



## Decision Memo Early Implementation

TO: 1) David A. Gutierrez, Acting Deputy Director  
Public Safety and Security  
2) Lester A. Snow, Director

FROM: George Qualley, Acting Chief  
Division of Flood Management

DATE: February 28, 2008

SUBJECT: **Early Implementation Project Grant Approval**  
**Three Rivers Levee Improvement Authority – Feather River Levee Improvement Project – Segments 2 and 3**

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**RECOMMENDATION:** DWR should: (1) Issue a letter to the Three Rivers Levee Improvement Authority (TRLIA) offering to initiate a Joint Exercise of Powers Agreement (Agreement) to provide funding from Proposition 1E for Segments 2 and 3 of their Feather River Levee Improvement Project (FRLIP) in accordance with the terms and conditions of the Agreement for an amount estimated to not exceed \$138.51 million for the State cost share; (2) Adopt CEQA Responsible Agency Findings; and (3) Make determinations required by Senate Bill (SB) 5 (2007).

**SUMMARY:** TRLIA applied to the State-Federal Flood Control System Modifications Program for Fiscal Year 2007-08, Early Implementation Projects (EIP Program) in May of 2007 for Segments 1, 2, and 3 of the FRLIP. TRLIA was notified on August 30, 2007, that only Segments 2 and 3 of the FRLIP had passed the initial screening and that the preliminary State cost share would be \$138.51 million pending receipt of additional information and review and final approval of all application related materials. Segment 1 was determined to be ineligible for funding because TRLIA's application did not adequately address Criterion 6 regarding "fix-in-place" repairs rather than constructing a set back levee.

The August 30, 2007 notification letter contained instructions for TRLIA to complete the application process by providing supplemental information needed to allow DWR to make a final eligibility determination. The information required from TRLIA consisted of:

- Documentation of Financial Plan and Statement of Financial Capability
- Strategy to Achieve 200-year flood protection
- Permits and Environmental compliance documentation
- Hydraulic modeling information
- Status of Design

In response to this request, documents and materials were supplied to The Department of Water Resources (DWR) by TRLIA on October 3, 2007. A DWR team (DWR Team) comprised of financial staff from the Safe Water Drinking Program, design engineers from the Division of Engineering, and grant management staff from the Division of Planning and Local Assistance, was assembled to assist the Division of Flood Management staff in the Flood Modifications and Permits Branch in reviewing the documents and materials requested. On December 17, 2007, during the review process period, DWR completed and transmitted draft funding agreement templates to applicant agencies. The information contained in the draft agreement clarified some assumptions made by TRLIA in their initial response to DWR's original request for additional information. Subsequently, TRLIA was allowed to submit additional information considering the new funding information. TRLIA submitted their revised information on January 24, 2008 and the review was continued. The results of the review and subsequent conclusions supporting the recommendation above are discussed below.

To further support the recommendation, additional supporting materials are attached:

- Preliminary notification letter - August 30, 2007
- Project Selection Criteria for Early Implementation Projects (from Government and Expenditure Plan for FY 2007-08)
- TRLIA's project fact sheet
- CEQA Responsible Agency Findings

## **SUPPLEMENTAL INFORMATION DISCUSSION**

### **Documentation of Financial Plan and Statement of Financial Capability**

TRLIA's Financial Plan and Statement of Financial Capability was prepared by a Certified Public Accountant (CPA), a chief financial consultant for the County of Yuba, the Vice President of Economic and Planning Systems Company, Inc., with oversight provided by the TRLIA Executive Director. The submittal included:

- Audited financial records from TRLIA's last three operational years
- Documentation of the TRLIA share of the project costs (\$52.9 million)
- Sources and timing of revenue
  - Assumptions regarding the State cost share
  - Landowner funding
  - Yuba County funding
  - Cash flow and assumptions/funding options to ensure adequate cash flow

- Provisions for cost overruns
- Operation and maintenance funding.

TRLIA's funding plan for the local cost share relies on revenue generated from fees paid by local landowners to develop their property and the County of Yuba general fund. The County of Yuba will provide \$23.3 million towards the local share utilizing Certificates of Participation (COPs) on a fixed schedule. Additionally, the landowners have agreed to advance a maximum of \$30 million towards TRLIA's estimated local share in accordance with a fixed funding schedule.

The provisions for, and the timing and amounts of, the funds to be provided by the landowners are contained in a series of funding agreements. The First Amendment to the Second Funding Agreement includes provisions which greatly enhance TRLIA's ability to ensure funds will be forthcoming from the landowners. The First Amendment lays out a process of binding arbitration, and if a landowner fails to fund their required share of the \$30 million, a judgment can be made against the landowner. The judgment allows TRLIA and/or the County to place a Special Tax Lien and/or Assessment Lien on the land allowing bonds to be sold to aid in capitalizing all or a portion of the \$30 million. The land value held by the landowners committed to fund the \$30 million share was recently appraised at more than \$63 million.

Provisions provided by TRLIA for covering potential cost overruns include:

- An estimated \$15 million in contingencies included in the project cost estimate;
- Levee Impact Fee – Additional landowner fee revenue;
- Community Facilities District Fees – Mello-Roos Special Tax Lien;
- Formation of a Benefit Assessment District;
- Potential future Proposition 1E Funds.

### Conclusion

TRLIA's financial information submitted was comprehensive and in accordance with provisions of the EIP Grant Program Application Package. The DWR Team concluded that it is financially feasible for TRLIA to complete the Feather River Levee Repair Project, assuming the First Amendment to the Second Funding Agreement with the landowners is executed. The DWR Team recommends that this agreement be executed between TRLIA and the landowners prior to DWR executing an EIP Funding Agreement with TRLIA for the FRLIP Setback Levee Project.

### Strategy to Achieve 200-Year Flood Protection

TRLIA has completed Phases 1, 2, and 3 of a 4-phase program to provide 200-year flood protection for the benefited area by the end of 2008. These first three phases, and a portion of Phase 4 work on the Yuba River between Highway 70 and Simpson Lane, have been certified by the U.S. Army Corps of Engineers (Corps) for FEMA 100-year protection. This completed work is also adequate to

provide 200-year protection once the remaining work in Phase 4 is completed. The remaining work includes the FRLIP and the final portion of the Yuba River southern levee repairs from Simpson Lane to just west of the Goldfields area.

### Conclusion

TRLIA has supplied numerous reports and analysis of hydrologic and hydraulic information showing that with the completion of the remaining Phase 4 work, including Segments 1, 2, and 3 of the FRLIP, 200-year protection for TRLIA benefited area will be achieved. TRLIA's 200-year flood protection strategy is acceptable at this time for the features included in the project. TRLIA acknowledges that the Corps' General Reevaluation Report may identify additional work needed to achieve 200-year flood protection for the area.

