contained in, or referenced by, staff reports, the 2015 Final EIR, the Draft SEIR, or the Final SEIR; and

All documentary and oral evidence received and reviewed at public hearings and workshops related to the Project modifications, the 2015 Final EIR, the 2018 Draft SEIR, and the 2019 Final SEIR.

IV. GENERAL FINDINGS

A. Certification of the Final SEIR

In accordance with CEQA Guidelines § 15091, in adopting these Findings, the TRLIA Board of Directors certifies that the Final SEIR has been completed in compliance with CEQA and that it was presented to the Board of Directors, which reviewed and considered the information in the Final SEIR prior to certifying the Final SEIR and approving Modified Alternative 4. By these
Findings, the Board of Directors ratifies and adopts the Findings and conclusions of the Final SEIR as set forth in these Findings. The Final SEIR and these Findings represent the independent judgment and analysis of the Board of Directors.

The Final SEIR concludes that certain impacts of the modified levee alignment are potentially significant but can be mitigated to a less-than-significant level with the implementation of recommended mitigation measures, while certain impacts will remain significant, as they were in the 2015 Final EIR, even after all feasible mitigation measures are implemented. General Findings are set forth in this Section IV. Findings regarding potentially significant impacts that can be mitigated to a less-than-significant level are set forth in Section V. Further Findings regarding impacts that will remain significant after all feasible mitigation is employed are set forth in Section VI; Findings regarding alternatives are set forth in Section VII; Findings regarding cumulative impacts are set forth in Section VIII; and Section IX contains the Statement of Overriding Considerations.

B. Changes to the Draft SEIR

The Draft SEIR has been the subject of review and comment by the public and responsible agencies prior to the adoption of these Findings. None of this information has revealed the existence of: (1) a significant new environmental impact that would result from Modified Alternative 4 or an adopted mitigation measure; (2) a substantial increase in the severity of an environmental impact; (3) a feasible project alternative or mitigation measure not adopted that is considerably different from others analyzed for the Project that would clearly lessen the significant environmental impacts of Modified Alternative 4; or (4) information that indicates that the public was deprived of a meaningful opportunity to review and comment on the Draft SEIR. The only changes to the Draft SEIR made in the Final SEIR were minor corrections to two sentences regarding required approvals and permits (see page 4-1 in Final SEIR). TRLIA finds that these modifications made to the Draft SEIR after the Draft SEIR was circulated for public review and comment do not collectively or individually constitute significant new information within the meaning of Public Resources Code §21092.1 and CEQA Guidelines §15088.5.

C. Evidentiary Basis for Findings

These Findings are based upon substantial evidence in the entire record before the TRLIA Board of Directors. The references to the Draft SEIR and Final SEIR set forth in the Findings are for ease of reference and are not intended to provide an exhaustive list of the evidence relied upon for these Findings.

D. Findings Regarding Mitigation Measures

1. Mitigation Measures Adopted. Except as otherwise noted, the mitigation measures herein referenced are those identified in the Draft and Final SEIR and adopted by the Board of Directors as set forth in the Supplemental Mitigation Monitoring and Reporting Program (MMRP).

2. Impacts After Implementation of Mitigation Measures. Except as otherwise stated in these Findings, in accordance with CEQA Guidelines §15092, the Board of Directors finds that
the environmental effects of Modified Alternative 4 will not be significant or will be mitigated to a less-than-significant level by the adopted mitigation measures. TRLIA has substantially lessened or eliminated all significant environmental effects where feasible. The Board of Directors has determined that any remaining significant effects on the environment that are found to be unavoidable under CEQA Guidelines §15091 are acceptable due to overriding considerations as described in CEQA Guidelines §15093. These overriding considerations consist of specific environmental, economic, legal, social, technological, and other benefits of Modified Alternative 4, which justify approval of Modified Alternative 4 and outweigh the significant and unavoidable adverse environmental effects of Modified Alternative 4, as more fully stated in Section IX (Statement of Overriding Considerations). Except as otherwise stated in these Findings, the Board of Directors finds that the mitigation measures incorporated into and imposed upon Modified Alternative 4 will not have new significant environmental impacts that were not analyzed in the Draft SEIR.

E. Location and Custodian of Records

Pursuant to Public Resource Code §15091, TRLIA is the custodian of the documents and other material that constitute the record of proceedings upon which the decision is based, and such documents and other materials are located at TRLIA’s offices, 114 Yuba Street, Suite 218, Marysville, CA 95901. A copy of the Final SEIR is also available for review at the TRLIA website (www.trilia.org).

V. FINDINGS REGARDING POTENTIALLY SIGNIFICANT AND SIGNIFICANT IMPACTS WHICH WILL BE MITIGATED BELOW A LEVEL OF SIGNIFICANCE WITH MITIGATION MEASURES

The following Findings are made with respect to potentially significant and significant environmental effects analyzed in the Final SEIR. The Draft SEIR identified the following potential impacts of Modified Alternative 4 on the environment that are deemed to be potentially significant or significant, but will have less than significant impacts with implementation of feasible mitigation measures.

Public Resources Code § 21081 states that no public agency shall approve or carry out a project for which an SEIR has been completed which identifies one or more significant effects, unless the public agency makes one or more of the following findings:

1. Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment.

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

3. Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measure or alternatives identified in the EIR, and overriding economic, legal, social, technological, or other benefits of the Project outweigh the significant effects on the environment.
The Board of Directors hereby finds, pursuant to the Public Resources Code §21081 and CEQA Guidelines §§15091-15093, that with regard to each of the following potentially significant and significant impacts identified in the Draft and Final SEIR, that changes or alterations have been required in or incorporated into Modified Alternative 4 that avoid or lessen the potentially significant impacts and significant impacts identified in the Draft SEIR to levels below the thresholds of significance identified in the Draft SEIR. These mitigation measures are set forth in the Supplemental MMRP proposed for adoption by TRLIA. Specific findings of TRLIA for each category of such impacts are set forth in detail below. These findings relate only to impacts associated with Modified Alternative 4 that are new or more severe than impacts addressed in the 2015 EIR for Alternative 4. The Board’s findings associated with the 2015 EIR are still applicable unless modified herein.

A. **Aesthetics**

1. **Impact 3.2-4 New Source of Substantial Light or Glare Adversely Affecting Day or Nighttime Views in the Area**

   a. **Potential Impact:** If 24-hour cutoff wall construction is required for Modified Alternative 4, night lighting would be necessary, and such lighting could be mistaken for airport lighting and/or could cause glare in the eyes of pilots of aircraft using the airport. This impact is discussed in the Draft SEIR at page 3.2-10.

   b. **Impact Prior to Mitigation:** Potentially significant.

   c. **Mitigation Measure:** Modified Alternative 4 will incorporate Mitigation Measure 3.2-4, which involves coordinating nighttime lighting with Beale Air Force Base (AFB) and restricting night lighting within and near airport runway approach zones. If nighttime construction occurs, TRLIA will implement additional measures to reduce airport safety hazards associated with nighttime lighting, including shielding and directing downward all nighttime lighting, notifying to Beale AFB and hosting a safety meeting for all nighttime construction personnel.

   d. **Findings:** Because TRLIA would shield and direct lighting downward, coordinate with Beale AFB to provide notification and include safety measures during Modified Alternative 4 design and construction, and hold a safety meeting for all nighttime construction personnel, the impact of Modified Alternative 4 after mitigation will be less than significant.

   e. **Conclusion:** Implementation of Modified Alternative 4 will have a less than significant impact with respect to creation of nighttime light and glare effects.

B. **Biological Resources**
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The following mitigation measures for impacts to biological resources are no longer required for implementation of Modified Alternative 4 because associated impacts are less than significant before mitigation. Therefore, a finding is not necessary for impacts 3.5-2, 3.5-3, 3.5-6, 3.5-7, and for that portion of 3.5-8 applicable to giant garter snake:

- Mitigation Measure 3.5-2: Minimize and Compensate for Loss of Riparian and Vernal Pool Habitats
- Mitigation Measure 3.5-3: Minimize Potential Loss of Special-Status Plants
- Mitigation Measure 3.5-6: Minimize and Compensate for Removal of Elderberry Shrubs
- Mitigation Measure 3.5-7: Minimize and Compensate for Loss of Vernal Pool Branchiopods
- Mitigation Measure 3.5-8b: Minimize Potential for Mortality of Giant Garter Snake

C. Cultural Resources

1. Impact 3.6-2 Potential Disturbance to Unknown Archaeological Sites, Human Remains, and Historic Resources
   a. Potential Impact: Construction of Modified Alternative 4 requires ground-disturbing activities that may impact previously unknown prehistoric sites, historical archaeological sites, human remains, or historic resources within the proposed construction footprint. UAIC has stated that Modified Alternative 4 overlaps a village site, and because no remains have been discovered it has not been possible to evaluate this resource for eligibility for the CRHR or NRHP. However, buried materials could be disturbed during ground-disturbing activities, this impact is potentially significant. This potential impact is discussed in the Draft SEIR starting at page 3.6-2.
   b. Impact Prior to Mitigation: Potentially significant.
   c. Mitigation Measures: Modified Alternative 4 will incorporate Mitigation Measures 3.6-2a and 3.6-2b, which were adopted by TRLIA through the Addendum to the 2015 EIR. Measure 3.6-2a requires TRLIA to employ a geoarchaeologist to conduct a study of the project area. Once the study is complete, a professional cultural resources specialist must complete an inventory of archaeological and historical resources within the project. Native American representatives will be given an opportunity to review and comment on the cultural resource identification efforts, evaluation, and effects analysis. Native American representatives will be given the opportunity to express their comments and
concerns regarding the status of cultural resources in the project area. Using the results of the survey and inventory, TRLIA may employ qualified archaeologists to conduct subsurface excavations to reduce the chances that cultural resources will be identified during construction. TRLIA may also consult with the Institute for Canine Forensics or a similar organization to determine if a canine forensic survey is possible, or use ground-penetrating radar to help identify buried cultural materials. Mitigation Measure 3.6-2b requires TRLIA to include an inadvertent discovery plan in the contract conditions of the construction contractor to be followed in the event of the inadvertent discovery of cultural resources, including human remains. The plan will require work to cease in the immediate vicinity of the inadvertent discovery of cultural resources pending an archaeologist’s assessment of the significance of the find. If the discovery is found to represent a potential historical resource, it will be delineated by a qualified archaeologist and the site boundary flagged to include a 100-foot buffer. Cultural resources will be preserved in place whenever feasible. If avoidance is infeasible, a Treatment Plan will be implemented by TRLIA, and in consultation with appropriate Native American representatives if applicable. If human remains are discovered as a part of the find, TRLIA and its contractors will coordinate with the county coroner and the Native American Heritage Commission to comply with Health and Safety Code Section 7050.5 and Public Resources Code Section 5097.98. A worker cultural resources awareness program will be developed and conducted for all personnel involved in project implementation before construction activities begin on the project site.

d. **Findings:** Because implementation of Mitigation Measures 3.6-2a and 3.6-2b will avoid or minimize adverse impacts on previously undiscovered cultural resources in the project area and would ensure that mitigation will occur for sites that cannot be avoided and are eligible for listing on the CRHR or NRHP, the potentially significant impact of Modified Alternative 4 on unknown archaeological sites, human remains, and historic resources would be reduced to a less-than-significant level.

e. **Conclusion:** Modified Alternative 4’s impact on unknown archaeological sites, human remains, and historic resources is less than significant.

