



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

JANUARY 29, 2008 – SPECIAL MEETING
9:00 A.M.

No other business shall be conducted at this meeting. The public shall have an opportunity to address the Authority only with respect to items set forth in this agenda. Each individual or group will be limited to no more than five minutes. Prior to this time, speakers must fill out a “Request to Speak” card and submit it to the Clerk of the Board of Supervisors.

I **CALL TO ORDER**

II **ROLL CALL** – Directors Rick Brown, Jerry Crippen, Don Graham, Mary Jane Griego, Dan Logue

III **ELECTION OF OFFICERS** – (Chairman and Vice-chairman. Conducted by Clerk)

IV **CONSENT AGENDA: All matters listed under the consent agenda are considered to be routine and can be enacted by one motion.**

- A. Approve minutes of the special meeting of January 8, 2008.
- B. Approve out-of-state travel for Executive Director to Washington DC, February 12 through 13, 2008, regarding Feather River Levee Segment Two 408 permit.

V **ACTION ITEMS**

- A. Approve \$50 stipend, plus mileage, per meeting attended by members of the Displaced Person Appeals Board where member is not otherwise compensated for past and future meetings.
- B. Approve Second Amendment to agreement with SCI Consulting Group in the amount of \$20,000 and authorize Executive Director to execute upon review and approval of Counsel.
- C. Approve Second Amendment to agreement with The Handen Company, Inc. in the amount of \$143,800 for construction management services and authorize Executive Director to execute upon review and approval of Counsel.
- D. Approve agreement for payments related to Construction of Pump Station 10 Discharge Pipe Crossing with Reclamation District 784 and authorize Executive Director to execute upon review and approval of Counsel.
- E. Approve draft Memorandum of Agreement between United States Army Corps of Engineers, State Historic Preservation Office, and Three Rivers Levee Improvement Authority regarding Segment 2 of the Feather River Levee Repair Project and authorize Executive Director to execute upon review and approval of Counsel.

VI **BOARD AND STAFF MEMBERS’ REPORTS**

VII **CLOSED SESSION**

- A. Pending litigation pursuant to Government Code 54956.9(a) – Harmon vs. TRLIA
- B. Pending litigation pursuant to Government Code 54956.9(a) – Auburn Manor vs. TRLIA

VIII **ADJOURN**

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

MINUTES – BOARD OF DIRECTORS

JANUARY 8, 2008 – SPECIAL MEETING

A meeting of the Board of Directors of the Three Rivers Levee Improvement Authority was held on the above date, commencing at 2:02 p.m., within the Government Center, Marysville, California, with a quorum being present as follows: Directors Rick Brown, Jerry Crippen, Don L. Graham, Mary Jane Griego, and Dan Logue. Also present were Executive Director Paul Brunner, Assistant Counsel Andrea Clark, and Clerk of the Board of Supervisors/Secretary Donna Stottlemeyer. Chairman Webb presided.

Secretary Donna Stottlemeyer advised Vice-chairman requested the election of officer be continued to the next Board meeting.

Following request of Ms. Stottlemeyer and upon motion of Director Crippen, seconded by Director Brown, and carried with Director Graham and Logue being absent, Director Griego was appointed Chair Pro Tem.

APPOINT
CHAIR
PRO TEM

CONSENT AGENDA

Upon motion of Director Crippen, seconded by Director Brown, and carried with Directors Graham and Logue being absent, the Board took the following actions:

A. Minutes: Approved the minutes of the regular meeting of December 18, 2007, as written.

APPROVE
MINUTES

B. Executive Director Employment Agreement: Approved extension to the Employment Agreement among Executive Director Paul Brunner, Three Rivers Levee Improvement Authority, and County of Yuba; and authorized the Chair to execute same.

APPROVE
AMNDMNT.

ACTION ITEMS

MBK Engineers Amendment No. 12/\$629,056: Following a brief recap from Executive Director Paul Brunner, upon motion of Director Crippen, seconded by Director Brown, and carried with Directors Graham and Logue being absent, the Board approved the 12th

APPROVE
AMNDMNT.

Amendment to the agreement with MBK Engineers in the amount of \$629,056 for program management, design management, and hydraulic analysis and authorized the Executive Director to execute upon review and approval of Counsel.

BOARD AND STAFF MEMBERS' REPORTS

Reports were received on the following:

Executive Director Paul Brunner:

- Proposition 1E/84 funding agreement
- Amendment to Second Funding Agreement
- Feather River Segment 2 construction permits
- FEMA mapping update
- Finances and cash flow
- Proposed levee assessment district
- Cattle removed from levee in area of Hofman property

CLOSED SESSION

The Board retired into closed session at 2:17 p.m. to discuss the following:

- A. Pending litigation pursuant to Government Code 54956.9(a) – Harmon vs. TRLIA
- B. Pending litigation pursuant to Government Code 54956.9(a) – Auburn Manor vs. TRLIA

The Board returned from closed session at 2:51 p.m. with all Board and staff members present as indicated above.

Right of way Manger Bob Morrison made the following announcement:

“The outcome of the closed session is no action and the items be continued to next meeting.”

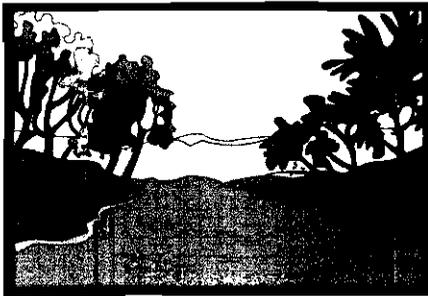
ADJOURNMENT

There being no further business to come before the Three Rivers Levee Improvement Authority the meeting was adjourned at 2:51 p.m. by Chair Griego.

_____ Chair

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

_____ Approved: _____



THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

1114 Yuba Street, Suite 218
Marysville, CA 95901
(530) 749-7841 Fax (530) 749-6990

January 29, 2007

To: TRLIA Board Members
From: Paul G. Brunner, Executive Director *PGB*
Subject: Out of State Travel, Washington DC – Feather River levee (Segment 2) 408 permit

Recommendation: Authorize out of state travel for Paul Brunner, Executive Director to travel to Washington, DC for February 12-13, 2008.

Discussion: A meeting has been scheduled by Congressman Wally Herger's office for a follow-up meeting with Assistant Secretary of the Army (Civil Works) Mr. John Paul Woodley to review the collective progress for expeditious processing of our pending 408 permit for the Feather River (Segment 2) setback levee work. Ric Reinhardt from TRLIA will also attend the meeting. Representatives from YCWA (Curt Aikens and Richard Golb) will be at the meeting for discussions with Mr. Woodley on Marysville levees.