### Acknowledgement of Flood Risk

TRLIA submitted a resolution by the County of Yuba that acknowledges and accepts the TRLIA assessment that the present risk of flooding in southern Yuba County occurs with a frequency of 1 in 20 years. The County further acknowledges and agrees that DWR's written concurrence is required in the event they propose a new resolution stating the risk of flooding.

### Conclusion

The County of Yuba's resolution acknowledging the current risk is acceptable.

### CEQA Compliance

TRLIA has completed the final Environmental Impact Report. Subsequently, minor adjustments were made to the FRLIP Segment 2 setback levee alignment. However, TRLIA has determined that these minor adjustments do not warrant a change or update to their previously adopted CEQA findings.

### Conclusion

TRLIA has complied with CEQA requirements as a lead agency. DWR's findings as a responsible agency are contained in a following section of this document. It is noted that under the Funding Agreement DWR will not advance construction funds for a project element until TRLIA has obtained all necessary permits and approvals for the construction of that element.

### Hydraulic Modeling Information

In order to demonstrate the benefits of FRLIP, TRLIA has provided hydraulic routing information at specific design flows using the Corps' hydraulic model and a different but similar model used by TRLIA's engineers. The purpose of this information was to confirm that the Feather River stage reductions associated with the setback levee, as documented in the original grant application, was similar regardless of hydraulic methods used. TRLIA also prepared a detailed hydraulic impact analysis.

### Conclusion

The hydraulic model documentation and graphs provided by TRLIA show results that are essentially the same with negligible water surface elevation differences between the two model simulations. DWR is satisfied that the stage reductions claimed as benefits by TRLIA resulting from the FRLIP are similar regardless of the two hydraulic methods employed. Further, DWR has reviewed the hydraulic impact analysis prepared by TRLIA for the project and concurs with their conclusions.

### Status of Design

The work for FRLIP Segments 1 and 3 consist of "fix-in-place" repairs for the Feather River levees in these areas. The designs for Segments 1 and 3 have been completed and were reviewed in relation to obtaining a Reclamation Board permit. Bids for the construction work for Segments 1 and 3 have been opened and a portion of Segment 3 was awarded. The DWR Team is currently reviewing the plans and specifications, and is monitoring construction work, to ensure that the repairs will meet Corps requirements for eventual certification, as well as, Reclamation Board permit conditions.

TRLIA has submitted 100 percent design drawings and specifications for the FRLIP Segment 2 setback levee. The design documents are being reviewed by DWR and the Corps to ensure that the setback levee is constructed in accordance with State, federal, and industry standards. Comments received by TRLIA from the review teams for the 30 and 60 percent design stages have been incorporated. The Central Valley Flood Protection Board (Board) has included a condition in the proposed Board permit that requires the approval of the 100 percent design documents by DWR and the Corps before the permit becomes valid and work can begin.

### Conclusion

DWR and the Corps will complete their review of the 100 percent design documents and ensure that recommended modifications/changes needed are complied with by TRLIA prior to disbursement of construction funds for the specific project element in order to validate the Board permit such that work can proceed.

### CEQA Responsible Agency Findings

The CEQA Guidelines requires a responsible agency to make findings relative to significant impacts of projects it approves funds or carries out (Section 15096(h)). DWR has prepared the attached findings concluding that there are no significant unmitigated effects, and recommend that they be approved and adopted as part of the approval to proceed with funding the project.

### **SB 5 Findings**

SB 5 (2007) requires the department to make certain findings when it implements flood improvement projects for urban areas prior to the adoption of the Central Valley Flood Protection Plan (Stats. 2007, Ch. 364, Water Code Section 9613(a)).

- 1) The improvements are necessary and require State funding before the completion of the Central Valley Flood Protection Plan prepared pursuant to Section 9612.
- 2) The improvements will reduce or avoid risk to human life in one or more urban areas.
- 3) The improvements will not impair or impede future changes to regional flood protection or the Central Valley Protection Plan.
- 4) The improvements will be maintained by a local agency that has committed sufficient funding to maintain both the existing and improved facilities of the State Plan of Flood Control.
- 5) The affected cities, counties, and other public agencies will have sufficient revenue resources for the operation and maintenance of the facility.
- 6) Upon allocation of funds for a project, the prospect project is ready for implementation.
- 7) The improvements comply with the existing law.

### **Findings**

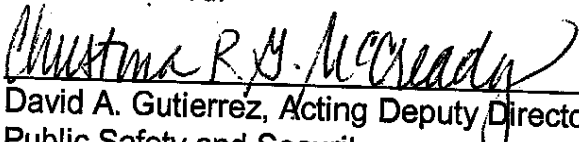
- 1) DWR has determined that the improvements to be made under this project need to be carried out expeditiously prior to the completion of the Central Valley Flood Protection Plan because of the low level of protection provided by the levee system in the project area.
- 2) DWR has determined that the improvements to be made under this project will reduce risks to human lives in at least one urban area, namely the Linda, Olivehurst and Plumas Lakes communities.
- 3) DWR has determined that the improvements to be made under this project will not impair or impede future changes to regional flood protection or the Central Valley Flood Protection Plan.
- 4) TRLIA has indicated a willingness to maintain the improvements and DWR will insist that TRLIA or one of its constituent agencies execute an operation and maintenance agreement prior to funding.

- 5) DWR has determined that TRLIA and its constituent agencies will have sufficient revenue to operate and maintain the improvements.
- 6) DWR has determined in accordance with the funding agreement that TRLIA is ready to implement Segment 3 of the project, and Segment 2 will be ready to implement before segment 3 is complete.
- 7) TRLIA has had a Professional Engineer in the State of California stamp and certify the project designs. Also, TRLIA will obtain all permits required for construction of a project element before work begins.

**APPROVAL:**

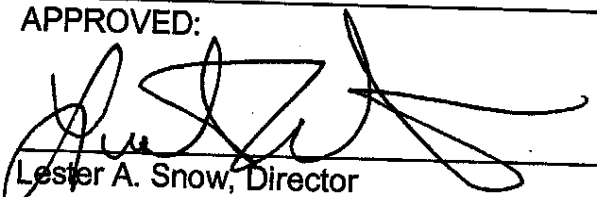
TRLIA has submitted necessary information for DWR to execute an Agreement to provide funding from Proposition 1E and Proposition 84 for Segments 2 and 3 of their FRLIP for a State cost shared amount estimated in the not to exceed amount of \$138.51 million.