**D. Hazards and Hazardous Materials**

1. **Impact 3.9-2** Potential Exposure of Employees and Residents to Existing Hazardous Materials, Including Those on the Cortese List
a. **Potential Impact**: Activities associated with Modified Alternative 4 construction, demolishing residences and associated structures, and conflicts between project construction and operations and maintenance (O&M) activities and activities associated with agricultural production and future Teichert mining operations, could result in hazardous conditions or the release of hazardous materials into the environment. This impact is discussed starting at page 3.9-4 of the Draft SEIR.

b. **Impact Prior to Mitigation**: Potentially significant.

c. **Mitigation Measure**: TRLIA will implement Mitigation Measure 3.9-2 as a part of Modified Alternative 4. The Measure has been revised to require TRLIA to coordinate its construction activities with Teichert Aggregates and other on-site agricultural property owners before such activities occur to avoid any potential hazards from conflicts with field equipment, ongoing mining activities, or potential accidental releases of hazardous materials. The mitigation also requires preparation and implementation of a worker health and safety plan and measures to minimize potential for contamination associated with storage tanks; septic system; asbestos; lead; and water, oil, natural gas and geothermal wells.

d. **Findings**: TRLIA’s implementation of Mitigation Measure 3.9-2 would reduce the potentially significant impact from exposure to hazardous materials and equipment during Modified Alternative 4 construction to a less-than-significant level because TRLIA would coordinate with Teichert Aggregates and other property owners so that construction activities do not interfere with agricultural or mining activities in a way that exposes workers and the environment to hazardous conditions and materials and would implement measures to minimize potential exposure to other hazardous conditions and material associated with structure and equipment demolition.

e. **Conclusion**: The potential impact of Modified Alternative 4 as it relates to the exposure of employees and residents to existing hazardous materials is less than significant.

2. Impact 3.9-3 Potential for Exposure of People or Structures to Airport Safety Hazards

a. **Potential Impact**: A detention basin and other post-project land uses of onsite borrow sites could attract wildlife that pose a hazard to Beale AFB aircraft. This impact is discussed starting at page 3.9-6 of the Draft SEIR.
b. Impact Prior to Mitigation: Less than significant.

c. Mitigation Measure: Even though this impact is less than significant, TRLIA will implement Mitigation Measure 3.9-3 as a part of Modified Alternative 4. The Measure requires TRLIA to consider Federal Aviation Administration (FAA) guidelines, coordinate with Beale AFB staff regarding hazardous wildlife attractants, and minimize conversion to rice production if necessary.

d. Findings: TRLIA’s implementation of Mitigation Measure 3.9-3 would reduce the less-than-significant impact associated with bird strike hazards because TRLIA would coordinate with Beale AFB regarding means by which to minimize risks associated with increased wildlife that poses a hazard to aircraft.

e. Conclusion: The potential impact of Modified Alternative 4 as it relates to the potential for exposure of people or structures to airport safety hazards is less than significant.

3. Impact 3.9-5 Creation of a Potential Public Health Hazard from Increased Exposure to Mosquito-Borne Diseases by Substantially Increasing the Amount of Mosquito Habitat

a. Potential Impact: If existing orchards and rural residential parcels are converted to rice production, up to 150 acres of new wetted areas that could provide mosquito-breeding habitat would be created, in addition to a detention basin. This impact is discussed at page 3.9-8 of the Draft SEIR.

b. Impact Prior to Mitigation: Potentially significant.

c. Mitigation Measure: TRLIA will implement Mitigation Measure 3.9-5 as a part of Modified Alternative 4. The Measure requires TRLIA to design and operate, to the extent feasible, the detention basin and potential rice production to incorporate applicable measures identified in Sutter-Yuba Mosquito & Vector Control District’s Best Management Practices to Reduce Mosquitos.

d. Findings: TRLIA’s implementation of Mitigation Measure 3.9-5 would reduce the potentially significant impact from creation of mosquito habitat to a less-than-significant level through effective BMP’s designed to minimize mosquito-breeding habitats and populations.

e. Conclusion: The potential impact of Modified Alternative 4 as it relates to the creation of a potential public health hazard from
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increased exposure to mosquito-borne disease is less than significant.

E. Utilities and Public Services

1. Impact 3.15-4 Potential Temporary Disruption of Utility Services

a. Potential Impact: Modified Alternative 4 construction activities could inadvertently damage utility equipment and facilities. The impact of Modified Alternative 4 is discussed starting at page 3.15-1 of the Draft SEIR.

b. Impact Prior to Mitigation: Potentially significant.

c. Mitigation Measure: TRLIA will implement Mitigation Measure 3.15-4 as part of Modified Alternative 4. This measure requires TRLIA to verify utility locations, coordinate with affected utility providers, prepare and implement a response plan, and conduct worker training with respect to accidental utility damage.

d. Findings: Implementation of Mitigation Measure 3.15-4 would reduce the impact of Modified Alternative 4 on potential disruption of utility services because of the coordination with service providers and consumers, preparation of a response plan, and relocation of staging as needed.

e. Conclusion: Modified Alternative 4's impact with respect to disruption of utility services will remain less than significant.

VI. FINDINGS REGARDING SIGNIFICANT AND UNAVOIDABLE IMPACTS ON THE ENVIRONMENT

A. Aesthetics

1. Impact 3.2-3 Substantial Degradation of Existing Visual Character or Quality of the Site and Surroundings

a. Potential Impact: Modified Alternative 4 would degrade the area’s existing visual character in the short-term and long-term due to construction activities and because local residents’ and travelers’ existing views to the north toward the Goldfields and orchards near the Goldfields would be partially or completely replaced by views of a monolithic levee. This impact is discussed at pages 3.2-9 of the Draft SEIR.

b. Impact Prior to Mitigation: Potentially significant.
c. **Mitigation Measure:** TRLIA will incorporate Mitigation Measure 3.2-3 as part of Modified Alternative 4, and that involves locating staging and material storage areas as far away from residences on Hammonton-Smartville Road as feasible. Where construction areas, staging and material storage areas, or borrow areas are 300 feet or closer to residences, to the extent feasible, TRLIA will require its contractor to erect a temporary 6-foot-tall screened fence or other visual barrier at the edge of the construction, borrow, or staging area, between the work area in the residence(s).

d. **Findings:** Implementation of Mitigation Measure 3.2-3 will reduce the significant short-term temporary impacts associated with degradation of visual character during construction of Modified Alternative 4, but the impacts will remain significant and unavoidable because construction activities will still be visible during construction. Because there are no other feasible mitigation measures to reduce the short-term and long-term impact of Modified Alternative 4 on the existing visual character or quality of the site and surroundings, this impact remains potentially significant and unavoidable.

c. **Conclusion:** The impact of Modified Alternative 4 with respect to the existing visual character or quality of the site and surroundings remains potentially significant and unavoidable.

### B. Agriculture and Forestry Resources

1. **Impact 3.3-1  Conversion of Important Farmland to Nonagricultural Uses**

   a. **Potential Impact:** Construction of the engineered levee as part of Modified Alternative 4 would directly and permanently convert up to approximately 66 acres of Prime Farmland, 18 acres of Farmland of Statewide Importance, and 7 acres of Unique Farmland to nonagricultural use. In addition, up to 160 acres of Important Farmland could be affected by borrow extraction. This impact is discussed starting at page 3.3-2 of the Draft SEIR.

   b. **Impact Prior to Mitigation:** Significant.

   c. **Mitigation Measure:** TRLIA will incorporate Mitigation Measure 3.3-1, as augmented, as part of Modified Alternative 4. This measure requires TRLIA to, to the extent practical and feasible, return on-site borrow areas currently in agricultural production to agricultural production and convert on-site borrow areas currently not in production to production after construction of Modified Alternative 4 is complete. It also requires TRLIA to conserve the upper 2 feet of soil from farmland affected by the construction.
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footprint for redistribution to other agricultural lands nearby where practicable and feasible, and temporarily stockpile it prior to redistribution. It also commits TRLIA to acquiring agricultural conservation easements in Yuba County at a 1:1 ratio.

d. **Findings:** Because new farmland may not be created or made available, the productivity of existing farmland may not be improved even after incorporation of the above mitigation measure, and no other feasible mitigation measures exist to further reduce this impact, the impact remains significant and unavoidable.

e. **Conclusion:** The impact of Modified Alternative 4 with respect to Important Farmland conversion remains significant and unavoidable.

C. **Air Quality**

1. **Impact 3.4-1 Conflict with the Applicable Air Quality Plan**

a. **Potential Impact:** Construction of Modified Alternative 4 would exceed the Feather River Air Quality Management District’s (FRAQMD) regional thresholds of significance, so construction activities would impede implementation of the applicable air quality plan. This impact is discussed starting at page 3.4-2 of the Draft SEIR.

b. **Impact Prior to Mitigation: Significant.**

c. **Mitigation Measures:** TRLIA will implement Mitigation Measures 3.4-1a, 3.4-1b, 3.4-1c, and 3.4-1d as part of Modified Alternative 4. Mitigation Measure 3.4-1a involves implementing FRAQMD’s Standard Mitigation Measures. Mitigation Measure 3.4-1b requires TRLIA to implement FRAQMD’s best available mitigation measures for fugitive dust to reduce emissions below FRAQMD thresholds. Mitigation Measure 3.4-1c requires TRLIA to use off-road construction vehicles with Tier 3 engines if available. Mitigation Measure 3.4-1d provides compensatory mitigation for residual project emissions through an offsite mitigation program implemented by FRAQMD since the 2015 EIR was certified.

d. **Findings:** Although implementing Mitigation Measures 3.4-1a and 3.4-1b would reduce construction-related emissions of particulate matter (PM) equal to or less than 10 micrometers in diameter (PM<sub>10</sub>) to the maximum extent reasonably possible, construction of Modified Alternative 4 would continue to generate maximum daily PM<sub>10</sub> emissions that exceed FRAQMD thresholds of significance. Although implementing Mitigation Measure 3.4-1c would reduce oxides of nitrogen (NOx) emissions associated with Project
construction, such emissions would still exceed FRAQMD’s threshold of significance. While Mitigation Measure 3.4-1d would at least partially compensate for construction emissions that exceed FRAQMD thresholds, the impact may not be reduced to a less-than-significant level. No other feasible mitigation measures exist to further reduce this impact. Thus, the emissions associated with Modified Alternative 4 could impede the applicable air quality plan. Accordingly, this impact remains significant and unavoidable.

e. **Conclusion:** The impact of Modified Alternative 4 with respect to conflicts with the applicable air quality plan remains significant and unavoidable.

2. **Impact 3.4-2: Substantial Contribution to Existing or Projected Air Quality Violations**

   a. **Potential Impact:** Construction of Modified Alternative 4 will exceed FRAQMD’s regional thresholds of significance for NOx and PM10 emissions and could therefore potentially contribute to an existing or projected air quality violation. This impact is discussed starting at page 3.4-2 of the Draft SEIR.

   b. **Impact Prior to Mitigation:** Significant.

   c. **Mitigation Measures:** TRLIA will implement Mitigation Measure 3.4-2 as part of Modified Alternative 4. Mitigation Measure 3.4-2 commits TRLIA to implementing FRAQMD’s Standard Mitigation Measures and best available mitigation measures for fugitive dust, using off-road construction vehicles with Tier 3 engines if available, and providing compensatory mitigation for residual project emissions through an offsite mitigation program implemented by FRAQMD.

   d. **Findings:** Although implementing Mitigation Measure 3.4-2 would reduce construction related emissions to the maximum extent reasonably possible, construction of Modified Alternative 4 would continue to generate emissions that exceed FRAQMD thresholds of significance. No other feasible mitigation measures exist to further reduce this impact. Accordingly, this impact remains significant and unavoidable.

   e. **Conclusion:** The impact of Modified Alternative 4 with respect to existing or projected air quality violations remains significant and unavoidable.

