



THREE RIVERS LEVEE IMPROVEMENT AUTHORITY AGENDA

MAY 3, 2005

**Yuba County Government Center
Board of Supervisors' Chambers
915 Eighth Street, Suite 109A
Marysville, California**

Unless otherwise indicated.

3:30 P.M.

I **CALL TO ORDER**

II **ROLL CALL** – Directors Rick Brown, Mary Jane Griego, Dan Logue, Richard Webb

III **BOARD AND STAFF MEMBERS' REPORTS**

IV **ACTION ITEMS**

- A. **Minutes**: Approve minutes of the regular meeting of April 5, 2005 and special meeting of April 19, 2005.
- B. **Invoice Payment**: Authorize Auditor-Controller to pay invoices in the total amount of \$29,807.63 from Downey Brand LLP.
- C. **Public Hearing**: Hold public hearing and adopt Conflict of Interest Code for Three Rivers Levee Improvement Authority.

V **CORRESPONDENCE**

VI **PUBLIC COMMUNICATIONS**: Any person may speak about any subject of concern provided it is within the jurisdiction of the Levee Improvement Authority and is not already on today's agenda. The total amount of time allotted for receiving such public communication shall be limited to a total of 15 minutes and each individual or group will be limited to no more than 5 minutes.

VII **ADJOURN**

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

MINUTES – BOARD OF DIRECTORS

APRIL 19, 2005 – SPECIAL MEETING

A special meeting of the Board of Directors of the Three Rivers Levee Improvement Authority was held on the above date, commencing at 1:01 p.m., within the Government Center, Marysville, California, with a quorum being present as follows: Directors Rick Brown, Mary Jane Griego, Dan Logue, and Richard Webb. Also present were Executive Director Kent McClain, County Counsel Daniel Montgomery, and Clerk of the Board of Supervisors/Secretary Donna Stottlemeyer. Chairman Webb presided.

CLOSED SESSION

The Board retired into closed session at 1:04 p.m. to discuss one case of threatened litigation pursuant to Government Code §54956.9(b) and returned into open session at 2:26 p.m. with all Board and staff members present as indicated above. There was no announcement.

ACTION ITEMS

- A. Minutes: Upon motion of Director Logue, seconded by Director Griego, and unanimously carried, the Board approved the minutes of the regular meeting of April 5, 2005, as written. APPROVE MINUTES
- B. Implementation Agreement: Following a brief recap by Executive Director Kent McClain regarding the proposed agreement requirements and compliance for issuance of permit for levee repairs and Board discussion, upon motion of Director Griego, seconded by Director Brown, and carried with Director Logue voting in opposition, the Board approved the Implementation Agreement among the County of Yuba, Three Rivers Levee Improvement Authority, Reclamation District No. 784, and State of California; authorized the Chairman to execute same; and authorized the Executive Director and County Counsel to make and approve minor changes to the agreement. APPROVE IMPLMNT. AGRMNT.

Director Brown left the meeting at 2:37 p.m. and did not return.

- C. Phase II and IV Levee Projects/Scope of Work: Water Resources Manager Ani Bhattacharrya recapped proposed changes and upon motion of Director Griego, seconded by Director Logue, and carried with Director Brown being absent, the Board authorized proposed changes in scope of work for Phase II and IV levee projects. APPROVE CHANGE OF SCOPE
- D. BE/GEI Invoice Payment/\$263,168.29: Upon motion of Director Logue, seconded by Director Griego, and carried with Director Brown being absent, the Board authorized payment of invoice from BE/GEI in the amount of \$263,168.29 for engineering services related to design of the Bear River Setback Levee. AUTHORIZE PAYMENT
- E. Kleinfelder, Inc/Agreement: Following presentation and Board inquiries, upon motion of Director Logue, seconded by Director Griego, and carried with Director Brown being absent, the Board approved an agreement with Kleinfelder, Inc. for Phase IV Problem and Identification Study and Preliminary Alternative Analysis and authorized the Chairman to execute same. APPROVE AGRMNT.
- F. Downey Brand LLP Agreement/Invoice Payment \$77,426.78: Following presentation and Board inquiries, upon motion of Director Logue, seconded by Director Griego, and carried with Director Brown being absent, the Board approved agreement with Downey Brand LLP for legal services, authorized the Chairman to execute same, and authorized the Auditor-Controller to pay invoices in the total amount of \$77,426.78. APPROVE AGRMENT. AND INVOICE PAYMENT
- G. Advanced Funding Agreement: Following presentation and Board inquiries, upon motion of Director Logue, seconded by Director Griego, and carried with Director Brown being absent, the Board approved an Advanced Funding Agreement among County of Yuba, Three Rivers Levee Improvement Authority, Reclamation District No. 784, and landowners; authorized the Chairman to execute same; and authorized the Executive Director and County Counsel to make and approve minor changes to the agreement. APPROVE FUNDING AGRMNT.