Background: On October 3, 2007, Corps HQ and Division overturned the District's decision to process the Feather River setback levee in a way that would have allowed construction to proceed this year. Corps HQ and Division are now requiring the entire project (construction and degradation) to receive 408 approval before proceeding with any element of the project. Therefore, a meeting was attended on December 12, 2007 in Washington, DC by TRLIA and YCWA representatives with Assistant Secretary of the Army (Civil Works) Mr. John Paul Woodley and at this meeting we received a commitment from him that all approvals necessary for the Feather River setback project would be secured as soon as practicable. We requested a follow-up meeting in early February, which was agreed upon, and subsequently, Congressman Wally Herger's office set up this meeting for February 13, 2008.

Approval of the Section 408 application, Section 104 credit request and a 404 permit are now necessary by February 15, 2008. This date is when the GEI design is projected to be finalized and a notice to proceed could then be issued for construction of the new levee once the TRLIA Board has approved the award of the construction contract.

Completion of the new Feather River levee is the last increment needed to provide a 200-year level of protection to the 30,000 existing residents of RD 784 and protect approximately \$1 billion in property. If the approvals are delayed, TRLIA will not likely be able to complete construction in 2008.

Fiscal Impact: Costs will include airfare, meals and travel between airport and meeting places and are estimated not to exceed \$1,700. Funds are available within the current TRLIA travel budget.



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January 29, 2008

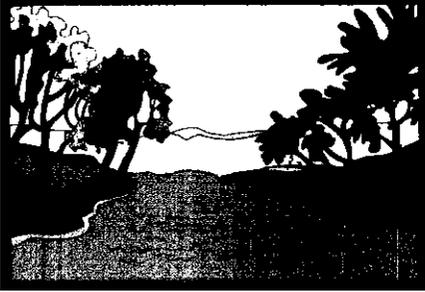
TO: Three River Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director *fab*
SUBJECT: Displaced Person Appeals Board Compensation for appointed Board Members

Recommendation: Approve stipend of \$50 (plus mileage) for each (future or past) meeting attended by members of the TRLIA Displaced Person Appeals Board where the member is not otherwise compensated by TRLIA or another agency for the time spent attending such meetings.

Discussion: On August 28, 2007 the TRLIA Board approved the formation of the TRLIA Displaced Person Appeals Board. As formed, the Displaced Person Appeals Board consists of three people: The TRLIA Executive Director, TRLIA General Counsel, and one member appointed from RD784 Board of Directors, with an alternate appointed from the Board of Supervisors.

To date the Displaced Person Appeals Board has met on four occasions. It is anticipated that there will be future meetings in 2008 and possibly in 2009.

Fiscal Impact: The anticipated budget for this stipend is approximately \$500.



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January 29, 2008

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director *P. AB*
Ric Reinhardt, Program Manager
SUBJECT: Consider Approval of 2nd Contract Amendment with SCI for TRLIA
Assessment District Formation - Engineers Report

Recommended Action

Approve \$20,000 2nd contract amendment with SCI for additional consulting services, and authorize TRLIA's Executive Director to sign and execute the amendment once Counsel has reviewed.

Discussion

This second amendment to SCI's contract covers additional effort by SCI to incorporate significant capital expenditure and capital improvement components in the preparation of the Levee and Flood Control Facilities Assessment Engineers Report.

Development of the Assessment District Engineers Report has involved a great deal of work with TRLIA's consultant team and the development community. By law an Engineers Report must be completed to support the assessment and to assure that the assessment provides a special benefit to affected property owners. In order to meet TRLIA's goal of sending out Ballots for the assessment in May of 2008 the preliminary approval of the engineers report needs to be completed by February 2008. This will allow TRLIA to meet their July 1, 2008 target date for a public hearing and adopt a final resolution if the assessment is passed.

Significant changes have occurred for the capital expenditure and improvement components of the engineers report. SCI has been required to evaluate multiple funding scenarios for the proposed assessment district. This will require additional services to complete the engineers report.

Fiscal Impact

This amendment would increase the contract by \$20,000 for services on a time-and-expenses basis, to a maximum amount not exceeding \$149,050 without prior authorization by TRLIA. The current TRLIA cash flow is sufficient to cover this program expense.

SECOND AMENDMENT
TO
AGREEMENT BETWEEN
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
AND
SCI Consulting Group

THIS SECOND AMENDATORY AGREEMENT is made and entered into this 5th day of February, 2008, by and between the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, a Joint Powers Authority, (“TRLIA”) and SCI Consulting Group, (“CONSULTANT”).

RECITALS:

WHEREAS, TRLIA and CONSULTANT entered into an agreement to provide Professional Services dated September 25, 2006 (“AGREEMENT”);

WHEREAS, TRLIA and CONSULTANT entered into the first Amendatory Agreement May 15, 2007;

WHEREAS, Article C.24 of the AGREEMENT, states that modifications or amendments to the terms of the AGREEMENT shall be in writing and executed by both parties;

WHEREAS, TRLIA and CONSULTANT desire to amend the AGREEMENT;

NOW, THEREFORE, TRLIA and CONSULTANT agree as follows:

1. Attachment B – PAYMENT - B.1 BASE CONTRACT FEE of the AGREEMENT shall be revised to increase the maximum contract fee from \$129,050 to \$149,050.
2. Exhibit B – FEE SCHEDULE - Phase II (Initial Engineers Report and Assessment Engineering) of the AGREEMENT shall be increased by an additional \$20,000 and revised to read “Scope of Services shall be \$41,000, payable...”
3. Exhibit B – FEE SCHEDULE– Phase IV (Levy Submittal and Administration) of the AGREEMENT shall be revised to read “Total All Phases \$149,050“in lieu of \$129,050.

All other terms and conditions contained in the Agreement shall remain in full force and effect.

This AMENDED AGREEMENT is hereby executed on this 5th day of February 2008.

TRLIA

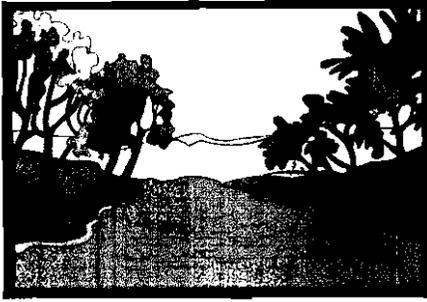
CONSULTANT

BY: _____
“THREE RIVERS LEVEE
IMPROVEMENT AUTHORITY”

BY: _____
“SCI Consulting Group”

ATTEST:
DONNA STOTTLEMEYER, CLERK OF
THE BOARD OF DIRECTORS

APPROVED AS TO FORM:
SCOTT L. SHAPIRO
THREE RIVERS LEVEE IMPROVEMENT
GENERAL COUNSEL



THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

1114 Yuba Street, Suite 218
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(530) 749-7841 Fax (530) 749-6990

January 29, 2008

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director *PJB*
SUBJECT: Amendment No. 2 to Consulting Services Agreement with Handen Company, Inc.

Recommended Action:

Approve a 2nd amendment for \$143,800 to **The Handen Company, Inc.** current consulting agreement for construction management services for ongoing and pending TRLIA Projects, and authorize Executive Director to sign and execute the contract amendment once General Counsel has reviewed.