D. **Noise**
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1. Impact 3.12-1 Exposure of Persons to or Generation of Noise Levels in Excess of Standards Established in the Local General Plan or Noise Ordinance, or in Other Applicable Local, State, or Federal Standards

a. Potential Impact: Implementation of Modified Alternative 4 would result in increased construction equipment and associated noise closer to sensitive residential receptors than under the Project. This impact is discussed starting at page 3.12-2 of the Draft SEIR.

b. Impact Prior to Mitigation: Potentially significant.

c. Mitigation Measure: TRLIA will implement Mitigation Measure 3.12-1, as augmented, as a part of Modified Alternative 4. This measure requires TRLIA and its construction contractors to develop and implement a plan to avoid and minimize the use of heavily loaded trucks near residential streets when feasible, to implement noise-reducing construction and O&M measures, and to notify residents of nearby construction activities.

d. Findings: Although Mitigation Measure 3.12-1 would reduce the potentially significant impact related to equipment noise during construction, it may not reduce exterior noise levels to applicable daytime and nighttime standards at all noise-sensitive receptors to a less-than-significant level. No other feasible mitigation measures exist to further reduce this impact. Accordingly, this impact remains potentially significant and unavoidable.

e. Conclusion: The impact of Modified Alternative 4 with respect to the generation of noise levels in excess of standards established by Yuba County remains potentially significant and unavoidable.

2. Impact 3.12-2 Exposure of Persons to or Generation of Excessive Groundborne Vibration or Groundborne Noise Levels

a. Potential Impact: Implementation of Modified Alternative 4 would result in increased construction equipment and associated vibration closer to sensitive residential receptors than under the Project. This impact is discussed starting at page 3.12-4 of the Draft SEIR.

b. Impact Prior to Mitigation: Potentially significant.

c. Mitigation Measure: TRLIA will implement Mitigation Measure 3.12-1 as part of Modified Alternative 4. This measure requires TRLIA and its construction contractors to develop and implement a plan to avoid and minimize the use of heavily loaded trucks near residential streets when feasible, to implement noise-reducing construction and O&M measures, and to notify residents of nearby construction activities.
d. **Findings:** Although implementing Mitigation Measure 3.12-1 would reduce the potentially significant impact related to groundborne vibration and noise from haul trucks during construction, it may not reduce groundborne vibration and noise to a less-than-significant level at all times due to the close proximity of some residential structures to roadways along the haul route and near the levee alignment. No other feasible mitigation measures exist to further reduce this impact. Accordingly, this impact remains potentially significant and avoidable.

e. **Conclusion:** The impact of Modified Alternative 4 with respect to the exposure of persons to generation of excessive groundborne vibration or groundborne noise levels remains potentially significant and unavoidable.

3. **Impact 3.12-3 Substantial Temporary or Periodic Increase in Ambient Noise Levels in the Project Vicinity above Levels Existing without the Project**

a. **Potential Impact:** Construction of Modified Alternative 4 would be expected to result in an increase in ambient noise levels in the vicinity above levels existing without the project at residential uses near the project site. This impact is discussed at page 3.12-5 of the Draft SEIR.

b. **Impact Prior to Mitigation:** Potentially significant.

c. **Mitigation Measure:** TRLIA will incorporate Mitigation Measure 3.12-1 as part of Modified Alternative 4. This measure requires TRLIA and its construction contractors to develop and implement a plan to avoid and minimize the use of heavily loaded trucks near residential streets when feasible, to implement noise-reducing construction and O&M measures, and to notify residents of nearby construction activities.

d. **Findings:** Implementing Mitigation Measure 3.12-1 would reduce the impacts related to increases in ambient noise from construction and O&M equipment, but this reduction may not result in a less than significant impact due to the close proximity of some residential structures to roadways along the haul route and near the levee alignment. No other feasible mitigation measures exist to further reduce this impact. Accordingly, this impact remains potentially significant and avoidable.

e. **Conclusion:** The impact of Modified Alternative 4 with respect to the substantial temporary increase in ambient noise levels in the project vicinity remains significant and unavoidable.
VII. FINDINGS REGARDING ALTERNATIVES

CEQA requires that an EIR evaluate a reasonable range of alternatives to a project, or to the location of a project, which: (1) offer substantial environmental advantages over the project proposal, and (2) may be feasibly accomplished in a successful manner within a reasonable period of time considering the economic, environmental, social and technological factors involved. (CEQA Guidelines, § 15126.6(a).) An EIR must only evaluate reasonable alternatives to a project which could feasibly attain most of the basic project objectives, and evaluate the comparative merits of the alternatives. In all cases, the consideration of alternatives is to be judged against a "rule of reason" (CEQA Guidelines, § 15126.6(f).) The lead agency is also required to analyze the "no project" alternative to allow decision makers to compare the impacts of approving the proposed project with the impacts of not approving the project.

As described in the 2015 EIR, TRLIA established and applied seven screening criteria to qualitatively evaluate potential project alternatives. Alternatives that met most of the screening criteria below were carried through for full analysis in the EIR, while those that failed to meet most of the criteria were screened out from further evaluation.

Alternatives Considered in the EIR

In accordance with CEQA Guidelines § 15126.6, TRLIA developed a reasonable range of alternatives for analysis in the 2015 Draft EIR (see Draft EIR, Chapter 2 and Final EIR, Chapter 2). This process involved assessing the basic feasibility of various types of measures and generally evaluating their ability to meet the screening criteria.

TRLIA designated Alternative 1 as the Proposed Project in the Draft EIR. However, TRLIA evaluated all four alternatives at an equal level of detail in the Draft EIR so that it could ultimately select any of the four project alternatives for implementation as the proposed project based on the results of the valuation, public input during the environmental review process, and information from its concurrent feasibility study.

These alternatives were adequately described, and the potential environmental impacts of each was comprehensively analyzed. Each alternative lessened the environmental impacts of the proposed project to some degree, though all of them necessitated trade-offs among particular environmental impacts, concerns about relative practical and economic feasibility, and relative satisfaction of project objectives. The 2015 Draft EIR also summarized seven of the additional alternatives that were screened and provided the basis for eliminating those alternatives from more detailed consideration (see Section 2.9 of the 2015 Draft EIR, “Alternatives Considered but Not Carried Forward for Further Evaluation”). In the 2015 Final EIR, TRLIA identified Alternative 4, a levee alignment south of the Yuba Goldfields, as the preferred alternative, because it was determined to best meet most of the project objectives, as described in the Goldfields Flood Risk Reduction Feasibility Study Final Report: 200-Year Project Selection (see Appendix A of the 2015 Final EIR).

Because TRLIA evaluated a range of reasonable alternatives in the 2015 EIR (at an equal level of detail), the Draft and Final SEIR do not evaluate additional alternatives and focus exclusively
on Modified Alternative 4, although additional levee alignments were evaluated for feasibility as described below.

After Alternative 4 was approved, modifications to the levee design and approved alignment were considered to help further reduce flood risks, minimize environmental impacts on mineral resources and biological resources, and maximize public benefits. Specifically, after approval of the original Alternative 4, TRLIA gained additional knowledge regarding the practical and financial feasibility of the Alternative 4 alignment, which led to the consideration of the proposed Modified Alternative 4 alignment. Because TRLIA evaluated a range of reasonable alternatives in the 2015 Draft EIR, TRLIA was not required to develop and evaluate more alternatives in its consideration of the Modified Alternative 4 alignment. Nevertheless, in identifying and evaluating Modified Alternative 4, TRLIA considered four alignments for the portion of the levee that extends from the Upper Yuba Levee Improvement Project (UYLIP) levee to Hammonton-Smartville Road, in an attempt to minimize impacts to an affected landowner and agricultural resources and production, while still feasibly attaining most of the project objectives. TRLIA conducted geotechnical investigations along the three alignments, and biological and cultural resources surveys along the three alignments and one subalignment. The costs, geotechnical and engineering feasibility, and preliminary environmental impacts of each alignment and subalignment were evaluated before the Modified Alternative 4 alignment evaluated in the Draft SEIR was selected. (See January 24, 2018 Memorandum to Mr. Rick Wilbur Regarding Wilbur Property Levee Alignment Refinement.) The Modified Alternative 4 alignment proposed and analyzed in the Draft SEIR was retained (as opposed to the other four possible variations of the Modified Alternative 4 alignment) because differences in potential environmental impacts among the alignments were found to be relatively minor (with no differences in impact significance); none of the alignments was determined to be geotechnically superior; and the proposed Modified Alternative 4 alignment is anticipated to cost $2.5-5.5 million less than the other alignments and subalignment. Because the 2015 EIR is presumed to have complied with CEQA and, in any event, an EIR “need not consider in detail each and every conceivable variation of the alternatives stated”—particularly those that are infeasible or would not “avoid or lessen” a significant impact of the project or achieve most project objectives—the Draft SEIR was not required to bring those other variations forward.

During the public review period for the Draft SEIR, a levee alignment was proposed by two landowners that would be affected by implementing Modified Alternative 4. The landowner-recommended alignment has three general segments, described from west to east:

1. Approximately 1.5 miles on lands mined by Western Aggregates, beginning at the end of the UYLIP levee and extending east, congruent with a tailings mound along the southern edge of the Goldfields.

2. Approximately 0.5 mile extending north to the Western Aggregates ponds.

3. Approximately 0.5 mile extending east between Western Aggregates mining ponds on the north side and Teichert mining ponds on the south side.

As described in the November 8, 2018 Memo from Paul Brunner to the TRLIA Board Regarding Landowner Proposed Alignment for TRLIA 200-Year Goldfields Levee Project, the western
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segment is similar to and slightly south of TRLIA's 100-year embankment described in the 2015 Draft EIR (see Exhibit 3.1-1). Improvement of the 100-year embankment for use as a 200-year embankment was evaluated in the 2015 EIR (see Section 2.4, “Alternative 1: 100-Year Project Enlargement”). The primary issues associated with this segment include: 1) conflict with Western Aggregates mining plan, thus increasing the impacts on mineral resources and requiring compensation for loss of mining; 2) need for a seepage berm that would remove habitat for Federally and State-listed wildlife species, thus increasing impacts on biological resources and requiring compensation for loss of habitat; and 3) conflict with Teichert’s mining operation, thus again increasing impacts on mineral resources and requiring additional compensation for loss of mining. Additionally, to meet the State levee design criteria, the tailings mound would need to be degraded to native soil or sufficiently deep to allow construction of a traditional clay embankment. If this segment was shifted slightly farther south, it would be similar to Alternative 4 evaluated in the 2015 EIR. While this portion of the alignment would be technically effective and constructible, it would be cost prohibitive and is not economically feasible for TRLIA to implement based on a preliminary assessment by TRLIA staff.

The eastern segment, between the mining ponds, is similar to an alignment that was evaluated by TRLIA in 2015. The Teichert pond is currently 100 feet deep and is proposed to be mined to 200 feet. To meet or exceed the Federal and the State levee design criteria, a levee constructed between these two ponds must mitigate seepage through the native granular soil. Borings conducted in this area indicated granular soil to depths of over 200 feet. The maximum depth of a cutoff wall used to remediate levee underseepage is 135 feet. While slurry walls can be constructed to greater depths using specialty methods, such as deep soil mix augers or a Hydromill Trench Cutter, such methods have not been used for levee purposes and are unlikely to receive technical approval from the State and Federal agencies regulating the project. A seepage berm at this location is not technically effective as it does not reduce the volume of water flowing beneath the levee, which could erode and undermine the embankment. Further, the area between the mining ponds is not wide enough to accommodate a seepage berm. In addition, a levee along this segment would prohibit access of the hydraulic dredge, thus requiring additional compensation for loss of mining. For these reasons, this alternative is infeasible and would not satisfy most project objectives or substantially lessen environmental impacts.

Because TRLIA evaluated a range of reasonable alternatives in the 2015 Draft EIR and the landowner-proposed alternatives are economically infeasible based on preliminary TRLIA staff assessment and do not achieve most project objectives or substantially lessen the environmental impacts of the project, the Final EIR need not and did not evaluate those variations in the alignment further.