Recommended:

*for*   
David A. Gutierrez, Acting Deputy Director  
Public Safety and Security

3/4/08  
Date

APPROVED:

  
Lester A. Snow, Director

3/6/08  
Date

Attachment(s)



## TRLIA EIP ELIGIBILITY CRITERIA

	CRITERIA	PASSED?	COMMENTS
<b>Criterion 1</b>	The project is critically needed to otherwise significantly maximizes public benefits, enhances public safety, and reduces state liability.	YES	The TRLIA program protects an urban area and will reduce the probability of flooding from a 1:20 AEP to a 1:200 AEP. The urban area includes 111,766 residential structures, 486 commercial/industrial structures, and 74 public building with an estimated value of over \$1 billion. The estimated structural value is \$2.5 billion in Yuba City and \$654 million in Marysville.
<b>Criterion 2</b>	The project is ready for early implementation (feasibility investigation and CEQA compliance are near completion) and needs funding in the budget year to maintain or accelerate the design and/or construction schedule.	YES	CEQA has been completed and the 100 percent design has been submitted for review and approval. TRLIA has applied for federal Section 104 credits and has begun the Section 408 process.
<b>Criterion 3</b>	The project is economically feasible, taking into account both local and systemwide benefits.	YES	The TRLIA program benefit to cost ratio (B/C) was re-computed to reflect alternative assumptions (growth and structural valuation) and the B/C's (in separate TRLIA 5/2/07 submittal) range from 1.6:1 to 3.1:1.
<b>Criterion 4</b>	If the project protects an existing urban area, there is a strategy by the local agency for achieving 200-year or better flood protection for the area and the projects fits into the strategy.	YES	With the setback levee, the flood protection for the area will be at least 1:270 AEP. The TRLIA program protects communities with 15,000 in population and improves protection to Marysville and portions of Yuba City. TRLIA has demonstrated a sound plan to achieve 200 year protection for the basin.
<b>Criterion 5</b>	If the project protects a non-urban area, it will restore the design level of flood protection where feasible, consistent with non-urban uses such as agriculture, open space, and habitat in the protected area.	N/A	N/A
<b>Criterion 6</b>	If the project would improve a levee in place, it is because it is clearly infeasible to move the levee and/or there are no significant flood risk management benefits to moving the levee.	YES	Segment 2 is a major setback levee project and shows a definite water surface benefit upstream all the way to the confluence with the Yuba River. Segment 3 is located at the northern end of the study area where residential, commercial, and industrial developments in the communities of Linda and Olivehurst have encroached near the landside toe of the levee. A setback levee in this reach would require significant acquisition costs and would displace many homes and businesses and was determined to not be feasible.
<b>Criterion 7</b>	The project takes advantage of any feasible opportunities to provide additional room for the river to meander, enhancing channel capacity, reducing maintenance, and providing regional flood risk management and environmental benefits.	YES	The FRLIP setback levee would add approximately 1550 acres of riverside land to the floodway. The Segment 2 setback levee will provide increased flood storage and conveyance capacity in the floodplains of the Feather and Yuba Rivers. Flood stages for the 1:200 AEP event are estimated to drop by as much as 2.9 feet in the Feather River and up to 1.4 feet in the Yuba River.

## TRLIA EIP ELIGIBILITY CRITERIA

	CRITERIA	PASSED?	COMMENTS
<b>Criterion 8</b>	The Local agency has a sound financial strategy and plan to fund its cost share to build the project and to then maintain the completed project.	YES	TRLIA's financial information as submitted was comprehensive and in accordance with provisions of the EIP Grant Program Application Package. The DWR Team concluded that it is financially feasible for TRLIA to complete the Feather River Levee Repair Project, assuming the First Amendment to the Second Funding Agreement with the landowners is executed.
<b>Criterion 9</b>	The local agency agrees to provide a detailed emergency response plan acceptable to DWR.	YES	The Yuba County Office of Emergency Services already has a comprehensive Multi-Hazard Mitigation Plan in place that will be provided upon request and will be improved based on suggestions from DWR.
<b>Criterion 10</b>	Cities and counties in the protected area formally acknowledge the flood risk.	YES	Yuba County adopted "Acknowledgement of Risk" resolution on October 3, 2007.

# Project Fact Sheet

Three Rivers Levee Improvement Authority (TRLIA)  
Early Implementation Project (EIP)

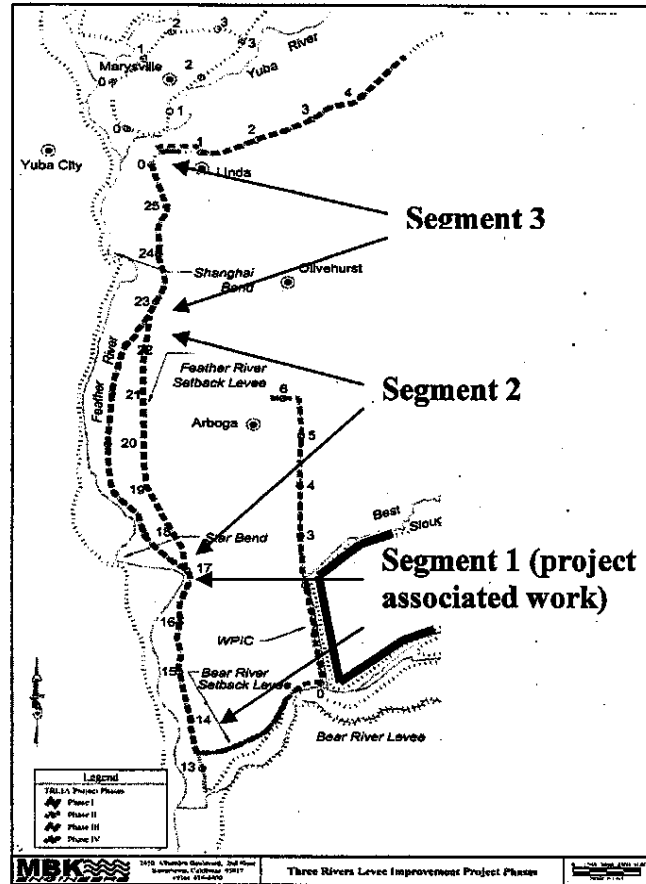
**Project Background:** TRLIA has embarked on a four phase program to provide 200 year flood protection to South Yuba County by the end of 2008. The four phase program is summarized below:

## RD784

- Non TRLIA Levees (black): WPIC, and Bear River

## TRLIA & RD784 Levees

- Phase 1 (red): Yuba River
- Phase 2 (green): Yuba River, Western Pacific Interceptor Canal (WPIC), and Bear River
- Phase 3 (purple): Bear River Setback
- Phase 4 (blue): Yuba River, and Feather River



Phases 1, 2, and 3 have been completed and were certified by the Corp of Engineers on May 8<sup>th</sup>, 2007 for FEMA 100 year flood protection.

