

RESOLUTION NO. 2009-09

A RESOLUTION BY THE BOARD OF THREE RIVERS LEVEE IMPROVEMENT AUTHORITY APPROVING FINDINGS IN SUPPORT OF AN ADDENDUM AND APPROVING AN ADDENDUM TO THE FEATHER RIVER LEVEE REPAIR PROJECT FINAL EIR, PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, PUBLIC RESOURCES CODE, SECTION 21000 *et seq.*

I. FINDINGS

The findings set forth below ("Findings") are made by the TRLIA Board of Directors ("Board") pursuant to CEQA and the CEQA Guidelines (Cal. Code Regs., title 14 § 15000 *et seq.*). The Findings provide the written analysis and conclusions of the Board regarding the determination that the Project does not involve any of the conditions requiring a subsequent or supplemental EIR, pursuant to Sections 15162-15164 of the CEQA Guidelines. Specifically, the Board finds and determines:

A. On August 4, 2006, the draft environmental impact report (DEIR) for the Feather River Levee Repair Project (FRLRP) was distributed to public agencies and the general public. The leads agency under the California Environmental Quality Act (CEQA) is the Three Rivers Levee Improvement Authority (TRLIA), a joint powers authority composed of Yuba County and the Reclamation District 784. In November 2006, the final environmental impact report (FEIR), addressing written and oral comments received on the DEIR, was distributed to the public agencies and the general public. The TRLIA Board of Directors certified the environmental impact report (EIR), consisting of the DEIR and the FEIR, on February 6, 2007. The EIR was prepared in accordance with the requirements of CEQA and the State CEQA Guidelines.

B. The FRLRP consists of levee improvements along segments of the existing Feather River and Yuba River levees in southern Yuba County. The EIR evaluated three project alternatives at an equal level of detail and a no-project alternative. Concurrent with certification of the EIR, the TRLIA Board of Directors approved Alternative 2, the "Levee Strengthening and ASB [Above Star Bend] Setback Levee Alternative," for implementation. Activities included in Alternative 2 are divided into three project segments as follows:"

- Segment 1-The existing Feather River left (east) bank levee from Project Levee Mile (PLM) 13.3 to PLM 17.2 (from approximately Pump Station No.2 to Star Bend). Proposed improvements to this levee segment consist of repairing and strengthening the existing levee in place to correct seepage and/or stability deficiencies.
- Segment 2- The existing Feather River left bank levee from approximately PLM 17.2 to PLM 23.4 (from Star Bend to immediately south of Shanghai Bend [west of the Yuba County Airport]). Proposed improvements to this levee segment consist of replacing the existing levee with a new setback levee (the ASB setback levee). Relocation and replacement of the existing RD 784 Pump Station No.3 is also included with Segment 2.
- Segment 3-The existing Feather River left bank levee from PLM 23.4 to PLM 26.1, and the Yuba River left (south) bank levee from PLM 0.0 to PLM 0.3 (west of the Yuba County Airport to the railroad crossing at the State Route [SR] 70 bridge). Proposed levee improvements in this area

consist of repairing and strengthening the existing levee in place to correct seepage and/or stability deficiencies.

C. Since certification of the EIR, design and permitting for FRLRP Alternative 2 has proceeded. In summer 2007, these processes were completed for improvements of the existing levee in Project Segments 1 and 3. Construction was initiated in Segment 3 in late summer 2007 and is anticipated to be completed in Segments 1 and 3 in 2008. Levee improvements and construction processes in these segments are consistent with those described in the EIR. However, as a result of information gathered during the detailed design process and changes in land acquisition conditions, minor modifications have been made to the Segment 2 portion of the project relative to the details described in the EIR.

D. The three Project alternatives evaluated in the EIR were developed based on a preliminary design effort. The structural features of the proposed levee repairs and the setback levee (*i.e.*, the improvements in Segments 1, 2, and 3) included in all of the alternatives were developed to a level of detail sufficient for a complete project-level environmental analysis consistent with Section 15161 of the State CEQA Guidelines. An increase in the availability of detailed information regarding the approved project (in this case, Alternative 2) is to be expected as a project transitions from a preliminary design effort for several alternatives to a final design for a single alternative.

E. The additional Project detail for FRLRP, Segment 2 only, relates primarily to levee widening between setback stations 0+00 and approximately 6+50. Widening the setback levee is proposed to protect a sensitive sub-surface cultural resource from disturbance during levee foundation preparation. The proposed modification would widen a portion of the setback levee alignment in Segment 2, near the southern tie-in area, where the existing levee and the project setback levee alignment meet (Figure 2-1). The proposed levee widening would encapsulate the sensitive subsurface cultural resource and also allow levee fill to be placed over the site without ground disturbance associated with foundation preparation. Thus, the proposed modification would satisfy CEQA mitigation requirements regarding protection of sensitive cultural resources encountered during project construction.