VIII. FINDINGS REGARDING CUMULATIVE IMPACTS

A. Cumulative Impact Analysis

CEQA Guidelines section 15130 provides the framework for analysis of cumulative impacts associated with implementation of a project. A discussion of cumulative impacts includes the combination of significant and less-than-significant project-related impacts and all levels of impacts from other related past, present, and reasonably foreseeable future projects. Consistent with these requirements, cumulative impacts were discussed in Chapter 3 of the Draft EIR and
supplemented in Section 3.1.1 of the Draft SEIR and in each of the subsequent resource impact discussions provided in Section 3 of the Draft SEIR.

The Draft SEIR’s cumulative impacts discussion added to the prior list of related past, present, and reasonably foreseeable future projects the following new or updated projects:

- TRLIA Goldfields 100-Year Flood Protection Project
- Other TRLIA Projects
- Teichert Aggregates Marysville Project
- Yuba River Ecosystem Restoration Project
- Voluntary Conservation Measures Project – Habitat Enhancement on the Lower Yuba River
- Hallwood Side Channel and Floodplain Restoration Project

Without mitigation, the Project is anticipated to cause a cumulatively considerable incremental contribution to a significant cumulative impact, in combination with the related projects listed in Chapter 3 of the Draft EIR and those listed above, in the following areas:

- Agriculture
- Air Quality
- Mineral Resources
- Noise

After all feasible mitigation measures were applied, a cumulatively considerable incremental contribution to a significant cumulative impact, in combination with the related projects listed above, would occur to agriculture, air quality, mineral resources, and noise. As discussed above, all feasible mitigation measures for these environmental resource areas have been incorporated into the Project. Therefore, these are significant and unavoidable cumulative impacts.

IX. STATEMENT OF OVERRIDING CONSIDERATIONS

CEQA Guidelines Section 15093 requires a public agency to balance the economic, social, technological, and other benefits of a proposed project against its unavoidable environmental risks in determining whether to approve the project. TRLIA proposes to approve Modified Alternative 4 despite certain remaining significant and unavoidable adverse impacts identified in the Yuba Goldfields 200-Year Flood Protection Project SEIR because TRLIA finds that the benefits of Modified Alternative 4 outweigh its significant adverse environmental effects. The reasons for TRLIA’s determination are summarized below.

A. Impacts of Modified Alternative 4
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As detailed in this Findings document and in the SEIR, the SEIR concludes that Modified Alternative 4 will have significant and unavoidable direct and/or indirect impacts in the following resource areas: aesthetics, agriculture resources, air quality, mineral resources, and noise.

The SEIR also concludes that Modified Alternative 4 will make cumulatively considerable incremental contributions to significant cumulative impacts, due to their combination with related past, present, and reasonably foreseeable future projects listed in Chapter 3 of the Draft EIR and in Section 3.1.1 of the Draft SEIR, in the following resource areas: agriculture, air quality, mineral resources, and noise.

B. Environmental Commitments and Mitigation Measures

The mitigation measures incorporated into the SEIR and the Supplemental MMRP demonstrate a commitment by the Board to avoid, minimize, and compensate for environmental impacts of Modified Alternative 4. Mitigation measures added or modified in association with Modified Alternative 4 are listed below.

Aesthetics

- Mitigation Measure 3.2-3: Screen Construction Sites, Staging Areas, and Borrow Areas Located within 300 Feet of Residences

- Mitigation Measure 3.2-4: Coordinate Nighttime Lighting with Beale AFB and Restrict Night Lighting within and Near Airport Runway Approach Zones

Agriculture and Forestry Resources

- Mitigation Measure 3.3-1: Minimize Important Farmland Conversion to the Extent Practicable and Feasible

Air Quality

- Mitigation Measure 3.4-1d: Contribute to Feather River Air Quality Management District Off-Site Mitigation Program

Hazardous Materials

- Mitigation Measure 3.9-2: Coordinate the Timing and Location of Project Construction Activities with Western Aggregates, Kino Aggregates, Cal-Sierra, and Teichert

- Mitigation Measure 3.9-3: Consider FAA Guidelines, Coordinate with Beale AFB Staff Regarding Hazardous Wildlife Attractants, and Minimize Conversion to Rice Production, if Necessary
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- Mitigation Measure 3.9-5: Implement Best Management Practices for Mosquito Control

Noise

- Mitigation Measure 3.12-1: Prepare and Implement a Plan to Avoid and Minimize Residential Streets during Truck Hauling when Feasible

Utilities and Public Service

- Mitigation Measure 3.15-4: Verify Utility Locations, Coordinate with Affected Utility Providers, Prepare and Implement a Response Plan, and Conduct Worker Training with Respect to Accidental Utility Damage

Mitigation measures that were adopted as part of the 2015 EIR but are no longer required for implementation of Modified Alternative 4 are listed below.

Biological Resources

- Mitigation Measure 3.5-2: Minimize and Compensate for Loss of Riparian and Vernal Pool Habitats

- Mitigation Measure 3.5-3: Minimize Potential Loss of Special-Status Plants

- Mitigation Measure 3.5-6 Minimize and Compensate for Removal of Elderberry Shrubs

- Mitigation Measure 3.5-7: Minimize and Compensate for Loss of Vernal Pool Branchiopods

- Mitigation Measure 3.5-8b: Minimize Potential for Mortality of Giant Garter Snake

In summary, the Supplemental MMRP includes:

- a bulleted list of the names of mitigation measures adopted in 2015 as part of the 2015 MMRP and EIR Addendum that still apply to Modified Alternative 4 (the 2015 MMRP and EIR Addendum contain the full text of these mitigation measures)

- a bulleted list of the names of mitigation measures adopted in 2015 as part of the 2015 MMRP that do not apply to Modified Alternative 4 and hence are removed

- mitigation measures adopted in 2015 as part of the 2015 MMRP that have been augmented to better apply to Modified Alternative 4,
C. **Benefits of Modified Alternative 4**

As required by the State CEQA Guidelines Section 15093, TRLIA finds that the significant and unavoidable effects listed above are outweighed by the benefits offered by Modified Alternative 4. The Project overall will enhance public safety in the RD 784 service area by ensuring that Goldfields flood flows do not outflank the SPFC in the event of a 200-Year flood event. Furthermore, under the No-Project Alternative, substantially greater environmental impacts would occur under flood conditions; 18 specific significant and unavoidable impacts would be expected to occur under the No-Project Alternative and the increased risk of potential flooding, including significant and unavoidable impacts related to aesthetics, air quality, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, noise and vibration, recreation, and transportation (summarized on page ES-9 in the 2015 Draft EIR and discussed under “No-Project Alternative” in each of the applicable resource sections of the 2015 Draft EIR). TRLIA’s overall considerations for approving the Project in spite of its significant and unavoidable environmental impacts were first described in the 2015 EIR Statement of Overriding Considerations, and continue to apply for certification of the SEIR.

TRLIA has now proposed Modified Alternative 4 in the SEIR, and the Project generally, to address risks associated with flood waters flowing through the Goldfields and flanking SPFC facilities, and to reduce flood risk to human health and safety, and the threat of a flood event to the regional economy. Specifically, the overall Project has the following benefits:

- Protects existing populations and minimizes exposure to flooding for agricultural commodities, industrial uses, infrastructure use, and other property.
- Reduces flood risk from the Goldfields during a 200-year flood event, equivalent to DWR’s urban levee design criteria requirements.
- Constructs a feasible project as soon as possible to reduce flood risk as quickly as possible.
- Constructs a feasible project that is economically, environmentally, politically and socially acceptable.
- Facilitates compatibility with the Central Valley Flood Protection Plan ("CVFPP") such that proposed activities would have “no regrets” and would not be inconsistent with any future plans.
- Facilitates compatibility with recreation and restoration goals in the planning area.

The benefits of Modified Alternative 4 specifically align with the benefits listed above. Moreover, after Alternative 4 was approved in 2015, modifications became necessary as a result of additional knowledge regarding the practical and financial feasibility of the Alternative 4 alignment; based on this information, Alternative 4 would be substantially more costly than
anticipated, to the point that implementation of Alternative 4 would not be economically feasible. TRLIA evaluated several options related to Modified Alternative 4 at the request of a landowner, as well as an alignment proposed by that landowner after the close of comments on the Draft SEIR, and based on preliminary TRLIA staff assessment, those alignment proposals were infeasible and/or would not satisfy most project objectives or substantially lessen environmental impacts of the Project. Modified Alternative 4 represents the best feasible project to achieve most of the basic project objectives while balancing and minimizing impacts to the environment and affected landowners.

In general, Modified Alternative 4 has only minor differences in environmental impacts from those described in the 2015 EIR. Further, the extent and/or severity of impacts on some environmental resources would be less under Modified Alternative 4 (air quality, biological resources, and minerals), and several potentially significant impacts to biological resources under Alternative 4 from the 2015 EIR would be reduced to either no impact or to a less-than-significant impact under Modified Alternative 4 (loss of sensitive habitats, special-status plants, Valley elderberry longhorn beetles and their habitat, vernal pool branchiopods and their habitat, and giant garter snakes and their habitat).

On balance, with the understanding that Modified Alternative 4 continues to have significant and unavoidable impacts even with implementation of all feasible mitigation measures, the TRLIA Board hereby finds that any remaining significant effects on the environment found to be unavoidable as described in these findings are acceptable and outweighed by the overriding considerations described above.

D. Conclusion

Having reduced the effects of the proposed Modified Alternative 4 to the maximum extent feasible by adopting all feasible mitigation measures, and balanced the benefits of the proposed Modified Alternative 4 against its potential significant and unavoidable adverse impacts, the TRLIA Board of Directors hereby determines that the specific overriding economic, legal, social, technological, or other benefits of the proposed Modified Alternative 4 outweigh the potential significant and unavoidable adverse effects on the environment.
Supplemental Mitigation Monitoring and Reporting Program

Yuba Goldfields 200-Year Flood Protection Project

State Clearinghouse No. 2014062045

Prepared for:

Three Rivers Levee Improvement Authority

GEI Consultants

January 2019
ATTACHMENT B TO RESOLUTION 2019-2

Supplemental Mitigation Monitoring and Reporting Program

Yuba Goldfields 200-Year Flood Protection Project

State Clearinghouse No. 2014062045

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GEI

January 2019
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INTRODUCTION

On September 15, 2015, the Three Rivers Levee Improvement Authority (TRLIA) certified the Environmental Impact Report for the Yuba Goldfields 200-Year Flood Protection Project (State Clearinghouse No. 2014062045) (hereafter referred to as the 2015 EIR), approved Alternative 4 as the proposed project, and adopted a mitigation monitoring and reporting program (MMRP) for Alternative 4. In October 2015, TRLIA prepared an addendum to the 2015 EIR and adopted amendments to Mitigation Measures 3.6-2a and 3.6-2b regarding cultural resources.

Since the MMRP and amended Mitigation Measures 3.6-2a and 3.6-2b were adopted, TRLIA has proposed modifications to Alternative 4 (hereafter referred to as Modified Alternative 4). In accordance with the California Environmental Quality Act (CEQA), TRLIA has prepared a Supplemental Environmental Impact Report (SEIR) to address these minor project modifications. Section 21081.6 of the California Public Resources Code, and Sections 15091(d) and 15097 of the State CEQA Guidelines, require public agencies “to adopt a reporting and monitoring program for changes to the project which it has adopted or made a condition of project approval in order to mitigate or avoid significant effects on the environment.” This Supplemental MMRP is required for Modified Alternative 4 because the SEIR:

- removes five mitigation measures in the 2015 MMRP because those measures no longer apply because the corresponding impacts of Modified Alternative 4 would be less than significant before mitigation,
- identifies three augmented (i.e., enhanced) mitigation measures from the 2015 MMRP, and
- adds six new mitigation measures that would be implemented to reduce impacts of Modified Alternative 4.