**Early Implementation Project (EIP):** The TRLIA EIP project is the Phase 4 *Feather River* levee work that is show in the above graphic. The Feather River levee work is broken into three segments.

- a. Segment 1: Bear River to approximately Star Bend (**project associated work**)
- b. Segment 2: Setback between Star Bend and approximately Shanghai Bend
- c. Segment 3: Approximately Shanghai Bend to Yuba River (HWY 70)

**Project Cost:** The reasonable cost of the project is estimated to be \$192.2 million. State will provide to Funding Recipient in accordance with the terms of the Funding Agreement for the State cost share, \$138.51 million.

**Project Schedule:** All levee segments are scheduled to complete construction by Fall of 2009. Segment 2 levee degrade is scheduled to complete in December of 2009.

**CALIFORNIA DEPARTMENT OF WATER RESOURCES  
CEQA RESPONSIBLE AGENCY FINDINGS  
FEATHER RIVER LEVEE REPAIR PROJECT**

**I. ENVIRONMENTAL REVIEW PROCESS**

The California Department of Water Resources ("Department"), as a Responsible Agency under the California Environmental Quality Act ("CEQA"), makes these findings under Section 15096(h) of the CEQA Guidelines, with regard to the application submitted to the Department by the Three Rivers Levee Improvement Authority ("TRLIA") for state funding for a portion of the costs of constructing the Feather River Levee Repair Project ("Project"). TRLIA, as the Lead Agency under CEQA, has completed an Environmental Impact Report ("EIR") for the Project. See Draft Environmental Impact Report for the Feather River Levee Repair Project (Aug. 2006); Final Environmental Impact Report for the Feather River Levee Repair Project (Nov. 2006) (State Clearinghouse No. 2006062071). Through its adoption of Resolution 2007-04 on February 6, 2007, TRLIA certified the EIR, approved the Project, adopted a Mitigation Monitoring and Reporting Program ("MMRP"), and made findings and a statement of overriding considerations under CEQA ("CEQA Findings"). TRLIA approved as the Project the second alternative (Alternative 2) examined in the EIR. TRLIA filed a Notice of Determination on February 8, 2007.

The Project is needed to provide increased protection from flooding from the Feather and lower Yuba Rivers in Yuba County. Specifically, the objectives of the Project include the following: to secure flood protection for at least a flood event with a 0.5% (or 1-in-200) annual chance of exceedance; to help secure FEMA certification of the subject levee reaches; to avoid increasing downstream flow and stage during peak-flow conditions; and to achieve these objectives as soon as possible.

The Project is broken down into three segments: Segment 1, which consists of the existing Feather River left bank levee from mile 13.3 to mile 17.1; Segment 2, which consists of the existing Feather River left bank levee from mile 17.1 to mile 23.6; and Segment 3, which consists of the existing Feather River left bank levee from mile 23.6 to mile 26.1 and the existing Yuba River left bank levee from mile 0.0 to 0.3. The Project involves the repair and strengthening of Segments 1 and 3, and building a setback levee – the Above Star Bend ("ASB") setback – the east of the existing levee along Segment 2. The Project is described in detail in the EIR completed by TRLIA.

The Department, as a Responsible Agency under CEQA, has reviewed and considered the Draft and Final EIR, the MMRP and the CEQA Findings prepared by TRLIA, the Lead Agency. The Department has carefully considered the environmental effects of the Project as shown in the EIR and has reached its own independent conclusion on whether and how to approve the provision of state funding for a portion of the costs of constructing the Project.

The Department's role in the Project would be to provide funding to TRLIA pursuant to a Funding Agreement for the state share of the Project construction costs. The Department has no police power authority over the Project, and it has no authority over the Project as a permitting or regulatory agency.

Based on its independent review of the Project, the Department makes the following findings under CEQA.

II. SIGNIFICANT ADVERSE IMPACTS THAT ARE REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL BY MITIGATION MEASURES INCORPORATED INTO THE PROJECT

The EIR identified a number of environmental impacts resulting from the Project that would be reduced to a less-than-significant level by mitigation measures set forth in the EIR. In adopting these measures, TRLIA found that the measures constituted changes or alterations that have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effects identified in the EIR. TRLIA adopted an MMRP to ensure that the mitigation measures are implemented.

The relevant impacts and mitigation measures, which are discussed in TRLIA's EIR and in its CEQA Findings, are briefly listed below:

Impact ASB-5.3-a: Temporary effects on water quality associated with levee repair and strengthening activities and setback levee construction. This impact will be mitigated to a less-than-significant level by TRLIA's Mitigation Measures ASB-5.3-a(1) and ASB-5.3-a(2).

Impact ASB-5.3-b: Disruption of local drainage systems by the levee setback. This impact will be mitigated to a less-than-significant level by TRLIA's Mitigation Measure ASB-5.3-b.

Impact ASB-5.3-g: Long-term effects on water quality resulting from the levee setback. This impact will be mitigated to a less-than-significant level by TRLIA's Mitigation Measures ASB-5.3-g(1), ASB-5.3-g(2) and ASB-5.3-g(3).

Impact ASB-5.4-a: Loss of fish habitat during levee repair and strengthening activities and setback levee construction. This impact will be mitigated to a less-than-significant level by TRLIA's Mitigation Measures ASB 5.4-a(1), ASB 5.4-a(2) and ASB 5.4-a(3).

Impact ASB-5.4-c: Effects on habitat from contaminants in borrow material. This impact will be mitigated to a less-than-significant level by TRLIA's Mitigation Measures ASB-5.4-c(1), ASB 5.4-c(2) and ASB-5.4-c(3).

Impact ASB-5.4-d: Fishing stranding following flooding of the levee setback area. This impact will be mitigated to a less-than-significant level by TRLIA's Mitigation Measure ASB-5.4-d.

Impact ASB-5.5-b: Effects on sensitive habitats. This impact will be mitigated to a less-than-significant level by TRLIA's Mitigation Measure ASB-5.5-b.

Impact ASB-5.5-c: Loss of special status plants. This impact will be mitigated to a less-than-significant level by TRLIA's Mitigation Measure ASB-5.5-c.

Impact ASB-5.5-d: Effects on Valley Elderberry Longhorn Beetle. This impact will be mitigated to a less-than-significant level by TRLIA's Mitigation Measure ASB-5.5-d.