Chairman Webb directed Counsel to research a way to insulate the County and Authority assets with regard to liability issues and the acceptance of state and federal funds.

CLOSED SESSION

The Board retired into closed session at 3:08 p.m. to discuss one case of threatened litigation pursuant to Government Code §54956.9(b) and returned into open session at 3:19 p.m. with all Board and staff members present as indicated above, except Director Brown.

Counsel Daniel Montgomery made the following announcement:

“Mr. Chairman, by a three/zero vote your Board has authorized the retention of the law firm McDonough, Holland, and Allen to represent the Authority’s interest in the imminent domain actions relating to Phases II and III of the levee improvements that are anticipated. There is no further announcement.”

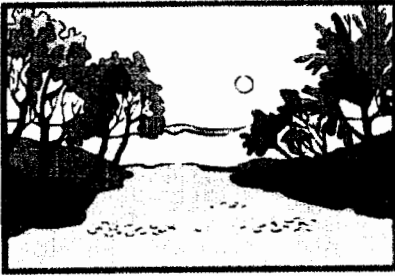
ADJOURNMENT

There being no further business to come before the Three Rivers Levee Improvement Authority the meeting was adjourned at 3:21 p.m. by Chairman Webb.

Chairman

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


_____ Approved: _____



THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

Government Center
915 Eighth Street, Suite 115
Marysville, CA 95901-5273

Telephone: (530) 749-7575 Fax: (530) 749-7312

DATE: May 3, 2005
TO: Three Rivers Levee Improvement Authority
FROM: Randy Margo, Assistant County Administrator 
SUBJECT: Authorize Payment of Invoice/Downey-Brand

Recommended Action:

Authorize Auditor Controller to pay the attached invoice totaling \$29,807.63 from the 805 Trust Fund.

Background/Discussion:

The TRLIA Board approved an agreement with Downey Brand LLP for legal representation before the State of California's Board of Reclamation. In addition to representation before the Reclamation Board, Downey Brand LLP has provided significant strategic advice related to flood protection issues within Yuba County and represented TRLIA in conjunction with developer funding for levee improvements.

Fiscal Impact:

The attached invoice of \$29,807.63 represents services rendered through the month of March and will be paid from the 805 Trust Fund leaving a fund balance of \$5,205,186.61.

APR 14 2005

ADMINISTRATION

INVOICE

Three Rivers Levee Improvement Authority
Attn: Charles Kent McClain
915 Eighth Street, Suite 115
Marysville, CA 95901-5273

April 12, 2005
Invoice No. 290244
Page 1

For Services Rendered Through March 31, 2005

Re: Flood Control Plan
Our Matter No. 36317.00000

Date	Description	Tkpr	Hours	Rate	Amount
03/01/05	Continue drafting agreement. Attend negotiation session with landowners on 2005 allocation. Follow-up calls and e-mails.	SLS	4.30	275.00	1,182.50
03/02/05	Telephone conferences and e-mails with S. Rawson, K. McClain, S. Merewitz, R. Knott, and R. Reinhardt regarding mapping and implementation agreement issues.	SLS	1.60	275.00	440.00
03/03/05	Further drafting and editing of proposed implementation agreement and distribution of agreement (3). Telephone conferences and e-mails with R. Reinhardt, K. McClain, S. Merewitz, S. Rawson, and various Landowners regarding allocation issues and issues associated with River Glen and the revised floodplain map (1.3). Based on various comments, further review and revision to implementation agreement including edits to facilitate recordation (1.3).	SLS	5.60	275.00	1,540.00
03/04/05	Prepare for and participate in BIA meeting on 2006 allocation. Telephone and e-mail communications regarding same.	SLS	4.70	275.00	1,292.50
03/07/05	Conference call with S. Merewitz regarding implementation agreement. Conference call with levee implementation committee and review e-mails commenting on agreement	SLS	2.40	275.00	660.00
03/08/05	Telephone conference with S. Merewitz and D. Montgomery on interim ordinance and implementation agreement. (1.2) Draft ordinance amendment and review with S. Merewitz. (1.5) Prepare for and participate in conference call on River Glen (1.5). Begin redraft of implementation agreement (.8).	SLS	5.00	275.00	1,375.00

IDENTIFICATION
NUMBER
94 0438033

THIS ACCOUNT IS NOW DUE
AND PAYABLE. IF PAYMENT
IS NOT RECEIVED WITHIN 30 DAYS
A LATE PAYMENT CHARGE
WILL BE ADDED.