The 2015 MMRP, in conjunction with and as modified by this Supplemental MMRP, will be conducted by TRLIA in full compliance with Section 21081.6 of the California Public Resources Code, and Sections 15091(d) and 15097 of the State CEQA Guidelines.

PURPOSE OF MITIGATION MONITORING AND REPORTING PROGRAM

This Supplemental MMRP has been prepared to ensure that all augmented and new mitigation measures identified in the SEIR are implemented and completed according to schedule and maintained in a satisfactory manner during project construction and operation. The 2015 MMRP and this Supplemental MMRP may be further modified by TRLIA during project implementation, as necessary, in response to changing conditions or other refinements.

ROLES AND RESPONSIBILITIES

Unless otherwise specified herein, TRLIA is responsible for taking all actions necessary to implement the mitigation measures according to the specifications provided for each measure, and for demonstrating that the action has been successfully completed. TRLIA, at its discretion, may delegate implementation responsibility or portions thereof to a licensed contractor or other designated agent as long as TRLIA maintains final responsibility for ensuring that the actions are taken. TRLIA is responsible for overall administration of the MMRP and for verifying that TRLIA staff members and/or the construction contractor complete the necessary actions for each measure.
ANNUAL REPORTING

The project manager for TRLIA shall prepare monitoring reports annually that describe the compliance of the activity with the required mitigation measures. Annual reporting on implementation of these measures will end when construction is completed. Information regarding inspections and other requirements shall be compiled and explained in each report. The report shall be designed to simply and clearly describe whether mitigation measures have been adequately implemented. At a minimum, each report shall identify the mitigation measures or conditions to be monitored for implementation, whether compliance with the mitigation measures or conditions has occurred, the procedures used to assess compliance, and whether further action is required. The monitoring report shall be presented to TRLIA for review and decisions regarding any required action or determination.

MITIGATION MONITORING PLAN

The annual report will verify implementation of all applicable mitigation measures. The following mitigation measures adopted in 2015 and part of the 2015 MMRP apply to and will be implemented under Modified Alternative 4:

- 3.4-1a: Implement FRAQMD Standard Mitigation Measures during Project Construction
- 3.4-1b: Implement FRAQMD Best-Available Mitigation Measures during Project Construction
- 3.4-1c: Use Tier 3 Construction Equipment
- 3.5-1: Minimize and Compensate for Loss of Federally Protected Wetland
- 3.5-8a: Minimize Mortality of Pacific Pond Turtle
- 3.5-9: Minimize Disturbance of Occupied Burrows and Avoid Loss of Burrowing Owls
- 3.5-10: Minimize Disturbance of Active Raptor Nests and Avoid Take of Individuals
- 3.5-11: Minimize Disturbance of Active Nests of Special-Status Species and Avoid Direct Take of Nests
- 3.6-2a: Perform Additional Cultural Resources Inventory
- 3.6-2b: Implement Unanticipated Discovery Plan and Perform Cultural Resources Awareness Training
- 3.7-1: Prepare Site-Specific Geotechnical Report for 200-Year Protection, Implement Appropriate Recommendations, and Design and Construct Facilities in Compliance with USACE Guidelines
- 3.7-3b: Engineer, Design, and Construct Proposed Facilities According to USACE Guidelines
- 3.7-7: Conduct Construction Personnel Education, Stop Work if Paleontological Resources are Discovered, Assess the Significance of the Find, and Prepare and Implement a Recovery Plan as Required
- 3.16-1: Prepare a Storm Water Pollution Prevention Plan and Implement Best Management Practices
- 3.14-1: Prepare and Implement a Traffic Management Plan
- 3.14-3: Post Detour Notices for Affected Transit, Bicycle, or Pedestrian Facilities
3.15-1: Coordinate with Irrigation Water Provider

The following mitigation measures adopted in 2015 and part of the 2015 MMRP no longer apply to Modified Alternative 4 because the corresponding impacts of Modified Alternative 4 would be less than significant before mitigation:

- 3.5-2: Minimize and Compensate for Loss of Riparian and Vernal Pool Habitats
- 3.5-3: Minimize Potential Loss of Special-Status Plants
- 3.5-6: Minimize and Compensate for Removal of Elderberry Shrubs
- 3.5-7: Minimize and Compensate for Loss of Vernal Pool Branchiopods
- 3.5-8b: Minimize Potential for Mortality of Giant Garter Snake

Table 1 includes augmented and new mitigation measures presented in the SEIR. The column categories identified in Table 1 are described below:

- **Mitigation Number**—This column lists the mitigation measures according to the number in the SEIR.
- **Mitigation Measure**—This column provides the text of the mitigation measures identified in the SEIR.
- **Mitigation Implementation Timeframe**—This column lists the time frame in which the mitigation will take place.
- **Monitoring Timeframe**—This column lists the time frame in which mitigation implementation will be monitored.
- **Responsibility for Verification of Compliance**—This column identifies the entity(ies) responsible for verifying compliance with the requirements of the mitigation measure.
- **Performance Criteria**—This column describes what action(s) are needed to verify implementation.
- **Date Compliance Completed**—The “Date Completed” column is to be dated and initialed by the project manager or his/her designee, based on the documentation provided by the construction contractors, its agents (qualified individuals), or through personal verification by TRLIA.

The following mitigation measures included in Table 1 are augmented (i.e., enhanced) versions of mitigation measures adopted in 2015 and will be implemented in their place:

- 3.3-1: Minimize Important Farmland Conversion to the Extent Practicable and Feasible
- 3.9-2: Coordinate the Timing and Location of Project Construction Activities with Teichert and Other On-Site Agricultural Property Owners and Implement Measures to Minimize Potential Exposure to Hazardous Materials
- 3.12-1: Prepare and Implement a Plan to Avoid and Minimize Residential Streets during Truck Hauling when Feasible and Implement Noise-Reducing Construction and O&M Measures and Notify Residents of Nearby Activities during Project Construction

The following mitigation measures included in Table 1 are new measures that were identified in the SEIR:
- 3.2-3: Screen Construction Sites, Staging Areas, and Borrow Areas Located within 300 Feet of Residences

- 3.2-4: Coordinate Nighttime Lighting with Beale AFB and Restrict Night Lighting within and Near Airport Runway Approach Zones

- 3.4-1d: Contribute to Feather River Air Quality Management District Off-Site Mitigation Program

- 3.9-3: Consider FAA Guidelines, Coordinate with Beale AFB Staff Regarding Hazardous Wildlife Attractants, and Minimize Conversion to Rice Production, if necessary

- 3.9-5: Implement Best Management Practices for Mosquito Control

- 3.15-4: Verify Utility Locations, Coordinate with Affected Utility Providers, Prepare and Implement a Response Plan, and Conduct Worker Training with Respect to Accidental Utility Damage
### Table 1
Supplemental Mitigation Monitoring and Reporting Plan for the Yuba Goldfields 200-Year Flood Protection Project

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<th>Mit. No.</th>
<th>Mitigation Measure</th>
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<tr>
<td>3.2-3</td>
<td>Screen Construction Sites, Staging Areas, and Borrow Areas Located within 300 Feet of Residences. TRLIA will locate staging and material storage areas as far away from residences along Hammonton-Smartville Road as feasible. Where construction areas, staging and material storage areas, or borrow areas are 300 feet or closer to residences, to the extent feasible, TRLIA will require its construction contractor to erect a temporary 6-foot-tall screened fence or other visual barrier at the edge of the construction, borrow, or staging area, between the work area and the residence(s).</td>
<td>Screening would be installed before the start of project construction within 300 feet of the relevant residences.</td>
<td>During construction activities within 300 feet of residences along Hammonton-Smartville Road</td>
<td>TRLIA and its construction contractor(s)</td>
<td>Visual impact on residences is minimized to the extent practical and feasible.</td>
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| 3.2-4 | Coordinate Nighttime Lighting with Beale AFB and Restrict Night Lighting within and Near Airport Runway Approach Zones. If nighttime construction would occur, TRLIA will implement the following measures to reduce airport safety hazards associated with project-related nighttime lighting.  
- All project-related nighttime lighting that would be located within Beale AFB's runway approach zone will be shielded and directed downward to reduce interference with nighttime airport operations and aircraft flight paths.  
- The Beale AFB base operations manager will be notified at least 10 days before project-related nighttime lighting operations begin within the Beale AFB runway approach zone, and TRLIA will coordinate with Beale AFB during final project design to ensure that all appropriate safety precautions are incorporated into the construction plans.  
- Before start of nighttime construction activities in the Beale AFB runway approach zone, TRLIA's construction contractor will hold a safety meeting for all nighttime construction personnel informing them of the necessity of ensuring that all lighting is shielded and directed downward at all times, along with other safety measures that may be required by Beale AFB. The safety briefing will include emergency contact information for Beale AFB. | Lighting within Beale AFB runway approach would be shielded and directed downward during nighttime construction.  
Beale AFB would be notified at least 10 days before nighttime lighting begins in runway approach zone.  
Safety meeting would be conducted before nighttime lighting begins in runway approach zone. | Before and during nighttime construction activities in the Beale AFB runway approach zone | TRLIA and its construction contractor(s) | Nighttime lighting does not interfere with aircraft approaching Beale AFB. |
### Table 1: Supplemental Mitigation Monitoring and Reporting Plan for the Yuba Goldfields 200-Year Flood Protection Project

<table>
<thead>
<tr>
<th>Mit. No.</th>
<th>Mitigation Measure</th>
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</thead>
<tbody>
<tr>
<td>Agriculture and Forestry Resources</td>
<td><strong>Minimize Important Farmland Conversion to the Extent Practicable and Feasible.</strong></td>
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<tr>
<td>3.3-1</td>
<td><strong>Minimize Important Farmland Conversion to the Extent Practicable and Feasible.</strong></td>
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<td></td>
<td>TRLIA and its construction contractor(s) will implement the following measures with regard to Prime Farmland and Unique Farmland to minimize impacts on these lands:</td>
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<td></td>
<td>▶ To the extent practicable and feasible, on-site borrow areas currently in agricultural production shall be returned to agricultural production and on-site borrow areas currently not in agricultural production shall be converted to agricultural production after project construction is complete.</td>
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<td></td>
<td>▶ To the extent practicable and feasible, when constructing the levee improvements, salvage the upper 2 feet of soil from the construction footprint. This topsoil shall be temporarily stockpiled on the project site and redistributed in one of the following manners:</td>
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<td>- If one or more of the borrow areas is returned to agricultural production, the soil shall be reused at the borrow area(s).</td>
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<td></td>
<td>- If none of the borrow areas is returned to agricultural production, the soil shall be distributed to agricultural lands near but outside of the construction disturbance footprint that are not designated as Important Farmland. By agreement between the implementing agencies or landowners of affected properties and the recipient(s) of the topsoil, the recipient(s) will be required to use the topsoil for agricultural purposes.</td>
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<td></td>
<td>▶ By agreement between TRLIA and Yuba County, acquire agricultural conservation easements in Yuba County at a 1:1 ratio (i.e., 1 acre on which easements are acquired to 1 acre of Important Farmland removed from agricultural use) that provide in-kind or similar resource value protection. These lands will be held by land trusts or local governments who will be responsible for maintaining these lands in agricultural use.</td>
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<td>Borrow site design would be completed before project construction begins, and agricultural production would resume or begin, where feasible, after project construction.</td>
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<td></td>
<td>Topsoil would be salvaged and reused before the start of and/or after project construction.</td>
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<td></td>
<td>Conservation easements would be acquired after the final acreage of Important Farmland permanently converted has been determined.</td>
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<td></td>
<td>TRLIA and its construction contractor(s)</td>
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<td></td>
<td>Loss of important farmland soils is prevented to the extent practicable and feasible.</td>
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<td></td>
<td>Prime Farmland and Unique Farmland is protected and maintained to the extent practicable and feasible so loss of Important Farmland is minimized.</td>
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### Table 1
Supplemental Mitigation Monitoring and Reporting Plan for the Yuba Goldfields 200-Year Flood Protection Project