Discussion:

The 2008 construction season is projected to be very busy with work on Feather Segments 1, 2, and 3; and also Yuba (up stream of the Simpson Lane) being forecasted to be completed. This contract is needed to provide TRLIA construction management services over all these construction efforts. The Construction Management scope of services includes costs associated with contract administration, progress reporting, coordination with Corps Staff, Contractor Submittals, Agency Coordination, Requests for Information (RFI's), Inspection Coordination, NPDES Compliance, Change Order Administration, Conflict Resolution, Community Interaction, and various other functions as outlined in the attached proposal.

The Handen Company has previously successfully provided Construction Management and other Consulting Services to TRLIA. The scope of work for this effort is appropriate and the fees proposed reflect no unit cost increases from the prior contract period.

This amendment will extend management efforts from January 1, 2008 to December 31, 2008.

Fiscal Impact:

The contract amendment would increase the existing contract by \$143,800 for services on a time-and-expenses basis, to a maximum amount not exceeding \$455,000 without prior authorization by TRLIA. The expenses associated with this contract are included in the TRLIA project budgets for the anticipated work.

AMENDMENT NO. 2

AGREEMENT FOR PROFESSIONAL SERVICES
FOR
CONSTRUCTION MANAGEMENT
BETWEEN
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY AND
THE HANDEN COMPANY, INC.

THIS AMENDMENT TO AGREEMENT is made effective January 1, 2008, by and between Three Rivers Levee Improvement Authority (“TRLIA”) and the Handen Company, Inc. (“Consultant”), who agree as follows:

1. **Recitals.** This Amendment is made with reference to the following background recitals:
 - 1.1. Effective March 7, 2006, the parties entered into the Agreement for Professional Services relating to Construction Management for TRLIA’s Construction Program. This Agreement was extended via Amendment No. 1 to this Agreement on December 12, 2006.
 - 1.2. The parties now desire to amend the Professional Services Agreement to extend the term of services, amend the scope of services.

2. **Second Amendment to Agreement.** The Professional Services Agreement is hereby amended as follows:
 - 2.1. The Termination Date in Clause 2 and A.2 is amended to extend to December 31, 2008.
 - 2.2. The scope of services (Attachment A to the Agreement for Professional Services between TRLIA and The Handen Company, Inc.) is replaced by the scope of services attached to this amendment agreement.
 - 2.3. The payment, budget, and not-to-exceed amounts (Professional Services Agreement Attachment A) are amended to include the additional amount of \$143,800 for a total contract amount of \$455,000.

3. **No Effect on Other Provisions.** Except for the amendments in Section 2, the remaining provisions of the Professional Services Agreement shall be unaffected and remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on _____, 2008.

**THREE RIVERS LEVEE IMPROVEMENT
AUTHORITY OF YUBA COUNTY**

THE HANDEN COMPANY, INC.

Executive Director

Douglas J. Handen
President

**ATTEST:
DONNA STOTTEMEYER
CLERK OF THE BOARD OF DIRECTORS**

**APPROVED AS TO FORM:
SCOTT SHAPIRO
GENERAL COUNSEL**

ATTACHMENT A

SCOPE OF WORK

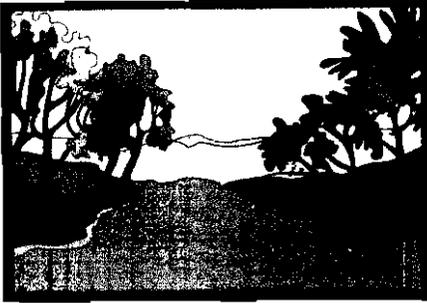
Services Provided- Project Management Consulting:

1. Attend TRLIA management meetings
2. Participate in construction meetings
3. Participate in weekly design meeting/conference calls
4. Conduct regular site visits to current projects
5. Conduct site visits to future project sites
6. Coordinate with Construction Management team and Contractors
7. Provide contract oversight
8. Review and process contract change orders
9. Assist in the preparation of future bid and contract documents
10. Track construction schedules
11. Update TRLIA "cash flow worksheet"
12. Assist in the preparation of reimbursement requests
13. Assist in the preparation of escrow disbursement requests
14. Prepare staff reports and make presentations to the TRLIA Board as necessary

Fee and Payment:

The above referenced services shall be billed monthly at the following rates:

Principal	\$ 150/hour
Transportation	\$ 0.445/mile



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January 29, 2008

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director *PB*
SUBJECT: Agreement for Payments Related to Construction of Pump 10 Discharge
Pipe Crossing

Recommended Action: Approve the attached Agreement for Payments Related to Construction of Pump Station 10 Discharge Pipe Crossing with Reclamation District 784 and authorize Executive Director to and execute as General Counsel has already reviewed and approved.

Discussion: RD784 has requested TRLIA to include one or more discharge pipe crossings in the construction of the Feather River Setback project for its future Pump Station No. 10.

This agreement sets forth the process for TRLIA to be compensated for this work. The TRLIA Board has been briefed on this item late last year, but the terms and conditions needed to be modified, so the agreement was finalized. This agreement changes the language of the termination provision for this Agreement so that it is identical to the termination provision in the payment agreements related to Pump Stations 3 and 6 that was previously approved by the TRLIA Board. The terms and conditions include an initial transfer of \$240,000 to TRLIA and subsequent semi-annual payments to TRLIA equal to 8.01% of the Drainage Basin C impact fees collected by RD 784 during the preceding six months, until the total reaches the final bid amount for the Pipe Crossing construction, not to exceed \$537,500. The Agreement would terminate upon the earlier of the following conditions: (a) when RD 784 has made total payments equal to the final bid for the construction of Pump Station 10 Pipe Crossing, not to exceed \$537,500; or (b) the Parties mutual agree that the Drainage impact fee program is no longer effective. The agreement also provides that the Parties will initially review the effectiveness of the drainage impact fee program 15 years after the effective date of this Agreement and every five years thereafter.

Fiscal Impact: This agreement provides TRLIA \$240,000 immediately with additional funding (not to exceed \$537,500 total) coming to TRLIA in future reimbursements.

**AGREEMENT FOR PAYMENTS RELATED TO
CONSTRUCTION OF PUMP STATION NO. 10 DISCHARGE PIPE CROSSING
OF FEATHER SETBACK LEVEE**

THIS AGREEMENT for Payments Related to Construction of Pump Station 10 discharge pipe crossing of the Feather Setback Levee ("Agreement") is entered into and effective this 15th day of January, 2008 ("Effective Date"), by and between the THREE RIVERS LEVEE IMPROVEMENT AUTHORITY of Yuba County, a political subdivision of the State of California ("TRLIA"), and RECLAMATION DISTRICT 784, a political subdivision of the State of California ("RD 784") to provide for payments by RD 784 to TRLIA in recognition of TRLIA's construction of a discharge pipe crossing of the Feather Setback Levee ("Pipe Crossing"). TRLIA and RD 784 are referred to collectively herein as the "Parties."