INVOICE

Three Rivers Levee Improvement Authority
Attn: Charles Kent McClain
915 Eighth Street, Suite 115
Marysville, CA 95901-5273

April 12, 2005
Invoice No. 290244
Page 2

Date	Description	Tkpr	Hours	Rate	Amount
03/09/05	Continue redraft of implementation agreement incorporating comments from all parties (3.1). Telephone conference with S. Merewitz and D. Montgomery regarding County position for issues in agreement (.4). Attend meeting with Rec. Board staff on River Glen and implementation agreement (1.4). Telephone conference with T. Berliner regarding funding for FERC study and relationship to flood control (.3). Telephone conference with R. Reinhardt regarding additional funding sources, map for implementation agreement, and related issues (.4). Telephone conference with S. Morgan regarding agreement (.3). Conference with S. Rawson regarding agenda for allocation meeting. (.2). Call to K. McClain regarding FEMA update. (.2).	SLS	6.30	275.00	1,732.50
03/10/05	Travel to, attend, and return from allocation meeting (4.5). Telephone conference with K. Mallen regarding NASA boundaries, EIR questions, and use of map to illustrate affected area (.9). Telephone conferences with four different landowners on allocation issues (1.1). Telephone conference with R. Reinhardt regarding FEMA and other strategies (.4).	SLS	6.90	275.00	1,897.50
03/11/05	E-mails regarding exhibits to implementation agreement. Telephone conference with R. Reinhardt regarding FEMA.	SLS	0.70	275.00	192.50
03/12/05	Review and revise implementation agreement based on comments from Rec Board staff and developers. Develop language for advance funding mechanism.	SLS	1.30	275.00	357.50
03/14/05	Further revisions to implementation agreement and telephone calls to determine appropriate map details (1.5). Travel to, attend, and return from allocation meeting (3.3). Revise implementation agreement in light of 2005, 2006, and re-allocation pool agreement (1.5). Development of Exhibit A map and conference calls regarding same (.8).	SLS	7.10	275.00	1,952.50
03/15/05	Telephone conferences regarding language for implementation agreement and revisions to same (2.1). Meeting with P. Rabbon and S. Morgan on revised agreement and map (1). Telephone conferences to change map and e-mails and telephone conferences regarding changing amended ordinance in light of changed map (1.3). Telephone conferences regarding advanced funding agreement including R. Margo and L. Lucero. (.9).	SLS	5.30	275.00	1,457.50

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April 12, 2005
Invoice No. 290244
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Date	Description	Tkpr	Hours	Rate	Amount
03/16/05	Further telephone conferences, e-mails, and contract drafting to address landowner concerns.	SLS	2.70	275.00	742.50
03/17/05	Conference call with staff regarding long-term strategy (2). E-mails and telephone conferences with Rec Board staff and landowners regarding implementation agreement (1.7).	SLS	3.70	275.00	1,017.50
03/18/05	Prepare for and attend Rec. Board hearing. Telephone conferences regarding starting permit issuance and related issues.	SLS	3.30	275.00	907.50
03/19/05	Further edits to agreement including property related information for Exhibit B and signature blocks.	SLS	3.40	275.00	935.00
03/21/05	Further revisions to implementation agreement. Conference with S. Merewitz regarding advanced funding agreement. Review and revise same. E-mails from and to R. Margo. Review and revise professional services agreement	SLS	3.90	275.00	1,072.50
03/22/05	Further revisions to Implementation Agreement based on Landowner and Rec Board staff comments. Significant review and revision to draft of Advance Funding Agreement prepared by S. Merewitz.	SLS	4.40	275.00	1,210.00
03/23/05	Attend landowner meeting on advanced funding agreement and implementation agreement. Preliminary discussion on landowner disclosure.	SLS	4.10	275.00	1,127.50
03/24/05	Review and revise Landowner disclosure from perspective of reducing County/TRLIA/RD 784 potential liability (3.3). E-mails to and from regarding issuance of permits for model homes (.3). Telephone conference with KB Representative regarding River Glen permits (.2). Meeting with T. Youmans on advanced funding (2).	SLS	5.80	275.00	1,595.00
03/25/05	Further development of exhibit B information including contacting landowners for information and conference call with P. Calarco. Further conference calls on advanced financing agreement.	SLS	2.80	275.00	770.00
03/27/05	Redraft advanced funding agreement to reflect new framework with lower costs to TRLIA.	SLS	4.50	275.00	1,237.50
03/28/05	Telephone conferences (S. Merewitz, T. Youmans, K. Zahn) and drafting regarding funding agreement.	SLS	4.60	275.00	1,265.00
03/29/05	Draft model homes release. Review and revise advanced funding agreement. Update exhibit B information for agreements. Ensure dovetail of two agreements.	SLS	5.00	275.00	1,375.00