Impact ASB-5.5-e: Effects on Northwestern Pond Turtle. This impact will be mitigated to a less-than-significant level by TRLIA's Mitigation Measure ASB-5.5-e.

Impact ASB-5.5-f: Effects on Giant Garter Snake. This impact will be mitigated to a less-than-significant level by TRLIA's Mitigation Measure ASB-5.5-f.

Impact ASB-5.5-g: Effect on Swainson's Hawk and other nesting raptors. This impact will be mitigated to a less-than-significant level by TRLIA's Mitigation Measures ASB-5.5-g(1), ASB-5.5-g(2) and ASB-5.5-g(3).

Impact ASB-5.8-a: Damage to or destruction of prehistorical archeological site CA-Yub-5. This impact will be mitigated to a less-than-significant level by TRLIA's Mitigation Measure ASB-5.8-a.

Impact ASB-5.8-b: Damage to or destruction of prehistorical archeological sites CA-Yub-13 and CA-Yub-14. This impact will be mitigated to a less-than-significant level by TRLIA's Mitigation Measures ASB-5.8-b(1) and ASB-5.8-b(2).

Impact ASB-5.8-c: Damage to or destruction of cultural resources in unsurveyed areas. This impact will be mitigated to a less-than-significant level by TRLIA's Mitigation Measure ASB-5.8-c.

Impact ASB-5.8-d: Damage to or destruction of undocumented buried archeological resources during construction. This impact will be mitigated to a less-than-significant level by TRLIA's Mitigation Measure ASB-5.8-d.

Impact ASB-5.8-e: Damage to or destruction of undocumented human remains during construction. This impact will be mitigated to a less-than-significant level by TRLIA's Mitigation Measure ASB-5.8-e.

Impact ASB-5.11-b: Increase in traffic hazards on local roadways near the existing levee and setback levee alignment during construction. This impact will be mitigated to a less-than-significant level by TRLIA's Mitigation Measure ASB-5.11-b.

Impact ASB-5.12-a: Damage of public utility infrastructure and disruption of service in levee repair and setback areas. This impact will be mitigated to a less-than-significant level by TRLIA's Mitigation Measure ASB-5.12-a.

Impact ASB-5.12-c: Potential for conflicts with emergency response vehicles during construction. This impact will be mitigated to a less-than-significant level by TRLIA's Mitigation Measure ASB-5.12-c.

Impact ASB-5.13-a: Disturbance of unknown paleontological resources during earthmoving activities. This impact will be mitigated to a less-than-significant level by TRLIA's Mitigation Measure ASB-5.13-a.

Based on an independent review of TRLIA's Draft and Final EIR, MMRP and CEQA Findings, the Department concurs in TRLIA's determinations that the mitigation measures will reduce the applicable environmental impacts to a less-than-significant level.

### III. SIGNIFICANT AND UNAVOIDABLE ADVERSE IMPACTS

The EIR identified several environmental impacts resulting from the Project that could not feasibly be mitigated to a less-than-significant level. These impacts, which are discussed in TRLIA's EIR and in its CEQA findings, are briefly listed below:

Impact ASB-5.1-a: Conflicts with land use planning and policies resulting from levee repairs and the levee setback. TRLIA adopted Mitigation Measure ASB-5.1-a to address this impact, but found that the mitigation would not reduce the impact to a less-than-significant level.

Impact ASB-5.1-b: Conversion of important farmland to nonagricultural uses resulting from levee repairs. TRLIA adopted Mitigation Measure ASB-5.1-b to address this impact, but found that the mitigation would not reduce the impact to a less-than-significant level.

Impact ASB-5.9-a: Temporary air emissions during construction. TRLIA adopted Mitigation Measure ASB-5.9-a to address this impact, but found that the mitigation would not reduce the impact to a less-than-significant level.

Impact ASB 5.10-a: Temporary increase in noise levels during construction. TRLIA adopted Mitigation Measure ASB-5.10-a to address this impact, but found that the mitigation would not reduce the impact to a less-than-significant level.

Based on an independent review of TRLIA's Draft and Final EIR, MMRP and CEQA Findings, the Department finds that these impacts are unavoidable and that there are no feasible alternatives or feasible mitigation measures within the Department's jurisdiction that would substantially lessen or avoid the impacts.

### IV. ALTERNATIVES

The EIR evaluated four alternatives: the no project alternative; Alternative 1 - the levee strengthening alternative; Alternative 2 - the levee strengthening and ASB setback levee alternative; and Alternative 3 - the levee strengthening and intermediate setback levee alternative.

Alternatives 1, 2 and 3 all involve levee repair and strengthening along Segments 1 and 3 of the Project. Unlike Alternatives 2 and 3, Alternative 1 would also involve levee repair and strengthening along Segment 2 of the Project and would not involve constructing a setback levee. Under Alternatives 2 and 3, a setback levee would be constructed to the east of the existing levee along Segment 2. The main difference between these two alternatives is that under Alternative 2, the setback levee is located farther to the east of the existing levee, which results in a larger setback area. In its Resolution 2007-04, TRLIA approved Alternative 2.

TRLIA rejected the no project alternative because it would not achieve any of the substantial flood control benefits of the Project. Based on an independent review, the Department agrees that the no project alternative is infeasible.

TRLIA found that, of the three project alternatives, Alternative 1 (which would not involve constructing a setback levee) would have the fewest environmental impacts that remain significant and unavoidable after mitigation. However, TRLIA rejected Alternative 1 because it would not provide the same level of flood protection as Alternative 2. TRLIA also explained that Alternative 1 would not achieve the potential for substantial long-term benefits associated with possible habitat improvement and/or restoration in the levee setback area, such as increases in fish and wildlife habitat, riparian corridor width, ecosystem complexity and recreational opportunities. Based on an independent review, the Department agrees that Alternative 1 is infeasible.

TRLIA found that the adverse impacts of Alternative 3 would be less than the adverse impacts of Alternative 2, mainly because Alternative 3 would involve a smaller setback area. However, TRLIA rejected Alternative 3 because it would not provide the same level of flood protection as Alternative 2. Based on an independent review, the Department agrees that Alternative 3 is infeasible.

The Department agrees with TRLIA's determination that Alternative 2 will maximize regional flood control benefits and is the most desirable alternative from a public policy perspective.