<table>
<thead>
<tr>
<th>Mit. No.</th>
<th>Mitigation Measure</th>
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<th>Date Compliance Completed</th>
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</thead>
<tbody>
<tr>
<td></td>
<td><strong>Air Quality</strong></td>
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<tr>
<td>3.4-1d</td>
<td><strong>Contribute to Feather River Air Quality Management District Off-Site Mitigation Program.</strong></td>
<td>Before, during, and after project construction is complete</td>
<td>Throughout construction period</td>
<td>TRLIA and its construction contractor(s)</td>
<td>Off-site mitigation fees are paid, including deposit before construction begins and balance after construction is complete</td>
<td></td>
</tr>
</tbody>
</table>
|         | TRLIA will pay a deposit down payment to FRAQMD, to be determined at the time the project is approved, for the off-site mitigation. This deposit will be held by FRAQMD and applied toward the final off-site mitigation amount to be paid after project construction is complete. TRLIA and its construction contractor(s) will collect data regarding construction activities and report to FRAQMD on a monthly basis. Data collected during project construction and used to calculate construction emissions will include the following items:  
  - Construction equipment:  
    - Number of pieces of each equipment type  
    - Model year, engine horsepower and tier, and hours of operation for each equipment type  
  - Haul trucks (heavy-duty trucks):  
    - Number of heavy-duty haul truck trips  
    - On-road and off-road trip distance for haul truck trips  
  - Construction workers:  
    - Number of construction workers per day  
  - Total volume (cy) of cut/fill  
  Total construction emissions will be calculated at the end of construction activities. TRLIA will pay up to a total of $200,000 (including the deposit down payment) to compensate for project emissions that exceeded FRAQMD thresholds, based on the FRAQMD fee per ton that is in effect when the project is approved. |                                      |                                                   |                                               |                                                                                      |                          |
<p>|         | <strong>Hazards and Hazardous Materials</strong>                                                                                                                         |                                      |                                                   |                                               |                                                                                      |                          |
| 3.9-2   | <strong>Coordinate the Timing and Location of Project Construction Activities with Telchert and Other On-Site Agricultural Property Owners and Implement Measures to Minimize Potential Exposure to Hazardous Materials.</strong> | Before and throughout construction period | Throughout construction period                    | TRLIA and its construction contractor(s)   | Construction activities are coordinated with mining companies and agricultural             |                          |
|         | TRLIA will implement the following mitigation measure to reduce the                                                                                       |                                      |                                                   |                                               |                                                                                      |                          |</p>
<table>
<thead>
<tr>
<th>Mit. No.</th>
<th>Mitigation Measure</th>
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<tr>
<td></td>
<td>potential for agricultural and mining operations and project construction activities to result in hazardous conditions that could expose people to hazardous materials.</td>
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<td>property owners such that potential hazardous conditions from conflicting activities are prevented to the extent practical and feasible.</td>
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<td></td>
<td>- TRLIA will coordinate with Teichert and other on-site agricultural property owners regarding the projected schedule and location of project-related construction activities, before such activities occur, to avoid any potential hazards from conflicts with field equipment, ongoing mining activities, or potential accidental releases of hazardous materials.</td>
<td></td>
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<td>Potential hazardous materials or conditions discovered during project construction are appropriately addressed, in coordination with Yuba County when applicable.</td>
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<td>- Prepare and implement a worker health and safety plan before the start of construction activities that identifies, at a minimum, the potential types of contaminants that could be encountered during construction activity; all appropriate worker, public health, and environmental protection equipment and procedures to be used during project activities should hazardous materials be encountered on site; and emergency response procedures.</td>
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<td>- If, during site preparation and construction activities, evidence of hazardous materials contamination is observed or suspected (e.g., stained or odorous soil or groundwater), construction activities will cease immediately in the vicinity of the find and TRLIA will notify the Yuba County Division of Environmental Health. Measures to remediate contamination and protect worker health and the environment will be implemented in accordance with applicable Federal, State, regional, and local regulations before construction activities may resume at the site where contamination is encountered.</td>
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<td>- If any aboveground or underground storage tanks or septic systems are encountered during project-related construction activities, construction in the immediate vicinity of the tank or septic system will be halted and TRLIA will notify the Yuba County Division of Environmental Health. All storage tanks and septic systems will be removed and properly disposed of in accordance with applicable Federal, State, regional, and local regulations.</td>
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<td>- TRLIA will retain a licensed contractor, if necessary, to plug and abandon all water wells at the project site in accordance with</td>
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<td>Mit. No.</td>
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</table>
| 3.9-3   | Consider FAA Guidelines, Coordinate with Beale AFB Staff Regarding Hazardous Wildlife Attractants, and Minimize Conversion to Rice Production, if necessary. TRLIA will implement the following measures to minimize the potential increase in hazardous wildlife numbers near Beale AFB:  
  ➤ TRLIA will review and consider FAA Advisory Circular 150/5200-33B, Hazardous Wildlife Attractants on or Near Airports, when determining the location and developing design of the detention basin.  
  ➤ TRLIA will coordinate with Beale AFB staff regarding potential for project components to increase numbers of hazardous wildlife near the approach and departure airspace zones and attempt to identify feasible measures to reduce any potential increase.  
  ➤ TRLIA will minimize conversion of existing orchards to rice production within the 10,000-foot separation area, if necessary, based on discussions with Beale AFB staff and if it is feasible to cultivate other crops in the former staging and borrow areas.                                                                                           | During project design and after project construction is complete | During project design and after project construction | TRLIA                                                                 | Creation of hazardous wildlife attractants is minimized to the extent practical and feasible. |                          |
<p>| 3.9-5   | Implement Best Management Practices for Mosquito Control.                                                                                                                                                                                                                                                                                                                                                                                  | During project design and after | During project design and after | TRLIA                                                                 | Conditions that encourage mosquito |                          |</p>
<table>
<thead>
<tr>
<th>Mit. No.</th>
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<tr>
<td></td>
<td>To the extent feasible, design and operation of the detention basin and potential post-construction rice production will incorporate applicable measures identified in Sutter-Yuba Mosquito &amp; Vector Control District’s Best Management Practices to Reduce Mosquitoes (Sutter-Yuba Mosquito &amp; Vector Control District 2012). Such measures include detention basin design features to discourage plant growth, providing access to maintenance and vector control crews, minimizing retention of standing water, minimizing clogging of discharge orifices, and allowing for complete draining when needed. Measures also include detention basin and rice field management practices to maintain certain water depths and minimize unwanted emergent and floating vegetation.</td>
<td>project construction is complete</td>
<td>project construction</td>
<td>breeding are minimized to the extent practical and feasible.</td>
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</tbody>
</table>
| Noise   | 3.12-1 Prepare and Implement a Plan to Avoid and Minimize Residential Streets during Truck Hauling when Feasible and Implement Noise-Reducing Construction and O&M Measures and Notify Residents of Nearby Activities during Project Construction. TRLIA and its construction contractor(s) will implement the following measures to reduce construction and O&M noise levels and associated impacts on nearby residences:  
- Develop and a plan to avoid and minimize the use of heavily loaded trucks near residential streets when feasible.  
- Prohibit the start-up of machines or equipment before 7 a.m. and after 7 p.m. Monday through Saturday and before 9 a.m. and past 6 p.m. on Sunday, except during any necessary 24-hour cutoff wall construction.  
- Prohibit use of materials and equipment deliveries before 7 a.m. and after 7 p.m., Monday through Saturday and before 9 a.m. and past 6 p.m. on Sunday, except during any necessary 24-hour cutoff wall construction.  
- Minimize idling times of equipment either by shutting equipment off when not in use or by reducing the maximum idling time to 5 minutes.  
- Restrict the use of bells, whistles, alarms, and horns to safety- | Before and during all construction phases | Throughout construction period | TRLIA and its construction contractor(s) | Noise in residential areas from construction equipment is minimized to the extent practical and feasible. |                           |                           |

<p>| | | | | | | |
|         |                                                                                                                                                                                                                                                                                                                                                   |                                      |                      |                               |                        |                           |</p>
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<td></td>
<td>warning purposes.</td>
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<td></td>
<td>▶ Locate fixed construction equipment (e.g., pumps and generators), construction staging and stockpiling areas, and construction vehicle routes as far as feasible from noise-sensitive receptors.</td>
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<td>▶ Provide written notification to potentially affected residents before construction, identifying the type, duration, and frequency of construction activities within 1,000 feet of residences. Notification shall include anticipated dates and hours during which construction activities are anticipated to occur and recommendations to assist residents in reducing interior noise levels (e.g., closing windows and doors).</td>
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<td>▶ Designate a disturbance coordinator and conspicuously post this person's number around the project site and in construction notifications. The disturbance coordinator shall be responsible for responding to any complaints about construction activities. The disturbance coordinator shall receive all public complaints about construction disturbances and be responsible for determining the cause of the complaint and implementation of feasible measures to be taken to alleviate the problem.</td>
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<tr>
<td>Utilities and Public Services</td>
<td>3.15-4 Verify Utility Locations, Coordinate with Affected Utility Providers, Prepare and Implement a Response Plan, and Conduct Worker Training with Respect to Accidental Utility Damage.</td>
<td>Before and during construction activities</td>
<td>Throughout construction period</td>
<td>TRLIA and its construction contractor(s)</td>
<td>Service disruptions are minimized and accidental damage of existing utilities is avoided or appropriately remediated.</td>
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<td>Mit. No.</td>
<td>Mitigation Measure</td>
<td>Mitigation Implementation Time Frame</td>
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<td>Any buried utility lines will be clearly marked in the area of construction (e.g., in the field) and on the construction specifications in advance of any earth-moving activities.</td>
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<td>► Prepare and implement a response plan that addresses potential accidental damage to a utility line. The plan will identify chain-of-command rules for notifying authorities and appropriate actions and responsibilities regarding public and worker safety. A component of the response plan will include worker education training in response to such situations.</td>
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<td>► Stage utility relocations prior to and during construction to minimize interruptions in service.</td>
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<td>► Coordinate with Pacific Gas and Electric Company, if necessary, to relocate or modify electrical transmission and distribution lines and associated infrastructure such as power poles.</td>
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ATTACHMENT 3 TO STAFF REPORT

MEMORANDUM

To: BOARD OF DIRECTORS
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

From: PAUL BRUNNER, EXECUTIVE DIRECTOR

Date: JANUARY 10, 2019

Re: TECHNICAL MEMORANDUM REGARDING LATE COMMENT LETTERS RECEIVED ON THE YUBA GOLDFIELDS 200-YEAR FLOOD PROTECTION PROJECT'S DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT

INTRODUCTION

The Three Rivers Levee Improvement Authority ("TRLIA") received three comments on the Yuba Goldfields 200-Year Flood Protection Project’s ("Project") Draft Supplemental Environmental Impact Report ("DSEIR") after the public comment period deadline of October 29, 2018. While the California Environmental Quality Act ("CEQA") does not require a lead agency to respond to late comments (Pub. Res. Code, § 21091(d)(1)), TRLIA staff have prepared this technical memorandum to address the major concerns raised in the late comments for consideration by the Board of Directors.

TRLIA received the following late comments on the Project’s Draft SEIR:

- Letter from Dana Davis, President, Teichert Materials, to the TRLIA Board of Directors, dated November 7, 2018, supporting Modified Alternative 4 for the Project (the "Teichert Letter").

- Oral comments received from Mr. Rick Wilbur, landowner, at the TRLIA Board of Directors Meeting on December 18, 2018, regarding his preferred levee alignment and agricultural impacts.

- Letter dated December 11, 2018, from Christian C. Scheuring, Managing Counsel, California Farm Bureau Federation and David Burroughs, President, Yuba-Sutter Farm Bureau to Paul Brunner, Executive Director, TRLIA, regarding adequacy of the Project’s Draft SEIR under CEQA (the "Farm Bureau Letter").