RECITALS

- A. RD 784 is collecting impact fees to finance interior drainage improvements pursuant to the *Reclamation District 784 Master Drainage Plan, September 2002*;
- B. The Master Drainage Plan includes the construction of a new pump station located at the North Drainage Basin C Regional Detention Pond (Pump Station No. 10), which includes discharge pipes (the pipe crossing) that crosses the proposed Feather Setback Levee;
- C. As of the Effective Date of this Agreement, RD 784 has collected approximately \$1,135,000 for the Pump Station No. 10 construction of which approximately \$91,200 is scheduled for the discharge pipe crossings of the Feather Setback Levee;
- D. RD 784 continues to collect impact fees for Drainage Basin C, 23.13% of which is budgeted for the construction of Pump Station No. 10 and 8.01% of the 23.13% is for the discharge pipe crossing of the Feather Setback Levee;
- E. Once necessary approvals by TRLIA's Board of Directors have been secured, TRLIA shall construct the Pump Station No. 10 discharge pipe crossing during construction of the Feather Setback Levee according to specifications already established by RD 784 and agreed to by TRLIA. The Parties acknowledge that TRLIA will not start the construction of Pump Station No. 10 discharge pipe crossing of the Feather Setback Levee until the Board has taken actions necessary to commence construction activities;

- F. The Parties acknowledge that although TRLIA is a joint powers authority whose members include RD 784, this Agreement is a separate transaction that is unrelated to the joint powers authority relationship between the Parties; and
- G. The purpose of this Agreement is to provide for the provision of funds by RD 784 to TRLIA in recognition of TRLIA's construction of Pump Station No. 10 discharge pipe crossing of the Feather Setback Levee, as required by RD 784.

AGREEMENT

The Parties agree as follows:

1. Payments

1.1 Within ten business days of the effective date of this Agreement, RD 784 shall transfer \$240,000 to TRLIA for the construction of the Pipe Crossing based on the current low bid. RD 784 has agreed to advanced fund monies above the approximate \$91,200 collected to date for the Pipe Crossing from the advanced funding monies for Pump Station No. 10 and the North Drainage Basin C Regional Detention Pond.

1.2 Within 30 days after the execution of a construction contract with the adjusted bids (negotiated bid based on final conformed plans approved by RD 784) for the construction of the Pipe Crossing, RD 784 shall transfer to TRLIA any funds collected for the Pipe Crossing that were not transferred under Section 1.1 subject to the limitations stated in Section 1.4.

1.3 After execution of a construction contract for the construction of the Pipe Crossing, RD 784 shall make semi-annual payments to TRLIA on February 1st and August 1st equal to 8.01% of the 23.13% of the Drainage Basin C impact fees collected by RD 784 during the preceding six months.

1.4 Payments pursuant to Section 1.2 shall continue until the total of such payments reaches an amount equal to the final bid for the construction of the Pipe Crossing, not to exceed \$537,500. This Agreement shall terminate upon the earlier of the following conditions: (a) RD 784 has made total payments in the amount of \$537,500 to TRLIA; or (b) the Parties mutually agree that the drainage impact fee program is no longer effective. The Parties will initially review the effectiveness of the drainage impact fee program 15 years after the Effective Date of this Agreement and every five years thereafter.

1.5 If TRLIA has not executed a construction contract for the construction of the Pipe Crossing within 18 months after the Effective Date of this Agreement, TRLIA shall, within 30 days of such date, reimburse RD 784 in an amount equal to the amount

transferred to TRLIA under Section 1.1, with interest. The interest charged shall be equal to the pool rate as established by Yuba County..

2. Miscellaneous Provisions

2.1 Governing Law and Venue. This Agreement shall be governed by the laws of the State of California.

2.2 Authority. Each signatory of this Agreement represents that they are authorized to enter into this Agreement on behalf of the Party for which they sign. Each Party represents that it has legal authority to enter into this Agreement and to perform all obligations under this Agreement.

2.3 Amendment. This Agreement may be amended or modified only by a written instrument executed by each of the Parties to this Agreement.

2.4 Entire Agreement. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter of this Agreement and supersedes any prior oral or written agreement, understanding or representation relating to the subject matter of this Agreement.

2.5 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties' respective representative, successors and assigns.

2.6 Necessary Action. Each Party agrees to execute and deliver additional documents and instruments and to take any additional actions as may be reasonably required to carry out the purposes of this Agreement.

2.7 Arbitration. All disputes arising out of this Agreement that can not be resolved between the parties shall be submitted to final and binding arbitration. A party seeking to arbitrate a dispute arising out of this Agreement must notify the other parties to the dispute in writing of its intent to arbitrate any claim for breach or enforcement of any provision of this Agreement within 30 days of discovery of the last event giving rise to the claim for breach or enforcement. Any such timely and properly noticed claim for breach or enforcement of any provision of this Agreement shall be submitted to binding arbitration through the American Arbitration Association in accordance with the National Rules for Commercial Disputes. Before arbitration commences, the parties shall each pay half of the expected cost of the arbitration. At the conclusion of the arbitration, the arbitrator may award the prevailing party some or all of the arbitration costs including attorneys fees. The decision of the arbitrator shall be final and conclusive, and the parties waive the right to a trial de novo or appeal.

2.8 Notices. All notices, requests, demands or other communications required or permitted under this Agreement shall be in writing unless provided otherwise in this Agreement and shall be deemed to have been duly given and received on: (i) the date of service if served personally or served by facsimile transmission on the Party to whom notice is to be given at the address(es) provided below; (ii) on the first date after mailing,

if mailed by Federal Express, U.S. Express Mail or other similar overnight courier service, postage prepaid and addressed as provided below; or (iii) on the third day after mailing if mailed to the Party to whom notice is to be given by first class mail, registered or certified, postage prepaid, addressed as follows:

To TRLIA:

Three Rivers Levee Improvement Authority
1114 Yuba Street, Suite 218
Marysville, CA 95901
Telephone: (530) 749-7841
Facsimile: (530) 749-6990
Attention: General Manager

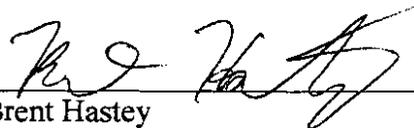
To RD 784:

Reclamation District 784
1594 Broadway
Arboga, CA 95961
Telephone: (530)
Facsimile: (530)
Attention: District Manager

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on _____, 2007.