## V. STATEMENT OF OVERRIDING CONSIDERATIONS

In approving the Project, TRLIA balanced the Project's benefits against its unavoidable environmental impacts, and determined that the benefits outweighed the impacts and that the impacts were therefore acceptable. In so doing, TRLIA emphasized that the Project would provide significant flood protection benefits and is needed to help resolve existing flood risks, as demonstrated by recent catastrophic flood events. Based on an independent review, the Department finds that the Project's significant and unavoidable impacts are acceptable in light of the flood risks posed by current conditions and the substantial flood control benefits that would result from the Project.

Flood protection projects such as TRLIA's Feather River Levee Repair Project are an important priority for the Department and for the State of California. In 2006, California voters approved two important measures (Proposition 1E and Proposition 84) providing sources of funding for state expenditures on flood control projects, and the Department finds that this Project is vitally needed to improve flood protection levels in the affected region.

## VI. NO SUPPLEMENTAL OR SUBSEQUENT EIR IS REQUIRED

The Department finds that no supplemental or subsequent EIR is required. In particular, the Department finds that there are no substantial changes in the Project, and no substantial changes in the circumstances surrounding the Project, that give rise to a new significant

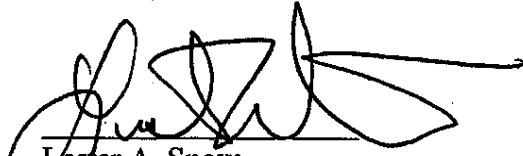


environmental effect or an increase in the severity of a previously identified significant effect. The Department further finds that there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the EIR was certified, showing any of the following: (i) the Project will have one or more significant effects not discussed in the EIR; (ii) significant effects previously examined will be substantially more severe than shown in the EIR; (iii) mitigation measures or alternatives found infeasible would in fact be feasible and would substantially reduce one or more significant effects of the Project, but the project proponent declines to adopt the mitigation measure or alternative; or (iv) mitigation measures or alternatives which are considerably different from those analyzed in the EIR would substantially reduce one or more significant environmental effects, but the project proponent declines to adopt the mitigation measure or alternative.

Subsequent to TRLIA's certification of the EIR and approval of the Project, TRLIA made several refinements to the alignment of the setback levee. These refinements are described in detail in a memorandum that TRLIA has provided to the Department. The refinements, which are designed to minimize impacts on landowners and on a cultural resources site (CA-YUB-5), have the effect of reducing the overall size of the setback area, which in turn serves to reduce the Project's impacts. The refinements do not result in any new significant or substantially more severe impacts, as compared with the impacts that have already been analyzed in TRLIA's EIR.

VII. ADOPTION OF FINDINGS BY THE DEPARTMENT

The Department hereby formally adopts the findings and statement of overriding considerations set forth herein.



Lester A. Snow  
Director

Date 3/6/08

**BEFORE THE BOARD OF SUPERVISORS  
OF THE COUNTY OF YUBA**

**IN RE:**

**IN REGARD TO GRANT FUNDS )  
UNDER PROPOSITIONS 1E AND 84 ) RESOLUTION NO. 2007-129  
AND ACKNOWLEDGEMENT OF FLOOD RISK )  
\_\_\_\_\_ )**

**WHEREAS**, the Three Rivers Levee Improvement Authority (TRLIA) has completed the first three phases of its south Yuba County Levee Improvement Program and a portion of the fourth phase of its program; and

**WHEREAS**, in November of 2006 the California voters approved the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, and the Disaster Preparedness and Flood Prevention Bond Act of 2006 (collectively "Propositions 1E and 84"); and

**WHEREAS**, in May of 2007, TRLIA pursued funding from Propositions 1E and 84 for its proposed Feather River Levee Repair Project (FRLR Project) by submitting an application to the Department of Water Resources (DWR) under the State-Federal Flood Control System Modifications Grant Program for Fiscal Year 2007-08 Early Implementation Projects (EIP Grant Program).

**WHEREAS**, In August of 2007, TRLIA received a letter from DWR indicating that Segments 2 and 3 of its proposed FRLR Project passed the EIP Grant Program's first round of eligibility screening, thereby provisionally qualifying TRLIA to receive a maximum estimated State cost share of \$138.51 million. The DWR letter advised TRLIA that before the State could make a commitment to fund a share of the eligible project costs of FRLR Project Segments 2 and 3, TRLIA must complete the application review process which includes demonstrating its financial capability to meet local cost share requirements and providing additional materials including a resolution adopted and signed by Yuba County formally acknowledging the current level of flood risk.

**WHEREAS**, in order for TRLIA to be eligible to receive funding pursuant to the EIP Grant Program, Yuba County is required to approve this resolution which acknowledges the existing flood risk in Yuba County; and

**WHEREAS**, the Board of Supervisors desires to make such an acknowledgement in order for TRLIA to be eligible to receive EIP Grant Program funds that would be used to provide increased flood protection for the residents of the County.

**NOW, THEREFORE, BE IT RESOLVED THAT:**

1. The County of Yuba has been informed by TRLIA that its present risk of flooding in south Yuba County is assessed at a 1 in 20 year flood event, and the County understands and accepts that assessment of risk by TRLIAs. To help decrease the County's residents' flood risk, TRLIA has applied for, and provisionally qualified to receive EIP Grant Program funds from the Department of Water Resources for the purpose of improving flood protection.
2. The County agrees that a change in circumstances, or a reevaluation of risk, may change the acknowledged risk of flooding. In the event the County proposes to adopt a new resolution stating the risk of flooding for south Yuba County, such a change requires the written concurrence of the Department of Water Resources.

**PASSED AND ADOPTED** at a regular meeting of the Board of Supervisors of the County of Yuba, State of California, on the 2<sup>nd</sup> day of October 2007, by the following vote:

**AYES:** Supervisors Louge, Nicoletti, Griego, Schrader, Stocker

**NOES:** None

**ABSENT:** None

**ATTEST: DONNA STOTTEMEYER**  
Clerk of the Board of Supervisors

**COUNTY OF YUBA**

By: Donna Stottlemeier

BY Hal Stocker  
Hal Stocker, Chairman

**APPROVED AS TO FORM:**

Daniel G. Montgomery  
Daniel G. Montgomery, County Counsel

The foregoing instrument is a Correct Copy of the original on file in this office  
**ATTEST: DONNA STOTTEMEYER**  
Clerk of the Board of Supervisors of the County of Yuba, State of California

By Donna Stottlemeier  
Date: October 3, 2007

**DEPARTMENT OF WATER RESOURCES**

1416 NINTH STREET, P.O. BOX 942836  
SACRAMENTO, CA 94236-0001  
(916) 653-5791



**AUG 30 2007**

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

Preliminary Eligibility Notification – State-Federal Flood Control System  
Modifications Grant Program, FY 2007-08 Early Implementation Projects

Dear Mr. Brunner:

Thank you for your interest in the State-Federal Flood Control System Modifications Grant Program for Fiscal Year 2007-08 Early Implementation Projects (EIP Grant Program). We are pleased to inform you that Segments 2 and 3 of TRLIA's proposed Feather River Levee Repair Project (FRLRP) have passed the first round of eligibility screening described on page 5 of the EIP Grant Program application package. This means that TRLIA is provisionally qualified to receive a maximum estimated State cost share of \$138.51 million, which represents over 69 percent of the total EIP Grant Program allocation for FY 2007-08, and reflects the State's commitment to implement setback levees where physically and economically feasible.