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Three Rivers Levee Improvement Authority
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April 12, 2005
Invoice No. 290244
Page 4

Date	Description	Tkpr	Hours	Rate	Amount
03/30/05	Travel to and from and attend meeting with Landowners on all issues including advanced funding agreement.	SLS	4.50	275.00	1,237.50
03/31/05	Conference calls, e-mails and meeting with S. Merewitz regarding advanced funding agreement.	SLS	3.90	275.00	1,072.50
Total Fees for Professional Services:					\$ 29,645.00

Summary of Fees

Timekeeper	Rate	Hours	Amount
Shapiro, Scott L.	275.00	107.80	\$ 29,645.00
Total Fees Rendered this Period:			\$ 29,645.00

Reimbursable Costs

Date	Description	Tkpr	Amount
03/09/05	Scott L. Shapiro 2/15/05 Yuba City-attend Board of Supervisors meeting	SLS	40.83
	Reproduction/Photocopy Expense		121.80
Total Reimbursable Costs:			\$ 162.63

Summary of Charges

Description	Amount
Current Fees for Professional Services	\$ 29,645.00
Current Disbursements/Reimbursable Costs	\$ 162.63
Total Amount Due This Invoice	\$ 29,807.63

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Three Rivers Levee Improvement Authority
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915 Eighth Street, Suite 115
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April 12, 2005
Invoice No. 290244
Page 5

Summary of Charges

Description	Amount
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Payment Due By 05/12/05.

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REMITTANCE COPY

Three Rivers Levee Improvement
Authority
Attn: Charles Kent McClain
915 Eighth Street, Suite 115
Marysville, CA 95901-5273

April 12, 2005
Invoice No. 290244

For Services Rendered Through March 31, 2005

Re: Flood Control Plan
Our Matter No. 36317.00000

Current Fees for Professional Services	\$ 29,645.00
Current Disbursements/Reimbursable Costs	\$ 162.63
Total Amount Due This Invoice	\$ 29,807.63

**Please remit payment by 05/12/05.
Return this remittance copy with your payment. Thank you.**

NBF-FDRET.wp

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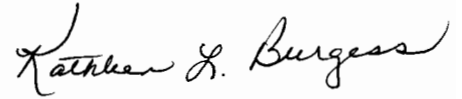


Office of Yuba

MEMO

County Counsel

To: Three Rivers Levee Improvement Authority
From: Kathleen L. Burgess, Chief Deputy County Counsel
(749-7570)
Subject: Conflict of Interest Code
Date: April 6, 2005



Recommendation: Adopt the attached Conflict of Interest Code.

Discussion:

The Political Reform Act requires local government agencies to adopt a conflict of interest code and to update it each even-numbered year.

Government Code section 87311 requires adoption of a conflict of interest code to be carried out under procedures which guarantee to officers, employees, members and consultants of the agency and to residents within the jurisdiction of the agency adequate notice and a fair opportunity to present their views. A notice of public hearing has been published.

KLB:klb
Enc.