THREE RIVERS LEVEE
IMPROVEMENT AUTHORITY

Paul G. Brunner P.E.
Executive Director
TRLIA



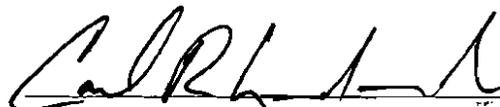
Brent Hastey
President, Board of Directors
RD 784

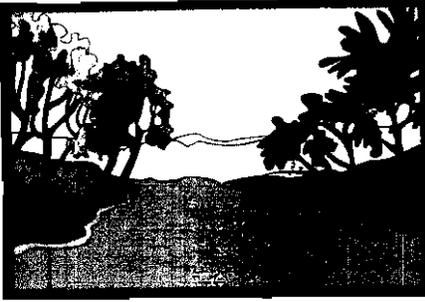
APPROVED AS TO FORM:

SCOTT L. SHAPIRO
THREE RIVERS LEVEE
IMPROVEMENT AUTHORITY
GENERAL COUNSEL

APPROVED AS TO FORM:

CARL LINDMARK
RECLAMATION DISTRICT 784
GENERAL COUNSEL





THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

1114 Yuba Street, Suite 218
Marysville, CA 95901
(530) 749-7841 Fax (530) 749-6990

January 29, 2008

TO: Three Rivers Levee Improvement Authority Board
FROM: Paul Brunner, Executive Director *PSB/AB*
SUBJECT: Execution of MOA to comply with Section 106 of the Historic Preservation Act

Staff Recommendation: Staff recommends the Board delegate authority to the Executive Director to execute an MOA to comply with Section 106 of the Historic Preservation Act, provided that the MOA is substantially similar to the draft attached hereto.

Background: TRLIA proposes to construct the Feather River Levee Repair Project, Segment 2 (Project), consisting of a setback levee along Segment 2 of the east bank of the Feather River and removal of portions of the existing levee in Segment 2 to improve flood control. The construction of the setback levee and associated Project work requires permits from the U. S. Army Corps of Engineers, Sacramento District (Corps) to discharge fill to navigable waters (33 U.S. Code Section 1344) and permission to alter a federal flood control structure (33 U.S. Code Section 408), and these permits are an undertaking (Undertaking) within the meaning of Section 106 of the National Historic Preservation Act (NHPA), as defined at 33 CFR Section 800.16(y), and thus require satisfaction of Section 106. As part of the Corps's review, the Corps found that implementation of this Undertaking has the potential to adversely affect the prehistoric archaeological site, CA-YUB-5, which is eligible for inclusion in the National Register of Historic Properties (NRHP).

The Corps has consulted with the California State Historic Preservation Officer (SHPO) pursuant to the Part 800 regulation regarding the adverse effects of the Undertaking on historic properties, and has notified the Advisory Council on Historic Preservation (Council) of the adverse effect finding pursuant to 36 CFR Section 800.6(a)(1). The Corps has also consulted with the Enterprise Rancheria (Enterprise).

Discussion: TRLIA agrees that the Project must be implemented in accordance with certain stipulations in order to take into account its effects on historic properties and to

satisfy the Corps' Section 106 responsibilities for all individual aspects of the Project. The Corps and SHPO have agreed that execution of the attached MOA, and compliance with the provisions of the MOA, will allow for compliance with the Historic Preservation Act and will allow the Corps to continue to process the pending permits.

Financial Impact: The costs associated with MOA are included in the TRLIA budget for Phase 4.

**MEMORANDUM OF AGREEMENT
BETWEEN
THE U.S. ARMY CORPS OF ENGINEERS,
THE THREE RIVERS LEVEE IMPROVEMENT AUTHORITY, AND
THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER
REGARDING SEGMENT 2 OF THE FEATHER RIVER LEVEE REPAIR PROJECT**

WHEREAS, the Applicant, the Three Rivers Levee Improvement Authority (TRLIA), proposes to construct the Feather River Levee Repair Project, Segment 2 (Project), consisting of a setback levee along Segment 2 of the east bank of the Feather River and removal of portions of the existing levee in Segment 2 to improve flood control; and

WHEREAS, the construction of the setback levee and associated Project work requires permits from the U. S. Army Corps of Engineers, Sacramento District (Corps) to discharge fill to navigable waters (33 U.S. Code Section 1344) and permission to alter a federal flood control structure (33 U.S. Code Section 408), and these permits are an undertaking (Undertaking) within the meaning of Section 106 of the National Historic Preservation Act (NHPA), as defined at 33 CFR Section 800.16(y), and thus require satisfaction of Section 106; and

WHEREAS, the Corps finds that implementation of this Undertaking has the potential to adversely affect the prehistoric archaeological site, CA-YUB-5, which the signatories stipulate is eligible for inclusion in the National Register of Historic Properties (NRHP); and

WHEREAS, the Corps has consulted with the California State Historic Preservation Officer (SHPO) pursuant to the Part 800 regulation regarding the adverse effects of the Undertaking on historic properties, and has notified the Advisory Council on Historic Preservation (Council) of the adverse effect finding pursuant to 36 CFR Section 800.6(a)(1); and

WHEREAS, the Corps has consulted with the Enterprise Rancheria (Enterprise) and has invited Enterprise to be a concurring party to this Memorandum of Agreement (MOA); and

WHEREAS, TRLIA participated in the consultation for the Undertaking and has been made a signatory per 36 CFR Section 800.6(c)(iii) as a party that assumes responsibilities under this document; and

WHEREAS, this agreement addresses all phases of the Project; and

WHEREAS, the definitions set forth in 36 CFR Section 800.16 are incorporated herein by reference and apply throughout this MOA;

NOW, THEREFORE, the Corps, the SHPO, and TRLIA agree that the Corps shall ensure that the Project is implemented in accordance with the following stipulations in order to take into account its effects on historic properties and to satisfy the Corps' Section 106 responsibilities for all individual aspects of the Project.

STIPULATIONS

I. AREA OF POTENTIAL EFFECTS AND HISTORIC PROPERTIES TREATMENT PLAN

A. The area of potential effects (APE) for the Undertaking is depicted in Attachment A. The APE encompasses all Project work in Segment 2 required for the construction of the setback levee, the removal of the existing levee, the use and restoration of soil borrow sites, replacement of Pump Station No. 3, and all other Project work that could adversely effect historic properties.

B. Because of the complex nature of this Project, it is possible that the APE will change before all project work is completed. If modifications to the Project, subsequent to the execution of this MOA, necessitate the revision of the APE, the Corps shall consult with the SHPO on the adequacy of the subject revisions. If the Corps and the SHPO cannot reach agreement on the adequacy of the revisions, then the Corps and the SHPO shall resolve the dispute in accordance with Stipulation X Section C, below. If the Corps and the SHPO reach mutual agreement on the adequacy of the proposed revisions, then the Corps shall submit a final map of the revisions to the SHPO no later than 30 days following such agreement. Identification of historic properties in the expanded APE will be conducted pursuant to this MOA and the Historic Properties Treatment Plan (HPTP) prepared to implement this MOA, unless the signatories fail to resolve the APE. If the signatories fail to reach agreement on the revised APE, the Corps will be responsible for completion of Section 106 via the framework provided in 36 CFR Section 800.4 et seq.