Before the Department of Water Resources (DWR) can make a commitment to fund a share of the eligible project costs of FRLRP Segments 2 and 3, you must complete the application review process described on pages 5-11 of the EIP Grant Program Application package. At this stage of the EIP Grant Program Application process, DWR advises TRLIA of the cost share requirements and TRLIA must provide DWR with the additional materials described below and detailed in Attachment 1.

**Cost Share Requirements**

The total project cost was estimated in your application to be \$201.30 million. If DWR makes a final decision to accept Segments 2 and 3 of your project, the State cost share provisions would be as follows:

- The State would pay 70 percent of estimated eligible "fix-in-place" costs for Segment 2 - \$53.70 million (70 percent of \$76.71 million [\$77.30 million estimated based on information in the application, minus estimated ineligible design costs incurred prior to November 7, 2006, estimated at \$0.59 million]).

- The State would pay 95 percent of the eligible incremental costs associated with construction of the setback levee in Segment 2 - \$76.76 million (95 percent of \$92.70 incremental cost minus \$8.00 million for ecosystem restoration, \$2.60 million for repair of Site 7 associated with Segment 1 which is not eligible, and \$1.30 million for ineligible Alternative Analysis costs included in the project estimate in the application.)
- The State would pay 70 percent of eligible costs for Segment 3 - \$8.05 million (70 percent of \$11.50 million estimated based on information in the application.)
- The State is supportive of the ecosystem restoration portion of the project and intends to cooperate with TRLIA and the U. S. Army Corps of Engineers (Corps) to implement ecosystem restoration as a component of the Yuba Basin Project, which has yet to be authorized by Congress. Consequently, costs for ecosystem restoration are not being funded under this grant.
- The State will pay none of the costs of Segment 1 of the FRLRP, primarily because TRLIA's application did not adequately address Criterion 6, Levee In-Place Improvement. TRLIA acknowledged that levee setback alternatives for Segment 1 (Feather River below Star Bend) were eliminated at the outset of the FRLRP studies for several reasons, including an earlier conclusion that a setback levee on the lower Bear River would accomplish some of the Feather River benefits that would accrue from a below Star Bend Feather River setback levee. However, to DWR's knowledge no modeling or economic studies were done to quantify the potential benefits of a setback levee in Segment 1 which would connect the proposed Segment 2 Feather River setback levee to the existing Bear River setback. Since the application does not include sufficient information for the State to assess the potential flood risk management benefits of a Segment 1 setback levee, that segment does not meet eligibility Criterion 6.
- The total of all State contributions towards the Feather River Levee Repair Project from the EIP Grant Program would not exceed an estimated \$138.51 million pending any adjustments to be made upon review of estimated ineligible costs incurred prior to bond passage on November 7, 2006.
- TRLIA must provide detailed information (with supporting documentation) for DWR to determine the costs that were incurred on the FRLRP before November 7, 2006. Costs that were incurred prior to this date are not eligible for reimbursement.

Mr. Paul Brunner

AUG 30 2007

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### Additional Materials Required

TRLIA must provide DWR with the following materials as further detailed in Attachment 1:

- Documentation of Financial Plan and Statement of Financial Capability
- Strategy to Achieve 200 Year Flood Protection
- Acknowledgement of Flood Risk
- Emergency Response Plan
- Permits and Environmental Compliance Documentation
- Hydraulic Modeling Information
- Status of Design

Note that the required Documentation of Financial Plan and Statement of Financial Capability, the Strategy to Achieve 200-Year Flood Protection, and the Permits and Environmental Compliance Documentation must all include information for Segments 1, 2 and 3 of the FRLRP (even though Segment 1 does not qualify for a State cost share under this grant program).

As specified on page 10 of the EIP Grant Program Application package, TRLIA has three weeks from the date of this notification letter to provide DWR with the Financial Plan and Statement of Financial Capability. In order to facilitate final determination of grant eligibility, TRLIA is encouraged to provide the additional information described in Attachment 1 within the same timeframe.

If all of these additional requirements are successfully met, DWR will notify TRLIA of its final decision regarding funding the proposed project. If Segments 2 and 3 of TRLIA's project are accepted, DWR will further require the execution of a Grant Agreement and an associated Operations and Maintenance (O&M) Agreement. The Grant Agreement will set forth the responsibilities of DWR and TRLIA, and describe the procedures by which the EIP Grant will be funded. It is important to note that the amount of the State cost share, once established in the Grant Agreement, will represent the maximum amount of funding for the proposed project from the EIP Grant Program and any cost overruns will be the responsibility of the applicant agency.

One of the responsibilities to be set forth in the Grant Agreement is for TRLIA to commit to fully cooperating with the State in developing an authorized federal project for the area, seeking federal credit for project costs, and sharing the credit in proportion to State and local expenditures on the project.

Mr. Paul Brunner  
AUG 30 2007

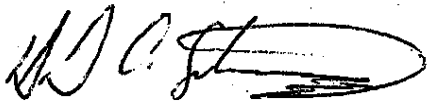
Page 4

At this time, DWR has not made a final decision or a commitment regarding funding for this project. Please be advised that acquiring real property interests or incurring other project expenses prior to approval by DWR of the project and execution of the Grant Agreement and/or acquiring real property or incurring other project expenses in a manner other than as provided in an executed Grant Agreement is done at TRLIA's own risk that such expenses will not be eligible for cost sharing by the State.

Because DWR has not yet made a final decision on this project, DWR retains all of its rights and powers to exercise its full discretion as a Responsible Agency under the California Environmental Quality Act (CEQA) in considering the environmental documentation for the project, and in reaching its own conclusions about the project, including mitigation measures and alternatives, and whether or not to provide funding.

We appreciate your timely attention to this matter. If you have any questions or are unable to provide the identified information within three weeks from the date of this letter, please contact George T. Qualley, Chief of the Flood Projects Office, at (916) 574-0384.