Provided below is a summary of these late comments and responses to key comments.

DISCUSSION

I. Teichert Materials Letter
The Teichert Letter makes two primary points. First, Teichert offers support for Board approval of Modified Alternative 4 and its levee alignment because this alignment accommodates feasible mining operations on Teichert-owned property while still fulfilling the overall Project purpose to provide sustainable 200-year flood risk reduction for the Reclamation District 784 service area.

Second, the Teichert letter notes that the alternative proposed by other landowners -- a levee running north along the property line between the Teichert and Western Aggregates properties -- would prevent Teichert’s dredge from entering its approved mining property, and thereby prevent deep mining of aggregate reserves and result in forfeiture of millions of tons of mineral reserves.

Because Teichert’s comments support the Draft SEIR’s Modified Alternative 4, its alignment, and the environmental analysis thereof, no response is required.

II. **Mr. Rick Wilbur’s Oral Comments**

During TRLIA’s December 18, 2018 Board meeting, Mr. Rick Wilbur offered oral comments regarding the Project. Mr. Wilbur introduced a proposed modified alignment that would run east from the tie-in with the Upper Yuba Levee Improvement Project to Brophy Road, then due south to Hammonton-Smartville Road (along the east side of Mr. Wilbur’s property) (hereafter referred to as the “December 2018 Alignment”). In the alternative, Mr. Wilbur suggested a diagonal northwest-southeast alignment from the tie-in with the Upper Yuba Levee Improvement Project to Brophy Road at the north edge of Mr. Wilbur’s property, and then south to Hammonton-Smartville Road. Mr. Wilbur indicated that should TRLIA adopt this alignment, which would avoid bisecting his property, he would offer to TRLIA, at no cost, those portions of his property that would be required for the levee alignment on the eastern edge of his property.

As stated above, Mr. Wilbur’s offer of lands at no cost to TRLIA is contingent on TRLIA’s selection and implementation of the December 2018 Alignment. The Option 2 alignment described in TRLIA’s January 24, 2018 Memorandum to Mr. Rick Wilbur Regarding Wilbur Property Levee Alignment Refinement (the “January 2018 Alignment”), which was a previous analysis of alignment options across Mr. Wilbur’s property, is very similar to the December 18 Alignment for the portion running along Brophy Road. The December 2018 Alignment differs only slightly from the previously analyzed alignment once it reaches the Brophy Water District canal. The January 2018 Alignment traveled due west before turning northwest, whereas the December 2018 Alignment turns northwest at the canal crossing. (See Figure 1 at end of this memorandum.) Thus, in considering the December 2018 Alignment, TRLIA relies on information previously developed for the January 2018 Alignment.

The December 2018 Alignment is approximately 1,000 feet longer than Modified Alternative 4 analyzed in the Draft and Final SEIR. It would therefore require additional borrow and result in increased project footprint and area impacted.
The table below provides basic information regarding cost estimates for Modified Alternative 4, the January 2018 Alignment, and the December 2018 Alignment. The information provided in the table applies only to the portion of the levee from the tie-in with the Upper Yuba Levee Improvement Project to approximately Brophy Road, since this is the stretch that differs most among the three alignments. As seen in the table below, despite the offer of free property, the December 2018 Alignment would cost approximately $4 million more than Modified Alignment 4.

<table>
<thead>
<tr>
<th></th>
<th>Modified Alternative 4</th>
<th>January 2018 Alignment (Northeast and East of Wilbur)</th>
<th>December 2018 Alignment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Length (feet)</td>
<td>5,680</td>
<td>7,385</td>
<td>6,670</td>
</tr>
<tr>
<td>Borrow Need (cubic yards)</td>
<td>470,000</td>
<td>571,500</td>
<td>523,750</td>
</tr>
<tr>
<td>Embankment Construction Cost</td>
<td>$6,204,000</td>
<td>$7,545,200</td>
<td>$6,913,500</td>
</tr>
<tr>
<td>Real Estate – Embankment Cost</td>
<td>$1,118,418</td>
<td>$1,391,134</td>
<td>$1,134,920</td>
</tr>
<tr>
<td>Real Estate – Borrow Cost</td>
<td>$1,667,500</td>
<td>$3,417,868</td>
<td>$4,883,712</td>
</tr>
<tr>
<td>Total Option Cost</td>
<td>$8,989,918</td>
<td>$14,354,202</td>
<td>$13,008,440</td>
</tr>
<tr>
<td>Cost Difference From Lowest Cost Option</td>
<td>$0</td>
<td>$5,364,284</td>
<td>$4,018,522</td>
</tr>
</tbody>
</table>

In addition, significant efforts would be required to develop and analyze a new alignment, including additional geotechnical borings and geophysical modeling; biological and cultural resource surveys; acquisition of rights-of-entry to the parcels to perform boring and surveys; new civil design of approximately half the levee embankment; new interior drainage and hydraulic modeling of the project; additional environmental disclosure; project management; and independent external peer review. TRLIA estimates that these additional efforts would cost over $1 million.

While TRLIA appreciates Mr. Wilbur’s generous land offer, it does not offset the additional cost and schedule delays associated with the December 2018 Alignment. As described in more detail below, TRLIA’s alternatives analyses in the 2015 EIR and the SEIR already comply in full with CEQA requirements regarding alternatives selection and analysis, and even exceed CEQA minimum requirements by evaluating a reasonable range of alternatives at an equal level of detail in the 2015 EIR and now evaluating feasibility of other alignments proposed by Mr. Wilbur.

III. Farm Bureau Letter
The Farm Bureau Letter raised comments regarding the adequacy of the Draft SEIR under CEQA. The Farm Bureau’s comments are primarily focused on impacts to agricultural lands, and the letter urges TRLIA to consider additional alternatives. Responses addressing all 11 issues raised in the Farm Bureau Letter are provided below.

(a) **Issue 1. Shifting Alternatives and Increasing Agriculture Impacts Over Time.**

The Farm Bureau Letter first alleges that TRLIA should reconsider selecting Project alternatives, including Alternatives 1-3 from the 2015 EIR, because Modified Alternative 4 will impact prime farmland. However, TRLIA’s alternatives analysis, including the selection of Modified Alternative 4, complies with CEQA in all respects.

As discussed in Master Response 1 (Project Alternatives Development and Selection) on pages 3-1 through 3-4 of the Final SEIR, TRLIA conducted a thorough evaluation of potential project alternatives in compliance with CEQA. Project formulation began in earnest in 2013 when TRLIA’s team developed 17 initial alternatives that were reduced to a reasonable range of four alternatives that were fully analyzed at an equal level of detail in the 2015 Draft EIR. Although Alternatives 1-3 would not affect agricultural land, Alternative 4 (which would impact 101 acres of agricultural land) was identified as the preferred alternative in the Final EIR, because it would best meet the project objectives, as described in the Goldfields Flood Risk Reduction Feasibility Study Final Report: 200-Year Project Selection (Feasibility Study; see Appendix A of the 2015 Final EIR). As discussed in Master Response 2 (Impacts on Agricultural Resources) of the Final SEIR, although Modified Alternative 4 could impact up to 240 acres of agricultural land, this is a worst-case scenario, and TRLIA continues to evaluate ways to minimize the amount of Important Farmland that would be permanently converted by levee construction and potential onsite borrow extraction. Therefore, the actual final impact could be considerably less.

The 2015 EIR and the administrative record include all information regarding the robust alternatives analyses completed for the 2015 EIR. While the Farm Bureau is correct that impacts to agricultural lands have increased under Modified Alternative 4 compared to previous alternatives, those impacts have been fully disclosed both in the 2015 EIR and now in the 2018 Draft SEIR, and impacts to biological resources and mineral resources have decreased under Modified Alternative 4. A lead agency is not precluded from presenting or selecting alternatives that would substantially reduce some environmental impacts but increase others. (Kostka & Zischke, Practice Under the California Environmental Quality Act (Mar. 2018 Update) § 15.7; Sierra Club v. City of Orange (2008) 163 Cal.App.4th 523, 546 (for complex projects, “it is practically impossible to imagine an alternative that would provide substantial environmental advantages in all respects.”))

For additional information regarding the alternatives analysis and TRLIA’s justification for selecting Modified Alternative 4, please see Master Response 1 (Project Alternatives Development and Selection) on pages 3-1 through 3-4 of the Final SEIR, which addresses a lead agency’s burden under CEQA for considering a reasonable range of alternatives in an EIR.
At the project approval stage, the lead agency’s decision-makers weigh the relative advantages and disadvantages of the project and the alternatives examined in the EIR. The result is a decision either to approve the project or to adopt one of the alternatives. The lead agency makes this decision after weighing environmental factors together with the entire range of legal and policy considerations relevant to its action on the project. A decision to reject an alternative in favor of the project is referred to as a determination that the other alternative is found to be infeasible. (Kostka & Zischke, Practice Under the California Environmental Quality Act (March 2018 Update) § 15.9C (citing Pub. Res. Code, § 210801(a)(3); CEQA Guidelines, § 15091(a)(3))). Thus, when the project reaches the approval stage, the lead agency must consider the legal and technical issues, and also exercise some legislative prerogative and balance among those and other factors, including particular project objectives and lead agency policies. A lead agency may therefore approve an alternative that results in increased impacts in one resource area, as long as the alternative satisfies most project objectives; is determined to be feasible; the lead agency has eliminated or substantially lessened all significant impacts on the environment where feasible, and determined that any remaining significant impacts on the environment found to be unavoidable under CEQA Guidelines, § 15091 are acceptable due to overriding concerns as described under CEQA Guidelines, § 15093. As lead agency, TRLIA has satisfied these requirements in its selection of Modified Alternative 4.

(b) Issue 2. TRLIA’s Justification of Modified Alternative 4 on the Basis of its Improper Objective to Reduce Impacts to Mineral Resources Is, in Any Case, Largely Unsupported.

The Farm Bureau letter alleges that the Draft SEIR’s selection of Modified Alternative 4 improperly relied upon a Project objective of reducing impacts to mineral resources. The letter further alleges that the determination that Modified Alignment 4 would, in fact, reduce impacts to mineral resources is not supported by evidence.

The 2015 EIR and the Draft SEIR clearly disclose impacts to mineral resources. Although mineral resources extraction from active and future mining of lands that would be within the expanded floodway (waterside of the new levee) would not be precluded by levee construction, mineral resources under the levee footprint would no longer be accessible. Therefore, there would be a permanent loss of access to future aggregate mining under both Alternative 4 (133 acres) and Modified Alternative 4 (18 acres).

As indicated in Table 2-3 of the Draft SEIR (page 2-13), 18 acres of land within the Teichert Aggregates Marysville Plant area that are identified for future aggregate mining would be impacted by Modified Alternative 4. This represents a reduction of 115 acres compared to Alternative 4 evaluated in the 2015 Draft EIR, which would have impacted 133 acres of aggregate mining land within the Marysville Plant area. Modified Alternative 4 also would avoid impacts on up to 113 acres of land actively mined for aggregate and up to 32 acres of land
actively mined for gold resources that would have been impacted by Alternatives 1-3 (see Table 2-3 of Draft SEIR).

The Farm Bureau argues that the impacts to mining from Alternative 4 and Modified Alternative 4 would actually be greater than what is disclosed in the 2015 EIR and SEIR, because TRLIA should have included loss of potential aggregate mining on properties where potential for mining is entirely speculative. CEQA does not so require.

Impacts associated with Alternative 4 and Modified Alternative 4 would occur on a portion of the Marysville Project where Teichert has located economically valuable mineral deposits that it intends to mine in the future. Because mining on these Teichert-owned properties was reasonably foreseeable, these areas were included in the analysis of aggregate mining impacts.