II. STIPULATION OF ADVERSE EFFECT AND TREATMENT OF IDENTIFIED HISTORIC PROPERTY CA-YUB-5

A. The undertaking will increase the frequency of inundation at CA-YUB-5 relative to existing conditions. The signatories stipulate that the increased inundation has the potential to cause adverse effects on CA-YUB-5. Such effects may include expedited decay of organic matter in the site that offers useful data, and possible erosion of the surface of the site. In order to minimize the adverse effect of the Project on the site, the Corps will perform, or ensure performance of, Stipulation II B and C.

B. TRLIA, in consultation with the SHPO and the Corps, and Enterprise, shall develop an HPTP to conduct investigations at CA-YUB-5, and on the collections previously recovered from CA-YUB-5. This HPTP will have three primary goals for investigation of CA-YUB-5:

- 1.** The recovery of geomorphological data to evaluate the frequency and duration of prehistoric inundation of CA-YUB-5. This information shall be used as a baseline to assist in determining the nature of the adverse effect the Undertaking is likely to have, if any.
- 2.** The documentation of the collection previously recovered from CA-YUB-5, including metric data and cataloging that increases the utility of the collection to

modern research and provides information about the contents of the collection to Enterprise.

3. A plan for archaeological investigations at CA-YUB-5 to recover data from CA-YUB-5, as required, to offset the loss and degradation of data available in organic material that may be present in the site.

The other purposes of the HPTP are discussed under Stipulation IV, below.

C. The Corps will work with TRLIA to identify and implement appropriate methods of stabilizing the terrace that CA-YUB-5 occupies as well as the site itself. These methods may include vegetation plantings and/or riprap along the toe of the terrace, vegetation plantings on the surface of CA-YUB-5, or hardscape. Monitoring construction around CA-YUB-5 is discussed below.

III. PHASED IDENTIFICATION AND EVALUATION

A. The majority of the APE has been inventoried for historic properties but sections of the APE remain that have not been surveyed (Attachment A). TRLIA shall conduct additional inventory of the APE and shall provide the Corps and SHPO with the information necessary to document the efforts to identify and evaluate historic properties in the entire APE are sufficient to comply with 36 CFR Section 800.4(b) and (c). This phased identification and evaluation of resources is incorporated into this MOA because the size of the APE and the limitations on access to all the parcels in the APE requires phased identification pursuant to 36 CFR Section 800.4(b)(2). This phased identification shall be conducted pursuant to this MOA and the HPTP prepared to implement the MOA.

B. The Corps shall ensure that the individuals conducting the identification and evaluation of historic properties under the MOA meet the Secretary of the Department of the Interior's Professional Qualification Standards (48 Federal Register 44738-39).

C. The Corps shall ensure that written documentation prepared for phased identification and evaluation shall conform to the Secretary of the Interior's Guidelines for Archaeology and Historic Preservation (48 FR 44716-44740), as well as to applicable standards and guidelines established by the SHPO.

IV. HISTORIC PROPERTIES TREATMENT PLAN

A. TRLIA, in consultation with the Corps, will prepare an HPTP. In addition to the investigation of CA-YUB-5, the HPTP shall provide for:

- Further surveys to complete 100% survey coverage of the APE, and
- Methods of evaluation and treatment of cultural resources identified in the APE.

B. The Corps and TRLIA shall be responsible for implementing the HPTP and ensuring that TRLIA and its agents comply with the conditions and measures specified in the HPTP. The

HPTP may also be prepared and reviewed concurrently with the development of this MOA. In its final form, the HPTP shall be appended to this MOA as an attachment.

C. TRLIA shall prepare an HPTP for the Corps to submit to the SHPO no later than 10 days following the execution of this MOA. The SHPO shall have 14 calendar days from the receipt of the draft to comment. Failure of the SHPO to respond within the 14-day time frame shall not preclude TRLIA and the Corps from finalizing the draft HPTP. Before finalizing the draft HPTP, the Corps will provide the SHPO with documentation indicating how comments will be addressed and incorporated into the final HPTP. Upon the receipt of comments or the expiration of the 14-day time frame, the Corps may finalize and execute the plan, including response to SHPO comments.

D. Any signatory to this document may propose amendments to the HPTP. Such amendments become effective upon the written consensus of the signatories to this MOA but do not require amendment of the MOA itself. Disputes regarding amendments proposed hereunder shall be addressed pursuant to Stipulation X, Section C.

V. MONITORING OF CONSTRUCTION

A. Monitors' Professional Qualification Standards. TRLIA shall ensure that a professional archaeological monitor who is subject to the standards set forth in Stipulation III, Part B above, is present for all construction subject to monitoring as described below. TRLIA may include a Native American monitor, as appropriate. Areas where Native American monitoring is recommended include locations sensitive for the discovery of prehistoric human remains, and in the vicinity of recorded resources such as CA-Yub-5.

B. Monitors Authority. The archaeological monitor shall be given the authority to temporarily halt ground disturbing activity:

1. where new cultural resources are found that may be historic properties, and
2. where known historic properties become subject to unanticipated effects.

The archaeologist shall have the discretion to determine, in the field, whether TRLIA, inclusive of the TRLIA's contractors and subcontractors, is complying with avoidance and monitoring conditions, whether new historic properties may have been found, and whether known historic properties have become subject to unanticipated effects. The archaeological monitor shall also be given the authority to temporarily redirect ground disturbing activity away from any area where effects may occur on historic properties. The ultimate determination of where construction may occur, and where monitoring should take place, shall be made by a Corps archaeologist who meets the Secretary of the Interior's professional qualification standards for archaeology.

C. Monitoring of Modesto and Riverbank Deposits: Older alluvial surfaces characterized by the Riverbank and Modesto Formations are present within the proposed setback levee right-of-way within one-quarter mile of CA-Yub-5, north of Star Bend and south of Ella Avenue. Where

these surfaces are exposed in cut banks, they are overlain by up to 3 feet of sand and silt sediments deposited during seasonal flooding of the Feather River prior to construction of the existing levee. This depositional pattern may obscure archaeological deposits from identification during surface surveys. These areas provide conditions similar to those found at CA-YUB-5 in that they are located at the transition between stream channel deposits and the older formations, and have a high probability of containing sites of prehistoric occupation. Because of the potential for buried sites to be present within this portion of the APE, ground-disturbing activities associated with construction of the setback levee in this area will be monitored by a qualified professional archaeologist and a Native American monitor as appropriate.

D. Monitoring in the Vicinity of CA-YUB-5: The archaeological and Native American monitors shall monitor ground disturbing activity that occurs in the vicinity of CA-YUB-5. Should the archaeological monitor identify cultural deposits outside of the previously identified boundaries of CA-YUB-5 where the artifact density (in number of artifacts or ecofacts/m³, or pieces/m³) reveals a portion of the site or other significant deposit, work shall be temporarily halted immediately in the vicinity. The Corps and TRLIA shall determine whether the deposit has sufficient integrity to require further treatment or avoidance. If the deposit cannot be avoided and has the potential to contribute to the eligibility of CA-YUB-5, the Corps shall treat the deposit in accordance with Stipulation V, Section E below, Discoveries and Unanticipated Effects.