The setback levee footprint would be widened by up to approximately 230 feet between station 0+00 and approximately station 6+50 (Figure 2-1). The 3H: 1V (horizontal: vertical) ratio of levee embankment areas would remain the same, but the location of the landside levee toe and embankments would be moved slightly east of the previously approved Above Star Bend (ASB) setback levee alignment to accommodate the proposed levee widening. This widening allows planned levee foundation preparation on either side of the sensitive site, including installation of a slurry cutoff wall west of the site, while permitting levee fill material to be placed directly on the ground surface above the sensitive site with no disturbance to subsurface materials.

F. If, after certification of an EIR, altered conditions or changes or additions to a project occur, CEQA provides three mechanisms to address these changes: a subsequent EIR, a supplement to an EIR, and an addendum to an EIR.

Section 15162 of the CEQA Guidelines describes the conditions under which preparation of a subsequent EIR would be appropriate. When an EIR has been certified for a project, preparation of a subsequent EIR would be appropriate if the lead agency determines, on the basis of substantial evidence in light of the whole record, that one or more of the following conditions is met:

- (1) substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified effects;
- (2) substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) 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 previous EIR was certified as complete, shows any of the following:
 - (A) the project will have one or more significant effects not discussed in the previous EIR.;
 - (B) significant effects previously examined will be substantially more severe than shown in the previous EIR.;
 - (C) mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measures or alternatives; or
 - (D) mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Section 15163 of the CEQA Guidelines states that a lead agency may choose to prepare a supplement to an EIR rather than a subsequent EIR if:

- (1) any of the conditions described above for Section 15162 would require the preparation of a subsequent EIR; and
- (2) only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation.

Section 15164 of the CEQA Guidelines states that a lead agency may prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described above for Section 15162 calling for preparation of a subsequent EIR have occurred.

G. As described in the Addendum, the following elements of the FRLRP Segment 2 project description for Alternative 2 (the approved project) have undergone minor changes since the FRLRP EIR was certified and Alternative 2 was approved for implementation:

- The setback levee footprint would be widened by up to approximately 230 feet between station 0+00 and approximately station 6+50 (Figure 2-1) The 3H: 1V (horizontal: vertical) ratio of levee embankment areas would remain the same, but the location of the landside levee toe and embankments would be moved

slightly east of the previously approved ASB setback levee alignment to accommodate the proposed levee widening. This widening allows planned levee foundation preparation on either side of the sensitive site, including installation of a slurry cutoff wall west of the site, while permitting levee fill material to be placed directly on the ground surface above the sensitive site with no disturbance to subsurface materials.

H. The differences between the FRLRP as described in the EIR and approved by TRLIA and additional or modified elements of the Segment 2 of the FRLRP as they are currently known constitute changes that are properly addressed in an addendum to an EIR pursuant to Section 15164. Changes to the FRLRP as described in the Addendum and any changed circumstances since certification of the EIR on February 6, 2007 would not:

- result in any new significant environmental effects; or
- substantially increase the severity of previously identified effects.

In addition, no new information of substantial importance has arisen that shows that:

- the project would have new significant effects;
- the project would have substantially more severe effects;
- mitigation measures or alternatives previously found to be infeasible would in fact be feasible; or
- mitigation measures or alternatives that are considerably different from those analyzed in the EIR would substantially reduce one or more significant effects on the environment.

Because only minor clarifying changes and additions to the FRLRP EIR are necessary to accommodate additional or modified elements of the Segment 2 improvements, and none of the conditions described in Section 15162 or 15163 of the CEQA Guidelines calling for preparation of a subsequent or supplemental EIR have occurred, the EIR and associated Mitigation Monitoring and Reporting Program remain valid for assessing and mitigating Project impacts, and an addendum to the FRLRP EIR is the appropriate level of CEQA documentation, consistent with Sections 15162-15164 of the CEQA Guidelines.

1. Changes to the Project Do Not Require Preparation of a Subsequent or Supplemental EIR.

Finding: Based on the Addendum and the entire record before the Board, the Board finds that the changes to the Project as described in the Addendum and these Findings will not result in new significant environmental impacts or a substantial increase in the severity of previously identified significant impacts such that major revisions will be required in the EIR for the Feather River Levee Repair Project.