To the contrary, it is not known whether other portions of the levee alignment contain economically valuable aggregate deposits, and owners of these lands have emphatically asserted that their priority is to maintain agricultural production. Therefore, TRLIA’s analysis appropriately assumes these lands would remain in agricultural production, and project implementation would not result in potential loss of access to intended mining of mineral resources that may be under these portions of the levee alignment. Such impacts are not reasonably foreseeable and are speculative; therefore, they need not be analyzed under CEQA. Ebbetts Pass Forest Watch v Department of Forestry & Fire Protection (2008) 43 Cal.4th 936, 954 [an environmental analysis need not include a detailed analysis of specific actions that cannot be reasonably foreseen at the time the analysis is prepared].

TRLIA identified project objectives to minimize impacts on aggregate mining and gold dredging operations because the costs associated with such impacts could render the Project economically infeasible. TRLIA has consistently considered mining, agricultural, and all other potential environmental impacts in its preparation of the 2015 EIR and 2018 SEIR, which is embodied in TRLIA’s object to “minimize impacts on environmental resources,” which encompasses all environmental resources. The Farm Bureau takes the objectives to minimize impacts to mining operations out of context with the other TRLIA project objectives. CEQA does not require a narrow focus on any one project objective but rather on alternatives that meet most of the project objectives. Additionally, as stated in responses to comments SMITH-3 and PLG-10 in the Final SEIR, the project objectives listed in the Draft SEIR are the same as those identified in the 2015 EIR, and therefore any challenge to the propriety of these project objectives is time-barred.

It is the CEQA lead agency’s responsibility to evaluate a reasonable range of alternatives and adopt the proposed project that best meets the project purpose and objectives consistent with CEQA requirements, with consideration of all potentially significant environmental impacts and public comments. While the commenters are understandably focused on agricultural impacts, CEQA requires that TRLIA take a more comprehensive view of the proposed project, the project purpose and objectives, all potentially significant environmental impacts, and feasible mitigation and alternatives when considering SEIR certification and project approval. (City of Del Mar v. City of San Diego (1982) 133 Cal.App.3d 401, 417 [feasibility under CEQA encompasses
desirability, which is based on a reasonable balancing of relevant economic, environmental, social, and technological factors.] TRLIA's selection of Modified Alternative 4 meets all requirements of CEQA.

(c) **Issue 3. TRLIA's Project Impacts to Agricultural Resources Versus Mineral Resources Are Disproportionate and Distinct, Both in Extent and Character.**

TRLIA agrees that agricultural and mining impacts are distinct from one another, but comparing acreages impacted by the Project for these two resources is misleading and inappropriate. CEQA requires TRLIA to consider the Project's environmental impacts in all areas and select an alternative based upon the considerations discussed above and in more detail in Master Response 1 (Project Alternatives Development and Selection) on pages 3-1 through 3-4 of the Final SEIR, including feasibility. The Final SEIR properly analyzed and disclosed impacts to mineral resources and impacts to agricultural resources, as CEQA requires. Acreages of minerals and agricultural lands, as well as biological habitats and land uses, all have different characteristics and values, and cannot be compared simply based on quantity of acreage lost or gained.

(d) **Issue 4. Despite Concerns and Feasible Alternatives, the Agricultural Impacts of the Alternatives Considered by TRLIA Progressively Increased Rather than Decreasing Over Time.**

TRLIA's response to Issue 1, above, adequately addresses this issue.

(e) **Issue 5. TRLIA's Progressive Moves from Alternative 1 and 2 to Alternative 4 and from Alternative 4 to Modified Alternative 4 Sacrifice Agriculture and Local Residence.**

This comment simply repeats the Farm Bureau's previously stated concerns in their Issues 1 and 4, but here includes "local residence." TRLIA's response to Issue 1, above, adequately addresses this issue except for "local residence," which is addressed herein.

TRLIA identified project objectives to minimize impacts on aggregate mining and gold dredging operations because of the costs associated with such impacts and concerns regarding practical and economic feasibility. Although mining would continue in the expanded floodway under all alternatives that were evaluated in the 2015 Draft EIR and Modified Alternative 4, there would be a permanent loss of access to mineral resource deposits under the levee footprint. These impacts were fully disclosed in the 2015 EIR and 2018 SEIR.

Implementing a project alternative that is entirely within the Goldfields would avoid impacts on agricultural resources, but the 2015 Feasibility Study concluded the project objectives would best be met by constructing an engineered levee south of the Goldfields. Any levee alignment south of the Goldfields, including Alternative 4 and Modified Alternative 4, would result in a significant and unavoidable impact on agricultural resources.
Project alternatives evaluated in the 2015 Draft EIR and Modified Alternative 4 are not equally feasible or equally effective. Modified Alternative 4 represents the best feasible balance to achieve most of the project objectives while minimizing impacts collectively on agriculture, minerals, and other environmental resources. The need to displace residents from seven homes in the project area and the impact on those residents is of great importance to TRLIA. This is why TRLIA staff notified affected residents at an early stage, have met with them on multiple occasions and will continue to do so as the proposed project progresses. TRLIA does not dismiss the seriousness of this impact on affected residents, but the magnitude of the impact from a CEQA context focuses on the identified significance thresholds, which relate to physical division of established communities and displacement of substantial numbers of existing housing or people.

(f) **Issue 6. TRLIA Also Sacrifices Agricultural and Local Residence in a Quest for “Multi-Benefits—Despite Significant “Multi-Benefits” Opportunities with Reduced Impacts Under Original Alternative 4 and Possible Other Alternatives.**

The proposed project does not have “multi-benefit” components, and State funding for the proposed project is not linked to such features. State funds are being provided under the Urban Flood Risk Reduction (UFRR) Program. The UFRR Program authorized DWR to make funds available to local agencies for (a) repair, rehabilitation, reconstruction or replacement of levees, weirs, bypasses and facilities of the State Plan of Flood Control and (b) improving or adding facilities to the State Plan of Flood Control to increase levels of flood protection for urban areas. The proposed project falls under (b). In fact, UFRR Program monies specifically do not fund “multi-benefit” projects.

TRLIA’s selection of Alternative 4 was based on a range of parameters evaluated in the 2015 EIR and Feasibility Study, including “Provides Environmental Benefits.” However, evaluating this parameter focused on whether each alternative would preclude or reduce flexibility for others to enhance fisheries in the Lower Yuba River or potentially reestablish portions of the historic Yuba River floodplain in the Goldfields. Therefore, the 2015 Final EIR indicates Alternative 4 preserves more opportunities for environmental restoration because it is set back from the Yuba River and provides the best opportunity to indirectly result in environmental benefits to the Yuba River. This has nothing to do, however, with an attempt to “maximize the project’s cost share by expanding the ‘multi-benefit’ potential,” as the relevant UFRR funding does not have a multi-benefit component and UFRR funding cannot be used for multi-benefit opportunities. UFRR funding can only be used for flood control benefits.

Furthermore, proposal of Modified Alternative 4 has no relation to an objective alleged by the commenters to “maximize funding-eligible ‘multi-benefits’ of the project.” Providing environmental benefits was included as a project objective, if feasible. Because of the existing funding limitations, it has not been feasible to provide specific and direct environmental benefits except that the proposed project’s reduction in flood risks and impacts substantially reduces many significant and unavoidable environmental impacts that would result under the No-Project
Alternative, including to agricultural resources, if flooding resulted (see 2015 EIR, Table 2-2 and corresponding No-Project Alternative sections for each resource category.

(g) Issue 7. TRLIA’s Anticipated $2.5 Million in Cost Savings with Expanded “Multi-Benefits” Under Modified Alternative 4 Must Be Balanced Against Just Compensation Due in Presumptive Eminent Domain Proceedings to Follow.

Again, the commenters incorrectly perceive a connection to State funding for a multi-benefit project that does not exist, as explained in the response to Issue 6.

As discussed on page 1-4 of the Draft SEIR, TRLIA considered four alignments for the portion of Modified Alternative 4 that extends from the Upper Yuba Levee Improvement Project (UYLIP) levee to Hammonton-Smartville Road. The proposed alignment is anticipated to cost $2.5-5.5 million less than the other three options voluntarily considered by TRLIA.

In addition, the cost savings associated with constructing Modified Alternative 4 are substantially greater when compared to the original Alternative 4, and are the primary reason Alternative 4 was determined to be practically and economically infeasible. There is no overlap in footprint between the original Alternative 4 and Modified Alternative 4. As indicated in the 2015 Draft EIR and the Draft SEIR, Alternative 4 would result in loss of access to 133 acres of known mineral resources within the portion of the Marysville Plant area on which the levee would be constructed. This would be a significant permanent loss of Teichert’s ability to extract mineral resources from this portion of its land and would require compensation that greatly exceeds what TRLIA can provide. The Modified Alternative 4 levee footprint only overlaps 18 acres of the Marysville Plant area; therefore, compensation for loss of access to mineral resources under the proposed project would be substantially less.

With regard to compensation for land required for Modified Alternative 4, TRLIA staff conducted a preliminary assessment of the value of the compensation due to landowners under various alternatives, and concluded that acquiring mining interests for the Project would result in far greater costs than acquiring agricultural land for the Project. (Porterville Citizens for Responsible Hillside Development (2007) 157 Cal. App. 4th 885, 901 [agency may rely on the expertise of its staff in determining what constitutes substantial evidence regarding impacts of a project].) Further, the $12 million value provided for the Wilbur property’s compensable damages in the Farm Bureau Letter is a conclusory statement, without evidence to substantiate it. “In the absence of a specific factual foundation in the record, dire predictions by non-experts regarding the consequences of a project do not constitute substantial evidence.” (Ibid. [citing Gentry v. City of Murrieta (1995) 26 Cal. App. 4th 1359, 1417].)

TRLIA staff will determine final land costs at the time of land acquisition through the eminent domain process. If land acquisition costs associated with implementing Modified Alternative 4 are much higher than TRLIA staff’s preliminary cost determination so as to render that alignment economically infeasible, TRLIA would revisit the Project alternatives or develop additional alternatives.
(h)  Issue 8. TRLIA’s Environmental Documents Fail to Publicly Disclose or Analyze Possible Feasible Alternative Alignments and Subalignments Considered but Rejected in Favor of Current Modified Alternative 4

Please see Master Response 1 of the Final SEIR regarding consideration of a range of reasonable alternatives evaluated in the 2015 Draft EIR and during the consideration of the Modified Alternative 4 alignment being adequate under CEQA.

(i)  Issue 9. TRLIA Failed to Consider the Feasibility of Possible Enhanced Multi-Benefits Features within the Goldfields Area in Original Alternative 4.

See responses to Issue 6 regarding TRLIA not being required to consider possible “multi-benefit” enhancements within the Goldfields.

(j)  Issue 10. TRLIA Failed to Consider Enhanced Mitigation of Potential Impacts on Aggregate Mining and Gold Mining within the Footprint of Original Alternative 4.

The original Alternative 4 would not impact gold mining, as shown in Table 2-3 of the 2015 Draft EIR. TRLIA has fully considered opportunities to mitigate for loss of access to aggregate resources under the Alternative 4 footprint. However, the levee would be constructed before Teichert intends to extract resources from the levee alignment, and no feasible means are available to extract material from under the levee after it has been constructed, without compromising the levee’s integrity. Therefore, access to these mineral resources would be permanently lost. As discussed above under Issue 7, based on a preliminary assessment by TRLIA staff, monetary compensation for mining impacts is likely to be more costly than compensating for agricultural lands, contributing to the determination of economic infeasibility of Alternative 4 at this stage.

(k)  Issue 11. TRLIA Failed to Consider Potentially Enhanced Flood Water Attenuation and Expanded Inundated Floodplain in Areas on the North Side of the River, Opposite the Goldfields Area.

Please see Master Response 1 of the Final SEIR and the response to Issue 1, above, regarding the adequacy of the alternatives analysis.