E. Discoveries and Unanticipated Effects: Cultural resources may be discovered as a result of phased identification specified in this MOA, or as a result of discoveries during construction. This section specifies how to manage discoveries under both scenarios.

1. Discoveries Made under Phased Identification

TRLIA and the Corps shall evaluate cultural resources identified as part of the phased identification process and make a finding of effect (FOE) for all eligible resources pursuant to the HPTP. If this evaluation identifies adverse effects on additional historic properties the Corps shall forward the evaluation documents to the SHPO, with recommendations for further treatment including all necessary mitigation. The SHPO shall respond within 14 calendar days. If the SHPO, the Corps, and TRLIA agree on treatment of identified historic properties the Corps and TRLIA shall ensure execution of the specified measures. If the SHPO fails to respond within 14 calendar days, the Corps may proceed with the treatment identified in the FOE document. If the Corps and SHPO disagree, the dispute will be resolved pursuant to Stipulation X Section C.

2. Discoveries Made During Construction

If TRLIA and the Corps determine, after the construction of the Project begins, that the Project will affect a previously unidentified property that may be eligible for the NRHP or affect a known historic property in an unanticipated manner, TRLIA and the Corps shall address the discovery or unanticipated effect in accordance with 36 CFR Section 800.13(b)(3). The Corps, at its discretion, may hereunder and pursuant to 36 CFR Section 800.13(c) assume any discovered property to be eligible for the NRHP. Here “previously unidentified properties”

means a cultural resource not identified in identification efforts conducted prior to construction.

F. Monitoring Plan and Inadvertent Discovery Plan: TRLIA and the Corps shall prepare a brief monitoring plan and inadvertent discovery plan (monitoring plan) to completely articulate the purposes and functions of the monitoring program; the regulatory context for the program; the roles, authority, and responsibilities of the monitors; and the procedural protocols for monitor responsibilities, including the reporting structure of the monitors and their authority in the field. The plan will also provide procedures for cultural resources discovered during construction. The monitoring plan shall adhere to the broad outline of the monitoring program as set forth in this MOA. In its final form, the monitoring plan shall be appended to this MOA as an attachment.

1. TRLIA shall prepare a draft monitoring plan for the Corps to submit to the SHPO no later than 10 days following the execution of this MOA. The SHPO shall have 14 calendar days from the receipt of the draft to comment. Failure of the SHPO to respond within the 14-day time frame shall not preclude TRLIA and the Corps from finalizing the draft monitoring plan. Before finalizing the draft plan, the Corps will provide the SHPO with documentation indicating how comments will be addressed and incorporated into the final monitoring plan. Upon the receipt of comments or the expiration of the 14-day time frame, the Corps may finalize and execute the plan, including response to SHPO comments.
2. Any signatory to this document may propose amendments to the monitoring plan. Such amendments become effective upon the written consensus of the signatories to this MOA but do not require amendment of the MOA itself. Disputes regarding amendments proposed hereunder shall be addressed pursuant to Stipulation X, Section C.

VI. REPORTING REQUIREMENTS

A. Plan and Report Review

1. TRLIA shall produce a monthly progress report on the results of the implementation of this MOA. A copy of each report shall be sent to each MOA party. The monthly progress reports may be brief and summary in nature, provided that they adequately inform the signatories of the nature of all steps taken to manage known historic properties and any unanticipated finds.
2. Within twelve months of the Corps and TRLIA determining that all fieldwork required above is complete, the Corps and TRLIA will ensure the preparation and concurrent distribution of draft technical reports, for review and comment by the SHPO, that document the results of implementing and completing the HPTP and the monitoring plan. The SHPO will be afforded 30 calendar days following receipt of each draft technical report to submit written comments to the Corps. Failure of the SHPO to respond within this time frame shall not preclude the Corps from revising and finalizing the technical reports. The Corps will provide

the SHPO with documentation indicating whether and how each draft technical report will incorporate any of the comments received from the SHPO.

B. Report Distribution

1. Copies of the final technical reports documenting the results of the implementation of the treatment and monitoring plans will be distributed by the Corps to the SHPO and to the North Central Information Center of the California Historical Resources Information System. Consulting parties such as Enterprise may request copies of final technical reports from the Corps.

VII. NATIVE AMERICAN CONSULTATION

A. The Corps has consulted with Enterprise regarding the Undertaking and its effects on historic properties, has invited Enterprise to concur in this MOA, will continue to consult with Enterprise, and will afford Enterprise the opportunity to voice concerns regarding implementation of the MOA and the Undertaking.

VIII. TREATMENT OF HUMAN REMAINS

A. The MOA parties agree that human remains and associated grave goods discovered during the implementation of the Project will be treated in accordance with the requirements of Section 7050.5(b) of the California Health and Safety Code. If, pursuant to Section 7050.5(c) of the Code, the county coroner or medical examiner determines that the human remains are or may be of Native American origin, then the discovery shall be treated in accordance with the provisions of Section 5097.98(a)-(d) of the California Public Resources Code.

IX. WHEN CONSTRUCTION MAY BEGIN

A. Commencement of Construction and Project Work: Project activities may commence within a particular portion of the APE after a historic properties inventory has been completed for that portion of the APE pursuant to the HPTP, and prior to treatment of adverse effects on historic properties within the APE provided that:

1. A monitoring and inadvertent discovery plan has been prepared by TRLIA and approved by the Corps prior to the commencement of project activities anywhere in the APE, as described in Stipulation V, Section F;
2. Project development activities in the vicinity of site CA-YUB-5 do not approach closer to the site than identified and allowed for in the HPTP;
3. Project development activities do not encroach within 30 meters (100 feet) of the known boundaries of any additional historic property that may be discovered as determined from archaeological site record forms, other documentation, or as otherwise defined in consultation with the SHPO; and

4. An archaeological monitor is present during any ground disturbing activities in areas identified as requiring monitoring in this MOA, the HPTP, and monitoring plan.

X. ADMINISTRATIVE STIPULATIONS

A. Standards

1. **Professional Qualifications.** All activities prescribed by MOA shall be carried out under the authority of the Corps by or under the direct supervision of a person meeting at a minimum the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738-39) (PQS) in the appropriate disciplines. However, nothing in this stipulation may be interpreted to preclude the Corps or TRLIA or any agent or contractor from using properly supervised persons who do not meet the PQS.
2. **Documentation Standards.** Technical survey and excavation reports prescribed under the HPTP of this MOA shall conform to the Secretary of the Interior's Guidelines for Archaeology and Historic Preservation (48 FR 44716-44740), as well as to applicable standards and guidelines established by the SHPO.
3. **Curation Standards.** The Corps shall ensure that the materials and records resulting from the historic preservation work prescribed by this MOA are curated at an appropriate facility and that TRLIA pays the cost of curation of all materials recovered. The Corps will also ensure that, to the extent permitted by applicable law and regulation, the views of Enterprise and Most Likely Descendant(s) are taken into consideration when decisions are made about the disposition of Native American archaeological materials. The stipulations for curation does not include human remains and associated grave goods that may be re-interred to comply with California Public Resources Code Section 5097.98 and 5097.99.

B. Confidentiality

1. The MOA parties acknowledge that historic properties covered by this MOA are subject to the provisions of Section 304 of the NHPA and Section 6254.10 of the California Government Code (Public Records Act), relating to the disclosure of archaeological site information and, having so acknowledged, will ensure that all actions and documentation prescribed by this MOA are consistent with said sections. This provision does not bar the MOA parties from ongoing access to all documents, reports, maps, and archeological and cultural data produced in the course of implementing this MOA. It is the intent of the MOA parties that such access shall survive the ultimate termination of this MOA.

C. Resolving Objections

1. Should any MOA party object to the manner in which the terms of this MOA are

implemented, to any action carried out or proposed with respect to the implementation of the MOA, or to any documentation prepared in accordance with and subject to the terms of this MOA, the Corps shall immediately notify the SHPO of the objection and consult with the SHPO for no more than 15 days to resolve the objection. The Corps shall reasonably determine when this consultation will commence and may extend this consultation period. If the objection is resolved through such consultation, the action in dispute may proceed in accordance with the terms of that resolution. If, after initiating such consultation, the Corps determines that the objection cannot be resolved through consultation, then the Corps shall forward all documentation relevant to the objection to the Council, including the Corps' proposed response to the objection, with the expectation that the Council will, within thirty days after receipt of such documentation:

- a. advise the Corps that the Council concurs in the Corps' proposed response to the objection, whereupon the Corps will respond to the objection accordingly. The objection shall thereby be resolved; or
 - b. provide the Corps with recommendations, which the Corps will take into account in reaching a final decision regarding its response to the objection. The objection shall thereby be resolved; or
 - c. notify the Corps that the objection will be referred for comment pursuant to 36 CFR Section 800.7(a)(4), and proceed to refer the objection and comment. The Corps shall take the resulting comments into account in accordance with 36 CFR Section 800.7(c)(4). The objection shall thereby be resolved.
2. Should the Council not exercise one of the following options within 30 days after receipt of all pertinent documentation, the Corps may assume the Council's concurrence in its proposed response to the objection. The objection shall thereby be resolved.
 3. The Corps shall take into account any Council recommendation or comment provided per Stipulation X Section C, with reference only to the subject of the objection. The Corps' responsibility to carry out all actions under this MOA that are not the subject of the objection will remain unchanged.
 4. At any time during implementation of the measures stipulated in this MOA, should an objection pertaining to such implementation be raised by a member of the public, the Corps shall notify the MOA parties in writing of the objection and take the objection into consideration. The Corps shall consult with the objecting party and, if the objecting party so requests, with the other MOA parties for no more than 15 days. Within 10 days following closure of this consultation period, the Corps will render a decision regarding the objection and notify all consulting parties of its decision in writing. The objection will thereby be resolved. In reaching its decision, the Corps will take into account any comments from the

consulting parties regarding the objection, including the objecting party. The Corps' decision regarding the resolution of the objection will be final.

5. The Corps shall provide all MOA parties, and the Council, when the Council has issued comments hereunder, and any parties that have objected pursuant to Stipulation IX Section C, with a copy of its final written decision regarding any objection addressed pursuant to this stipulation.
6. The Corps may authorize any action subject to objection under Section C of this stipulation to proceed after the objection has been resolved in accordance with the terms of Section C.

D. Amendments

1. Any MOA signatory may propose that this MOA be amended, whereupon the MOA signatories will consult for no more than 30 days to consider such amendment. The Corps may extend this consultation period. The amendment process shall comply with 36 CFR Part 800.6(c)(1) and 800.6(c)(7). This MOA may be amended only upon the written agreement of the signatory parties. If it is not amended, any signatory party, in accordance with Section E of this stipulation, may terminate this MOA.
2. Attachments to this MOA may be amended separately from this MOA, as described in Stipulation IV, Section D, and Stipulation V, Section F(2).

E. Termination

1. If this MOA is not amended as provided for in Stipulation IX Section D, or if any signatory party proposes termination of this MOA for other reasons, the signatory party proposing termination shall, in writing, notify the other MOA parties explaining the reasons for proposing termination, and consult with the other MOA parties for at least 30 days to seek alternatives to termination. Such consultation shall not be required if the Corps proposes termination because the Undertaking no longer meets the definition set forth in 36 CFR Section 800.16(y).
2. Should such consultation result in an agreement on an alternative to termination, then the MOA parties shall proceed in accordance with the terms of that agreement.
3. Should such consultation fail, the signatory party proposing termination may terminate this MOA by promptly notifying the other MOA parties in writing. Termination hereunder shall render this MOA without further force and effect.
4. If this MOA is terminated hereunder, and if the Corps determines that the Undertaking will nonetheless proceed, then the Corps shall either consult in

accordance with 36 CFR Section 800.6 to develop a new MOA, or request the comments of the Council, pursuant to 36 CFR Part 800.

F. Duration of the MOA

1. Unless terminated pursuant to Stipulation IX, Section D, or an amended MOA supersedes it, this MOA will be in effect following execution by the signatory parties until the Corps, in consultation with the other parties, determines that all of its stipulations have been satisfactorily fulfilled. This MOA will terminate and have no further force or effect on the day that the Corps notifies the other MOA parties in writing of their determination that all stipulations of this MOA have been satisfactorily fulfilled, following consultation with the other signatory parties.
2. If the Undertaking has not been implemented within four (4) years following execution of this MOA by the signatory parties, this MOA shall automatically terminate and have no further force or effect. In such event, the Corps shall notify the other MOA parties in writing and, if it chooses to continue with the Undertaking, shall reinitiate review of the Undertaking in accordance with 36 CFR Part 800.

G. Effective Date

1. This MOA will take effect on the date that it has been executed by TRLIA, the Corps and the SHPO.
2. EXECUTION and implementation of this MOA, pursuant to 36 CFR Section 800.6, including its transmittal by the Corps to the Council in accordance with 36 CFR Section 800.6 (b)(1)(iv), shall evidence that the Corps has taken into account the effects of this Undertaking on historic properties in order to resolve (avoid, minimize or mitigate) any adverse effects on historic properties. Execution also provides a record that the Corps has afforded the Council an opportunity to comment on the Undertaking and its effect on historic properties.

SIGNATORIES

United States Army Corps of Engineers, Sacramento District

By _____ Date _____

[Name]
Chief, Regulatory Division

California State Historic Preservation Officer

By _____ Date _____

Milford Wayne Donaldson, FAIA
State Historic Preservation Officer

Three Rivers Levee Improvement Authority

By _____ Date _____

Paul Brunner
Executive Director

ATTACHMENT A (APE map)



Area of Potential Effect

Attachment A

Feather River Levee Repair Project, Segment 2

A-1

Yuba County, California