**CONFLICT OF INTEREST CODE FOR
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY**

(2005)

The Political Reform Act, Government Code Sections 81000, et seq., requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation, 2 California Code of Regulations, Section 18730, which contains the terms of a standard conflict of interest code. The regulation can be incorporated by reference and may be amended by the Fair Political Practices Commission, after public notice and hearings, to conform to amendments to the Political Reform Act. Therefore, the terms of 2 California Code of Regulations, Section 18730, and any amendments thereto duly adopted by the Fair Political Practices Commission, are hereby incorporated by reference and, along with the attached Appendices in which officers, employees and consultants are designated and disclosure categories are set forth, constitute the conflict of interest code of the Three Rivers Levee Improvement Authority, County of Yuba, State of California.

Recognizing that different positions have different levels of power and responsibility, this Conflict of Interest Code establishes categories of disclosure to which positions are assigned based on the scope of their decision making authority. Positions with no significant decision making responsibility are

classified as exempt and are not required to file statements under this Code.

The job titles of the officers, employees, and consultants of this governmental entity and the categories to which they are assigned are set forth in Appendix A attached hereto and incorporated herein by reference. The specific disclosure and reporting requirements of each category are set forth in Appendix B attached hereto and incorporated herein by reference.

Consultants are also subject to the disclosure requirements of this conflict of interest code if they are in a position to make decisions or influence decisions that could have an effect on their financial interest.

Designated employees shall file statements of economic interest with the Yuba County Clerk before April first of each year. The Yuba County Clerk shall make the statements available for public inspection and reproduction when appropriate pursuant to Government Code section 81008.

In any event, all Authority officers, employees and agents are disqualified and shall not make, participate in making or in any way attempt to use his or her official position to influence the making of any governmental decisions which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, upon such officer, employee or agent, or a member of his or her immediate family.

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
CONFLICT OF INTEREST CODE

APPENDIX A

Members of the Board of Directors 1, 2, 3
Chief Administrative Officer 1, 2, 3
Assistant Administrative Officer 1, 2, 3
Clerk/Secretary Exempt
Consultants 4

THREE RIVERS LEVEL IMPROVEMENT AUTHORITY

CONFLICT OF INTEREST CODE

APPENDIX "B"

DISCLOSURE CATEGORIES

Disclosure

Category

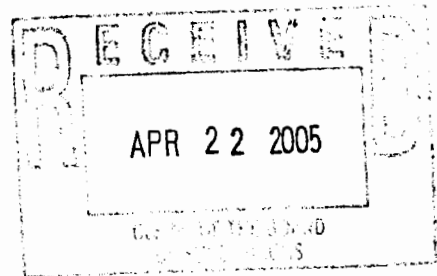
- 1 Investments and business positions in business entities and income from sources engaged in construction, building, or material supply.
- 2 Investments and business positions in business entities and income from sources engaged in construction, land development, or the acquisition or sale of real property.
- 3 Investments and business positions in, and income from sources engaged in, the construction of public works projects.
- 4 The Executive Director shall determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this appendix. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The executive Director's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

05-220

Michael Philip Mahler

411 Covillaud Place
Marysville, CA 95901

RECEIVED BY EACH
BOARD MEMBER



April 22, 2005

Yuba County Board of Supervisors',
Three Rivers Levee Improvement Authority
Government Center
915 8th Street, Suite 109
Marysville, CA 95901

Dear Board Members:

Please consider this a formal request for reconsideration of the agreement by the Yuba County Board of Supervisors' and the Three Rivers Levee Improvement Authority with the Reclamation Board and the State of California for levee work permitting and funding in the Plumas Lake area, dated April 19, 2005.

The actions you undertook as our elected officials were both unwarranted, and potentially catastrophic to the future financial survival of our beloved Yuba County.

In the recently concluded lawsuit(s) resulting from the Linda flood of 1986, the courts found the State of California to be liable for the damages caused to individual residents', stemming from finding that the State "owns" the levees, and has a responsibility to maintain these levees and protect the residents from their failure.

The agreement between the above entities contains a so-called "hold harmless" clause, in which you voted to surrender our individual "rights" on behalf of the county. In so doing, individually, and as a group, I respectfully submit you acted inappropriately and overstepped your authority.

Please see to it that this wrong is righted.