Sincerely,



David A. Gutierrez  
Acting Director for FloodSAFE California

Attachments

cc: Honorable Rick Keene  
Member of the Assembly  
State Capitol, Room 2158  
Sacramento, California 95814

Honorable Sam Aanestad  
Member of the Senate  
State Capitol, Room 2054  
Sacramento, California 95814

Mr. Ric Reinhardt, Principal  
MBK Engineers  
2450 Alhambra Boulevard, Second Floor  
Sacramento, California 95817-1125

**Attachment 1**  
**Additional Materials Required**

**Documentation of Financial Plan and Statement of Financial Capability**

Before final funding determinations for the EIP Grant Program can be made, TRLIA must provide DWR with the following:

- A letter signed by TRLIA's authorized representative, of its intention to provide the required local cost share for this project and to complete Segments 1, 2, and 3 of the FRLRP (even though Segment 1 does not qualify for a State cost share under this grant program).
- A Financial Plan and Statement of Financial Capability, as described on page 10 of the EIP Grant Program Application package. The Financial Plan and Statement of Financial Capability must be prepared by a Certified Public Accountant or a Certified Governmental Financial Manager, demonstrating that TRLIA has the financial resources necessary to fund its portion of the cost share and should include the following:
  - Evidence of TRLIA's authority to use the identified source or sources of funds.
  - Information on TRLIA's ability to obtain funds sufficient to cover:
    - The non-State cost share of the projected costs of Segments 2 and 3 of the FRLRP
    - 100 percent of any cost overruns on Segments 2 and 3 of the FRLRP
    - TRLIA's plans to finance the anticipated costs of Segment 1 of the FRLRP
  - A credit analysis that demonstrates TRLIA is credit worthy if TRLIA is relying on its full faith and credit to obtain remaining funds (as in the use of general obligation bonds, appropriations, or a repayment agreement).
  - An analysis that demonstrates the projected revenues or proceeds are certain and are sufficient to cover TRLIA's stream of costs through time, if TRLIA is relying on non-guaranteed debt (for example, a particular revenue source or limited tax, or bonds backed by such a source).
  - If TRLIA is relying on third party contributions, comparable data for the third party, together with evidence of its legal commitment to TRLIA.
  - If TRLIA is relying upon federal funding for any part of its project, the analysis must identify such funds and describe the status of TRLIA's efforts to obtain federal funding. The analysis must also include a backup plan for financing in the event federal funds are not appropriated in a timely manner.



- o A list of all cash reserves (restricted and unrestricted) and any planned uses of these reserves.

The documentation used in the analysis should include audited financial statements for TRLIA's last three operational years, including balance sheets, income statements, statements of sources and uses of funds, the most recent annual budget and, if applicable, water enterprise fund detail.

If TRLIA will need to obtain loans to secure the remaining funds, information on these loans and the proposed repayment method as outlined in Attachment 7, page 22 of the EIP Grant Program Application must be included.

TRLIA must also provide, as part of its Financial Plan and Statement of Financial Capability, information on current O&M costs, an estimate of the O&M costs after completion of the proposed project with an analysis of the impact of these costs on the current O&M budget, and identification of a source of funds to address any additional O&M costs resulting from implementation of the project.

### **TRLIA's Strategy to Achieve 200 Year Flood Protection**

In the application documents, the overall strategy to get to the 200 year flood protection was mentioned but details were not included. Please include details of the strategy as currently planned, describing known and anticipated flood control infrastructure repairs and improvements in the area. TRLIA must provide information demonstrating that its project will provide at least a 200 year level of flood protection. Since TRLIA's project is part of a multi-phased project, this information must include TRLIA's strategy to ensure that the completed multi-phased project as a whole will achieve that level of flood protection. TRLIA must also explain in detail how the proposed project (Segments 1, 2 and 3) fits into the strategy and provide a schedule to achieve a 200 year level of flood protection. This requirement is detailed on page 9 of the EIP Grant Program Application package.

### **Acknowledgement of Flood Risk**

While TRLIA acknowledged that there will be residual risk of flooding if this project is constructed, no specific quantification was made. TRLIA must define the area to be protected and provide supporting documentation. TRLIA must identify the current level of flood protection provided and the level of flood protection to be provided by the project. TRLIA must also quantify the residual flood risks that will remain following completion of the project.

TRLIA must also obtain formal acknowledgement of the current level of flood risk through a resolution to be adopted and signed by Yuba County. Attachment 2 provides information regarding the form of acknowledgement acceptable to DWR. These requirements are further detailed on page 11 of the EIP Grant Program Application package.

### **Emergency Response Plan**

Prior to completion of the project, TRLIA must provide an Emergency Response Plan as described on page 11 of the EIP Grant Program Application package. The Emergency Response Plan must meet DWR requirements and be updated annually. DWR will develop the Emergency Response Plan in collaboration with TRLIA, utilizing either DWR's consultant at State cost, or TRLIA's consultant at their cost. TRLIA will be responsible for the annual updates.

### **Permits and Environmental Compliance Documentation**

TRLIA must provide copies of all approved permits, approvals, and environmental compliance documents for the proposed project (Segments 1, 2 and 3), including hazardous material site assessments and biological opinions for endangered species, along with a schedule for permits, approvals and/or environmental documents not yet completed, including the start date and the expected date of completion. Please see page 8 and Appendix II of the EIP Grant Program Application package for further information about required permits and approvals.

### **Hydraulic Modeling Information**

While the hydraulic modeling analytical procedures used by TRLIA appear to be adequate, TRLIA had previously expressed willingness to provide hydraulic routings at specific design flows using the Corps' hydraulic model. Therefore, please provide "with and without project" routings using both the MBK and Corps versions of HEC-RAS to compare relative stage reductions (as a result of Segment 2 setback levee) at various flow levels, including at a minimum the 1957 design flow and the 200-year TRLIA project design flow. The objective is to confirm that the Feather River stage reduction associated with the setback levee, as documented in the grant application, is similar at corresponding points along the river regardless of which hydraulic simulation model is used.

## Attachment 2

### **State-Federal Flood Control System Modification Program For Fiscal Year 2007-08 Early Implementation Projects**

#### Flood Risk Acknowledgment

The Cities and Counties encompassing the project area shall include in an adopted resolution the following:

“[City/County] represents its present risk of flood is assessed at a [1 in X year flood event] in the project area. To help meet [City's/County's] flood risk responsibilities, [Grantee] shall receive Grant funds from the Department of Water Resources for the purpose of improving flood protection.

The Parties agree that a change in circumstances, or a reevaluation of risk, may change the acknowledged risk of flood. In the event [City/County] proposes a change in the valuation of its flood risk, such a change requires the written concurrence of the Department of Water Resources.”