Evidence in Support of Finding: The Addendum describes the differences between the Project as approved and recent changes to the Project resulting from more detailed information gathered during Project implementation. For each resource category, the Addendum analyzes the facts and inferences supporting the finding that the changes to the Project will not result in new significant impacts

or a substantial increase in the severity of the previously identified significant impacts. The Addendum and the analysis and references cited therein are incorporated by reference as if fully set forth herein.

2. There Is No Substantial Change in Circumstances That Requires Preparation of a Subsequent or Supplemental EIR.

Finding: Based on the Addendum and the entire record before the Board, the Board finds that there are no substantial changes with respect to the circumstances under which the Project will be constructed or operated which will require major revisions to the EIR due to the involvement of new significant environmental impacts or a substantial increase in the severity of previously identified significant impacts.

Evidence in Support of Finding: Since certification of the EIR and Project approval, no changes to the regulatory background or existing conditions related to the Project relative to land use; population, employment, and housing; air quality; noise; geology, soils and mineral resources; hazardous materials and public health; public services; public utilities; recreation; terrestrial biology; fisheries; cultural resources; aesthetic resources; growth inducing impacts; or Project alternatives have occurred that would result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

There have been changes in the circumstances under which the Project will be developed related to geology, soils and mineral resources associated with the Project since certification of the EIR. However, as discussed in the Addendum at pp. 3-1 through 3-20, incorporated herein by reference, none of these changes would result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects, and therefore the changes would not trigger the need for subsequent environmental review for the Project.

3. There Is No New Information of Substantial Importance That Requires Preparation of a Subsequent or Supplemental EIR.

Finding: Based on the Addendum and the entire record before the Board, the Board 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, which shows any of the following:

- The Project will have one or more significant effects not discussed in the EIR;
- Significant effects previously examined will be substantially more severe than shown in the Addendum;
- Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measures or alternatives; or
- Mitigation measures or alternatives which are considerably different from those analyzed in the addendum would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Evidence in Support of Finding: As identified in the Addendum, since certification of the EIR and approval of the Project, there has been no new information of substantial importance related to the Project relative to land use; population, employment, and housing; traffic; air quality; noise; geology, soils and mineral resources; hydrology and water quality; hazardous materials and public health; public services; public utilities; recreation; agricultural resources; terrestrial biology; aesthetic resources; growth inducing impacts; or project alternatives that would result in new significant impacts, significant changes in the severity of previously identified environmental impacts, or significant changes in the effectiveness or applicability of mitigation measures and project alternatives.

I. Record of Proceedings and Custodian Of Record

The Addendum, the sources cited or referenced therein, and supporting documents and other materials constitute the record upon which the Board bases these findings and approval of the Addendum. The location and custodian of these documents and materials is Paul G. Brunner at Three Rivers Levee Improvement Authority.

J. Independent Judgment

The Board has independently reviewed and evaluated the Addendum, and makes these findings and approves the Addendum based on the exercise of its independent judgment.

II. RESOLUTION OF APPROVAL

NOW, THEREFORE, BE IT RESOLVED THAT:

The Board hereby takes the following actions and makes the following approvals:

- A. The Board hereby adopts these Findings in their entirety, which Findings incorporate by reference the facts, analysis, evidence and references in the Addendum;
- B. The Board hereby approves the Addendum to the FEIR; and
- C. The Board directs staff to file a Notice of Determination pursuant to CEQA Guidelines Section 15094, and to take other necessary and appropriate actions to implement this approval.

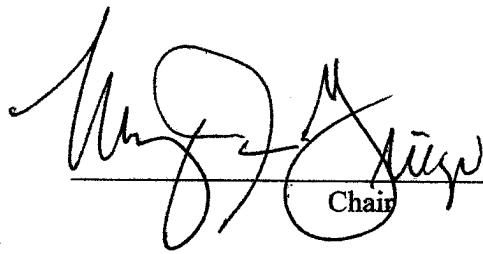
PASSED AND ADOPTED this 16 day of June, 2009, by the Board of Three Rivers Levee Improvement Authority by the following vote:

AYES: Director Nicoletti, Brown, Griego, Graham

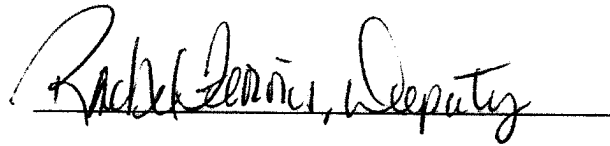
NOES: None

ABSENT: Director Crippen

ABSTAIN: None


Chair

ATTEST: DONNA STOTTLEMEYER,
CLERK OF THE BOARD


Deputy

APPROVED AS TO FORM: GENERAL COUNSEL

ANDREA P. CLARK


Andrea P. Clark