Sincerely and Respectfully,

Michael P. Mahler

4/22/05: Referred to County Counsel and county Administrator/ds
4/22/05: Faxed to RD 784/ds
5/3/05: BOS: CORRESPONDENCE "B"

WALLY HERGER
2d DISTRICT, CALIFORNIA

PLEASE REPLY TO:

WASHINGTON OFFICE:
2268 RAYBURN HOUSE OFFICE BUILDING
(202) 225-3076

DISTRICT OFFICES:

55 INDEPENDENCE CIRCLE, SUITE 104
CHICO, CA 95973
(530) 893-8363

410 HEMSTED DRIVE, SUITE 115
REDDING, CA 96002
(530) 223-5898

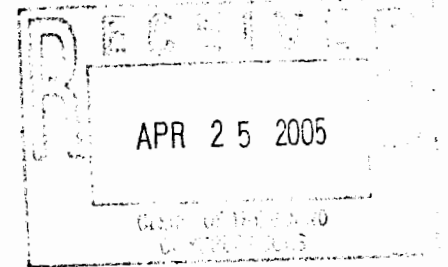


COMMITTEE ON
WAYS AND MEANS

RECEIVED
SUBCOMMITTEES:
CHAIRMAN
HUMAN RESOURCES
TRADE
APR 25 2005

Congress of the United States
House of Representatives
WASHINGTON ADMINISTRATION
Washington, DC 20515-0502

April 11, 2005



Three Rivers Levee Improvement Authority
915 Eighth Street #115
Marysville, CA 95901-5273

Dear Friends:

Thank you for contacting me to express your support for Yuba County Water Agency's (YCWA) request of \$1.2 million to enable the Corps of Engineers to complete a General Reevaluation Report of levees within the Yuba River Basin project area. I appreciate hearing from you.

As a third generation resident of the Yuba-Sutter area, I have witnessed first-hand the devastating impacts that flooding has on our region. One of my most vivid memories as a young child was the destruction wrought by the flood of 1955. As you may know, property damages as a result of this event were estimated at over \$20 million (an immense sum of money at that time) and *thirty-eight* people lost their lives. Since very early in my life I clearly recognized the dangers posed by these regular flood events and the consequences local communities face if prudent and effective measures to mitigate these dangers are not followed.

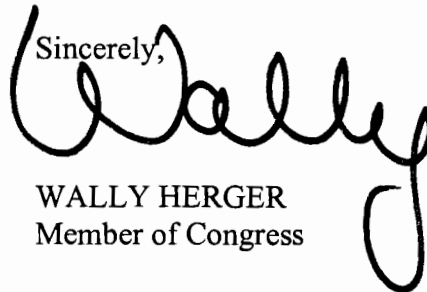
For this reason, I have consistently been a strong and outspoken supporter of the Yuba River Basin project throughout my tenure in Congress, and I will continue to lend it my full support until such time that the project is complete. As you may know, I was able to secure close to \$2 million dollars in federal funds over the last three years to initiate and advance project studies. Though I was pleased with the result of our efforts to obtain these funds, this amount still falls short of what was originally requested from congressional appropriators. This shortage is demonstrative of just how extremely challenging it can be to secure federal appropriations during tight budget times.

As you may be aware, federal deficits are projected to reach the record level of \$427 billion in FY 2005. Certainly, factors outside of our control, such as the economic recession of 2001, the September 11th attacks, the increase in spending necessary to cover homeland security needs, and the ongoing the War on Terror and its associated costs, have all contributed to size of the federal deficit. However, rising discretionary spending – spending that is subject to annual congressional appropriations – in non-security, non-defense related areas, is also to blame. Spending in these categories has grown by an average of 6.1 percent per year over the past ten years, far exceeding the rate of inflation. While many of the programs or projects that have been paid for by these outlays are important to local communities, the fact remains that all government spending must be paid for – either now, through taxes, or in the future, by borrowing, both of which are burdens on economy growth and productivity.

Clearly, if we are to responsibly resolve this fiscal situation, Congress and the President must make some very difficult decisions. We will have to review our spending priorities and tighten our belts in areas and programs that might not necessarily be popular or well received. But as a nation at war and facing historic deficits that, if continued, could pose a very serious threat to our overall economic well-being and international economic competitiveness, we simply have no other choice. We owe it to future generations to pursue fiscally sound and responsible budgets. And as previously stated, this austere fiscal environment makes securing federal dollars very difficult.

Nonetheless, the Yuba River Basin project is directly related to the health and safety of the constituents I represent. As such, I will continue to do what I can to see that it receives its share of whatever federal funds are available.

Again, I appreciate you providing your input on this very important matter. Please don't hesitate to contact me in the future regarding this or any other federal issue of importance to you.

Sincerely,

WALLY HERGER
Member of Congress

WH: