



THREE RIVERS LEVEE IMPROVEMENT AUTHORITY AGENDA

SEPTEMBER 27, 2005 – SPECIAL MEETING

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

Unless otherwise indicated

No other business shall be conducted at this meeting. The public shall have an opportunity to address the Board of Directors only with respect to items set forth in this agenda. Prior to this time, speakers must fill out a "Request to Speak" card and submit it to the Secretary.

2:00 P.M. I CALL TO ORDER

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

III ACTION ITEMS

A. Foster, David B. and Pam: Adopt resolution of necessity regarding Assessor's Parcel No. 016-150-017 for acquisition of property along the Bear River for Phase 3 Levee Repair Project and direct legal counsel to file an action in eminent domain to acquire the necessary property.

B. Minutes: Approve minutes of the regular meetings of September 6 and 13, 2005 and special meeting of September 20, 2005.

IV ADJOURN




THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

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

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September 27, 2005

TO: THREE RIVERS LEVEE IMPROVEMENT AUTHORITY BOARD

FROM: RANDY MARGO, DEPUTY EXECUTIVE DIRECTOR 

SUBJECT: CONSIDER ADOPTING A RESOLUTION OF NECESSITY FOR THE ACQUISITION OF PROPERTY ALONG THE LEVEE OF THE BEAR RIVER, FOR THE PHASE 3 LEVEE REPAIR PROJECT

RECOMMENDATION:

1. That the Board adopt the attached Resolution of Necessity for the acquisition of a certain portion of the property bearing the following Assessor's Parcel Number: 016-150-017 for the Phase 3 Levee Repair Project. The property is generally located along the levee of the Bear River and more specifically depicted on the map attached to the resolution.
2. Direct legal counsel to file an action in eminent domain to acquire the necessary property.

BACKGROUND:

The Three Rivers Levee Improvement Authority (TRLIA) is preparing to construct the proposed Bear River Setback Levee. The work will consist of constructing the setback levee embankment, the tie-in between the new levee and the existing Feather River Levee, a slurry cutoff trench and two detention basins, as well as degrading sections of the existing Bear River Levee. The project is located in Southern Yuba County, California, within the boundaries of Reclamation District 784. The proposed Lower Bear River Setback Levee extends from its confluence with the existing north bank levee of the Bear River (approximately 1,600 feet west of Highway 70) westerly to the tie-in with the east bank levee of the Feather River, for a total length of approximately 2 miles.

A CEQA analysis was done for this project and on November 16, 2004, the TRLIA Board approved a Final Environmental Impact Report and CEQA Findings of Fact and Overriding Considerations.

DISCUSSION:

Undertaking the proposed construction work along the Bear River Setback Levee will necessitate the acquisition of a portion of the property, as illustrated below:

Assessor's Parcel No.	Owner	Area to be acquired (Acres)
016-150-017	David B. Foster and Pam Foster, husband and wife, as joint tenants	18.25 Fee

The property was professionally appraised by Cydney Bender Reents, MAI, a certified appraiser. A copy of the Appraisal Summary Statement is included with your agenda packet.

Owners of the property were offered the appraised value for their property. TRLIA has not yet negotiated a successful purchase agreement with the owners. In case TRLIA is unable to reach an amicable agreement and to protect the schedule of the project, we are recommending moving forward with the eminent domain proceedings. The first step in these proceedings is to adopt a Resolution of Necessity for acquiring the property interests listed above. Negotiations with the property owners can and will continue even after adoption of a resolution of necessity and the initiation of eminent domain proceedings.

FISCAL IMPACT

TRLIA has submitted to the Department of Water Resources, a grant application for appropriation of \$25,576,058 of Prop 13 implementation funds to cover construction and land acquisition/right of way costs associated with the Phase 3 Levee Repair project. Prop 13 conditions require a 30 percent local match that will come from TRLIA levee impact fees.

STATEMENT OF AND SUMMARY OF THE BASIS FOR VALUATION

The following is a statement and summary of the amount established as compensation as required by the California Eminent Domain Law. It was prepared in compliance with section 1255.010 Code of Civil Procedures. The valuation on which this summary was based was made in accordance with accepted valuation principles, consistent with California Valuation Law. A statement of the valuation process, which was the basis for the valuation conclusions, follows.

BASIC PROPERTY DATA

Owner: David B. Foster and Pam Foster, Husband and Wife, as Joint Tenants
Property Address: 449 County Road 512, Marysville, CA 95901
(APN: 016-150-017)
Project: Three Rivers Levee improvement Project
Total Property Area: 22.18 acres (Subject Larger parcel)
Property to be Acquired: Fee Acquisition: 18.25 Acres
Improvements to be Acquired: Single family residence and auxiliary structures.
Access Rights (Abutter's): No
Interest Acquired: Fee Simple.
Date of Valuation: June 30, 2005
Zoning: AE40
Highest and Best Use: Agricultural with accompanying homesite.
Current Use: Agricultural with accompanying homesite.

BASIS OF VALUATION

The Sales Comparison Approach will be used to estimate the value of the land and improvements. Land sales and residential sales will be analyzed to estimate the value for the site. Once the unit value for the land is established, it will be applied to the area required for the project. The estimated value of the improvements will be added to the land value. The remainder parcel will not suffer any major loss in marketability because the remaining property is still suitable for use as a residential homesite. However, in the "After" condition, the homesite would be worth something less than in the "Before" condition, as it would require the installation and preparation related to the curative items. Therefore, the appraisers considered that some severance damages will occur and it will be measured by the loss in estimated market value for the corresponding land area. The appraisers have also estimated the cost to cure for damages related to the establishment of a new domestic well, reconnection of the distribution of the irrigation lines, and power to the homesite for the remainder parcel.

SUMMARY OF VALUE CONCLUSIONS AND ESTIMATE OF COMPENSATION

The Sales Comparison Approach is based on consideration of comparable land sales and single family residential sales.

Indicated Value of the Larger Parcel (Land and Improvements) by Sales Comparison Approach

\$ 783,950

Market Value of Portion to be Acquired

Land (18.25 Acres X \$15,000 per Acre)	\$ 273,750
Improvements	<u>\$ 350,000</u>
TOTAL	\$ 623,750

Severance Damages

The basis for severance damage of a partial acquisition on the remainder is whether or not the remainder is diminished in value by reason of the acquisition and or the construction in the manner proposed.

Value of the remainder, before acquisition	\$ 160,200
Value of the remainder, after acquisition	
1.25 Acre Residential Homesite	\$ 100,000
2.68 Acres @ \$15,000 per acre	<u>\$ 40,200</u>
Total value of the remainder - after acquisition	\$ 140,200

Total Severance Damages:

Estimated Loss in Value to the Land (\$160,200 less \$140,200)	\$ 20,000
Cost to Cure (well (\$10,000), irrigation (lump sum \$2,500), power (\$5,000))	<u>\$ 17,500</u>
TOTAL	\$ 37,500

Additional Compensation Items

Estimated Crop Loss	\$ 43,440
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Total Estimated Compensation

Land and Improvements	\$ 623,750
Net Severance Damages	\$ 37,500
Estimated Crop Loss	<u>\$ 43,440</u>
Total	\$ 704,690
Rounded	\$ 705,000

In our opinion, this is the value that should be considered for compensation purposes.

*Three Rivers Levee Improvement Project
Yuba County
David and Pam Foster Property
(APN 16-150-017)*

PRINCIPLE TRANSACTIONS FOR SALES COMPARISON APPROACH

LAND SALES:

<u>Location APN</u>	<u>Sale Date</u>	<u>Size</u>	<u>Total Sale Price</u>
241 Hudson Road 28-210-012, 013	5/2003	49 acres	\$600,000
East side of Garden Hwy. 33-020-004	4/2004	161.55 acres	\$1,481,500
8506 State Hwy. 70, 006-050-033	6/2004	37.06 acres	\$370,000
7203 Natomas Road 35-170-03	7/2004	80.00 acres	\$860,000
65 Laurel Ave. 025-260-043	8/2004	20.0 acres	\$300,000
Ella Ave./Feather River Blvd. 14-240-025 & -026	8/2004	48.7 acres	\$1,217,500
Algodon Rd. 16-040-069, -070, -067 (por.)	7/2004	90.95 acres	\$3,723,050
Feather River Blvd. 13-010-026	4/2005	71.76 acres	\$2,000,000
Feather River Blvd. 13-010-046	4/2005	59.95 acres	\$1,575,000
4 th Ave., north of Broadway 14-320-045	5/2004	2.36 acres	\$120,000
Powell Rd., east of Plant Z. Rd. 18-110-062	5/2004	5.0 acres	\$140,000

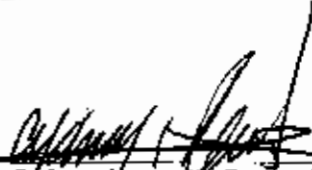
SINGLE FAMILY RESIDENTIAL SALES:

<u>Location</u>	<u>Sale Date</u>	<u>Site Size Gross Living Area</u>	<u>Sales Price</u>
1919 Pacific Avenue Rio Oso	3/2005	1.30 acres 1,672 Sq. Ft.	\$379,000
2303 Rio Oso Road Rio Oso	12/2004	3.11 acres 1,716 Sq. Ft.	\$385,000
490 Pleasant Grove Road Marysville	3/2005	1.02 acres 1,158 Sq. Ft.	\$285,000
3510 Kempton Road Rio Oso	5/2005	0.64 acres 2,346 Sq. Ft.	\$337,500
4032 Hazel Street Marysville	12/2004	5.0 acres 1,350 Sq. Ft.	\$425,000
3486 Plumas Arboga Road Marysville	6/2005	5.57 acres 1,441 Sq. Ft.	\$495,000

*Three Rivers Levee Improvement Project
Yuba County
David and Pam Foster Property
(APN 16-150-017)*

The above is a summary of the valuation prepared, to be used to comply with Code of Civil Procedures section 1255.010. The appraisal that is the basis for this summary was made in accordance with accepted appraisal principles, consistent with California Law.

SIGNATURE OF APPRAISER:



Sydney Q. Bender Reents, MAI
California Certified General
Real Estate Appraiser
Certificate No. AG017559

RESOLUTION NO. _____

A RESOLUTION OF THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
DECLARING THE PUBLIC NECESSITY FOR THE TAKING OF CERTAIN PROPERTY
FOR REPAIR, CONSTRUCTION, INSTALLATION AND MAINTENANCE OF THE BEAR RIVER
LEVEE SYSTEM
(CODE CIV. PROC. § 1245.230)

WHEREAS, Three Rivers Levee Improvement Authority ("TRLIA") proposes to repair, construct, install, and maintain the Bear River Levee System (the "Project") affecting a portion of Assessor's Parcel No. 016-150-017, in the County of Yuba, California (the "Property"); and

WHEREAS, TRLIA has advised the owners of the Property of the need for the Project and offered said owners an opportunity for a hearing before the TRLIA Board on September 27, 2005 pursuant to section 1245.235 of the Code of Civil Procedure, State of California; and

WHEREAS, the Board of Directors of TRLIA adopts this resolution in compliance with Section 1245.230 of the Code of Civil Procedure.

NOW THEREFORE, THE BOARD OF DIRECTORS OF THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The Property to be acquired is for the repair, construction, installation and maintenance of the Bear River Levee System.

TRLIA is authorized to acquire property for the Project pursuant to, among others, the following statutes: Government Code section 25350.5; Code of Civil Procedure section 1250.140; and Water Code section 50930.

SECTION 2. The general location and extent of the Property to be acquired is as set forth in the legal descriptions and maps attached hereto as Exhibits A and B respectively. All exhibits are incorporated herein by reference.

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

- a. The public interest and necessity require the proposed Project.
- b. The proposed Project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury.
- c. The Property described in the attached Exhibits is necessary for the proposed Project.
- d. The offer of just compensation required by Government Code Section 7267.2 has been made to the owners of record of the Property.

PASSED AND ADOPTED by the Board of Directors of the Three Rivers Levee Improvement Authority this 27th day of September, 2005 by a two-thirds (2/3) or greater vote as follows:

AYES:
NOES:
ABSTAIN:
ABSENT:

CHAIRPERSON

ATTEST:

Donna Stottlemeyer, Secretary

EXHIBIT A

All that real property situate in the County of Yuba, State of California, being a portion of Lots 10 and 13 of Block 17, as shown on that certain map entitled "Arboga Colony No. 2", filed in Book 2 of Maps at Page 15, Yuba County Official Records, also being a portion of the land described in deed to David B. Foster and Pam Foster, husband and wife as joint tenants, recorded in Document No. 20003545, Yuba County Official Records. Said easement being all that portion of said Foster parcel lying southeasterly of the following described line:

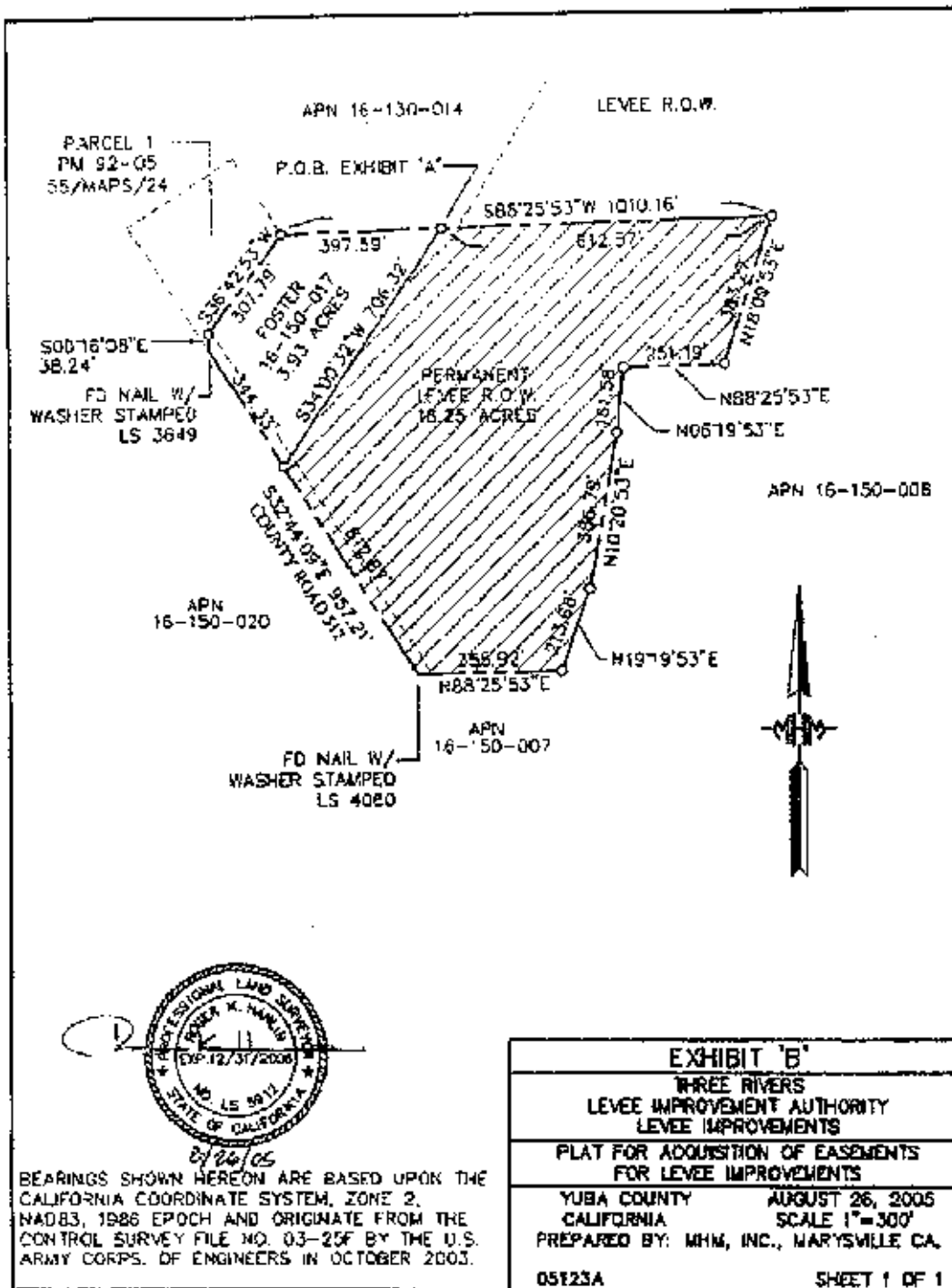
Commencing at a nail and washer stamped LS 3649 in the centerline of County Road 512 marking the most southerly corner of Parcel 1, as shown on Parcel Map No. 95-02 as said map is filed in Book 55 of Maps at page 24, Yuba County Official Records; thence continuing along the southerly line of said Parcel 1 the following courses: North $00^{\circ}16'08''$ East, a distance of 38.24 feet; thence North $36^{\circ}42'53''$ East, a distance 307.79 feet to the southerly line of land described in deed to Robert B. De Valentine, as his sole and separate property, recorded in Document No. 95-00524, Yuba County Official Records; thence North $88^{\circ}25'53''$ East, along the southerly line of said De Valentine parcel, a distance of 397.59 feet to the TRUE POINT OF BEGINNING of the herein described line; thence leaving the southerly line of said De Valentine parcel, South $34^{\circ}00'32''$ West, a distance of 706.32 feet to the southerly line of said Foster parcel and there terminating. This description contains 18.25 acres, more or less.

Subject to other easements and rights of record.

END OF DESCRIPTION

A2N 16-150-017





THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

MINUTES – BOARD OF DIRECTORS

SEPTEMBER 6, 2005

A meeting of the Board of Directors of the Three Rivers Levee Improvement Authority was held on the above date, commencing at 3:35 p.m., within the Government Center, Marysville, California, with a quorum being present as follows: Directors Rick Brown, Mary Jane Griego, and Richard Webb. Director Dan Logue was absent. Also present were Executive Director Kent McClain, Counsel Daniel Montgomery, and Clerk of the Board of Supervisors/Secretary Donna Stottlemeyer. Chairman Webb presided.

ACTION ITEMS

- MBK Engineers/9th Amendment: Following presentation by Assistant Executive Director Randy Margo and responding to Board inquiries, upon motion of Director Griego, seconded by Director Brown, and carried with Director Logue being absent, the Board approved the 9th Amendment to the agreement with MBK Engineers in the amount of \$187,200 for a term to expire August 1, 2006 for professional services for Phase 4 Problem Identification Study and Project Management Support and authorized the Chairman to execute same. APPROVE AMENDMENT
- Fund Deposit/Danna and Danna Property Acquisition: Following presentation by Assistant Executive Director Randy Margo recapping check issuance to state treasury for the assessed property value which is required for construction of the setback levee project and responding to Board inquiries, upon motion of Director Griego, seconded by Director Brown, and carried with Director Logue being absent, the Board authorized the Auditor-Controller to issue checks in the amount of \$4,171,300 and \$2,769,000 to the State Treasury for the purchase of properties required to construct the setback levee project. APPROVE CHECK ISSUANCE
- Minutes: Upon motion of Director Griego, seconded by Director Brown, and carried with Director Logue being absent, the Board approved the minutes of the Budget Hearings of June 28, 2005, special meetings of June 28 and August 30, and the regular meetings of July 5, 12, and August 2, 2005, as written. APPROVE MINUTES
- Director Stipend: Following Board discussion, Chairman Webb directed recommendations be prepared for the director stipend to include outside meetings attended on behalf of the Authority for consideration at the meeting of September 13, 2005. REFER TO STAFF

Wildlands/Environmental Habitat Purchase: Executive Director Kent McClain and Wildlands Senior Vice President Greg DeYoung recapped environmental habitat mitigation required and purchase proposal related to levee improvement projects and responded to Board inquiries.

Upon motion of Director Griego, seconded by Director Brown, and carried with Director Logue being absent, the Board agreed and accepted the Letter of Intent/Contract from Wildlands to purchase off-site environmental habitat as it relates to vernal pool preservation and restoration/creation for the Feather-Bear Rivers Levee Setback Project, authorized the Chairman to execute same, and authorized execution of amendments and further contract negotiations associated with habitat mitigation.

APPROVE
LETTER OF
INTENT

BOARD AND STAFF MEMBERS' REPORTS

Reports were received on the following:

Assistant Director Randy Margo briefly recapped financial status as related to cash flow and progress of levee improvements.

ADJOURNMENT

There being no further business to come before the Three Rivers Levee Improvement Authority the meeting was adjourned at 4:28 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

MINUTES – BOARD OF DIRECTORS

SEPTEMBER 13, 2005

A meeting of the Board of Directors of the Three Rivers Levee Improvement Authority was held on the above date, commencing at 2:03 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, Counsel Daniel Montgomery, and Clerk of the Board of Supervisors/Secretary Donna Stottlemeyer. Chairman Webb presided.

ACTION ITEMS

Financial Assurances/Environmental Mitigation: Executive Director Kent McClain and Special Counsel Scott Shapiro recapped the methodology for providing financial assurances for environmental mitigation for the levee improvement projects advising a letter of confirmation to the three governmental entities would be acceptable.

Following Board discussion, upon motion of Director Logue, seconded by Director Griego, and unanimously carried, the Board authorized a letter regarding confirmation of approach for financial assurances for environmental mitigation to the United States Fish and Wildlife Service, California Fish and Game, and United States Army Corps of Engineers, and authorized the Executive Director to execute any additional work documents or actions in support of the letter. APPROVE FINANCIAL ASSURANCE APPROACH

Bear River Setback Levee Foundation/Feather River Tie-In: Following Board discussion, upon motion of Director Griego, seconded by Director Logue, and unanimously carried, the Board awarded a contract in the amount of \$3,388,460 to Envirocon Inc. for foundation work on setback levee and the Feather River Tie-In construction project, authorized the Chairman to execute upon submittal and review and approval of County Counsel, and upon receipt of confirmation from Department of Water Resources for financial obligations. AWARD CONTRACT

Director Stipend: At the request of Director Griego, Chairman Webb tabled the matter of an increase in director stipend expenditures to the midyear budget review. TABLED

Phase 4 Levee Improvement: Executive Director Kent McClain briefly recapped proposed cost and time lines for construction of phase four improvements and recommended a change in scope of services for the existing consultant teams be approved for planning, engineering, and permitting issues.

Following Board discussion, a special meeting was called for September 20, 2005 at 2:30 p.m.

BOARD AND STAFF MEMBERS' REPORTS

Reports were received on the following:

Director Webb:

- Flood Plain Management Convention in Sacramento on Thursday, September 8, 2005

Director Griego:

- Requested correspondence to State and Federal representatives supporting levee repair funding. Chairman Webb so directed.

Special Counsel Scott Scharpio:

- Proposed legislation regarding levee improvement and funding mechanisms

ADJOURNMENT

There being no further business to come before the Three Rivers Levee Improvement Authority the meeting was adjourned at 2:39 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

MINUTES – BOARD OF DIRECTORS

SEPTEMBER 20, 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 2:30 p.m., within the Government Center, Marysville, California, with a quorum being present as follows: Directors Rick Brown, Mary Jane Griego, and Dan Logue. Director Richard Webb was absent. Also present were Executive Director Kent McClain, Counsel Daniel Montgomery, and Clerk of the Board of Supervisors/Secretary Donna Stottlemeyer. Vice-chair Griego presided.

ACTIONS ITEMS

- A. Escrow Funds/Environmental Habitat Mitigation: Following presentation by Executive Director Kent McClain and Board inquiries, upon motion of Director Logue, seconded by Director Brown, and carried with Director Webb being absent, the Board authorized the Executive Director and the Deputy Executive Director to expend escrow funds set aside for environmental habitat mitigation pursuant to agreements with the United States Army Corps of Engineers, the United State Fish and Wildlife Services, and California Department of Fish and Game. AUTHORIZE FUNDS
- B. Levee Improvement Projects Status: Executive Director Kent McClain recapped permits received and start of construction by Envirocon and Nordic Industries related to the Feather/Bear Rivers projects and responded to Board inquiries. RECEIVE UPDATE
- C. HDR Inc./4th Amendment: Following presentation by Executive Director Kent McClain, upon motion of Director Logue, seconded by Director Brown, and carried with Director Webb being absent, the Board approved the 4th Amendment to the agreement with HDR Inc. for modification to scope of services in the amount of \$1,225,596 related to Phase 2 Design and construction management services and authorized the Chairman to execute same. APPROVE AMENDMENT

ADJOURNMENT

There being no further business to come before the Three Rivers Levee Improvement Authority the meeting was adjourned at 2:40 p.m. by Vice-chair Griego.

Chairman

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

_____ Approved: _____