

RESOLUTION NO. 2012- 05

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

WHEREAS, Three Rivers Levee Improvement Authority ("TRLIA") proposes to repair, construct, install, and maintain improvements along an approximately 320-foot stretch of the Yuba River south levee between State Route 70 and Shad Road (the "Project"); and

WHEREAS, TRLIA has determined that it needs to acquire certain property interests from the parcel currently bearing Assessor's Parcel No. 021-410-001 (the "Property") in order to complete the Project; and

WHEREAS, TRLIA has determined that, among the other property interests it needs to acquire for the Project, it needs to acquire a replacement Utility Easement across a portion of the Property for Pacific Gas and Electric Corp. ("PG&E") in order to accomplish certain utility relocation work necessary to complete the Project; and

WHEREAS, TRLIA has advised the owners of the Property of the need for the Project and offered the owners an opportunity for a hearing before the TRLIA Board on May 1, 2012, pursuant to Section 1245.235 of the California Code of Civil Procedure; and

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

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

SECTION 1. The Property is to be acquired for the Project.

TRLIA is authorized to acquire property for the Project pursuant to, among others, the following statutes: Government Code section 25350.5, Water Code section 50930, and Code of Civil Procedure section 1240.330.

SECTION 2. The general location and extent of the Property to be acquired is set forth in the legal descriptions attached hereto as Exhibit A-1, Exhibit B-1 and Exhibit C-1, the accompanying parcel maps attached hereto as Exhibit A-2, Exhibit B-2 and Exhibit C-2, and the accompanying definitions attached hereto as Exhibit B-3 and Exhibit C-3, which are incorporated herein by this reference.

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

- a. The public interest and necessity require the Project.
- b. The Project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury.
- c. The Property described in Exhibit A-1, Exhibit B-1 and Exhibit C-1, depicted in Exhibit A-2, Exhibit B-2 and Exhibit C-2, and defined in Exhibit B-3 and Exhibit C-3, is necessary for the proposed Project.

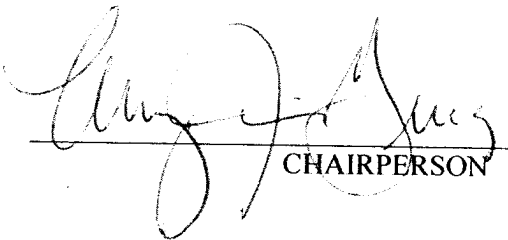
- d. The Property described in Exhibit C-1, depicted in Exhibit C-2, and defined in Exhibit C-3 is necessary for the purpose specified in Code of Civil Procedure section 1240.330. The acquisition of the Utility Easement is necessary as substitute property for PG&E.
- e. The offer of just compensation required by Government Code Section 7267.2 has been made to the owners of record of the Property.
- f. All conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Property described herein have been complied with by TRLIA.
- g. TRLIA possesses the statutory authority to acquire the Property by eminent domain.

SECTION 4. Legal counsel retained by TRLIA is hereby authorized and empowered:

- a. To take appropriate legal action, in accordance with the provisions of the Constitution of California and the Eminent Domain Law of California, to acquire the Property described in Exhibit A-1, Exhibit B-1 and Exhibit C-1, depicted in Exhibit A-2, Exhibit B-2 and Exhibit C-2, and defined in Exhibit B-3 and Exhibit C-3.
- b. To deposit the probable amount of compensation, based on an appraisal, and to apply to the court for an order permitting TRLIA to take immediate possession and use of the Property for public uses and purposes.

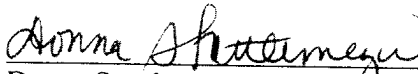
PASSED AND ADOPTED by the Board of Directors of the Three Rivers Levee Improvement Authority this 1st day of May, 2012, by a two-thirds (2/3) or greater vote as follows:

AYES: Directors Brown, Crippen, Graham, Griego, Nicoletti
 NOES: None
 ABSTAIN: None
 ABSENT: None



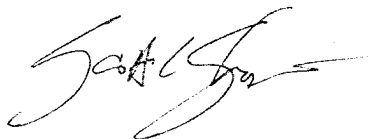
 CHAIRPERSON

ATTEST:



 Donna Stottlemeyer, Secretary

**APPROVED AS TO FORM
 SCOTT L. SHAPIRO
 GENERAL COUNSEL**



By: _____

Exhibit 'A-1'

All that real property situate in the County of Yuba, State of California, being a portion of that certain parcel of land, being a portion of Tract 10 of Yuba Gardens, as shown on the plat thereof filed in the office of the County Recorder of Yuba County in Book 3 of Surveys, Page 2 and as described in the deed to Jason G. Allen, filed in the office of the County Recorder of Yuba County as Document No. 2003-22136 and being described as follows:

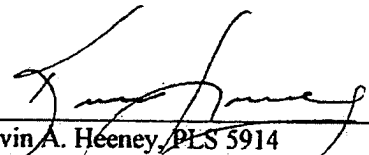
Beginning at a point on the North line of said Tract 10, being the Northeasterly corner of the above described Jason G. Allen property, from which a 3/4" iron pipe at the Northerly corner of Parcel 1, as shown on that certain Parcel Map filed in Book 71 of Surveys, Page 32 bears South 76°32'08" East, 3282.70 feet and also from which a 6" by 6" concrete monument on the Northeasterly right of way of State Highway 70 (99E) as shown on that certain Record of Survey filed in Book 6 of Surveys, Page 46 at the Westerly end of the course labeled S81°08'44"W 181.35' bears South 42°14'36" East, 1548.58 feet; thence along the North line of said Tract 10 and Allen property, South 89°47'46" West, 377.48 feet to a point on the Northeasterly line of said State Highway 70; thence along said Northeasterly line, South 41°32'06" East, 45.58 feet; thence leaving said Northeasterly line, South 88°57'00" East, 108.45 feet; thence South 64°58'25" East, 37.47 feet; thence North 79°03'39" East, 13.09 feet; thence North 89°11'53" East, 101.87 feet; thence North 88°15'29" East, 64.61 feet to the Easterly line of said Allen property, being a point on the Westerly line of Shad Road; thence along the Easterly line of said Allen property, North 28°20'46" East, 53.89 feet to the Point of Beginning, containing 0.351 acres, more or less.

See Exhibit 'A-2' attached hereto and made a part of this description.

The basis of bearings for this description is the California Coordinate System, Zone II, NAD 83. Distances contained herein are ground distances. To obtain grid distances, multiply the distance by 0.9999115.

End of Description

Prepared by CTA Engineering & Surveying under the supervision of the undersigned


Kevin A. Heeney, PLS 5914

12/12/2011
Date



Portion of:
APN 020-410-001

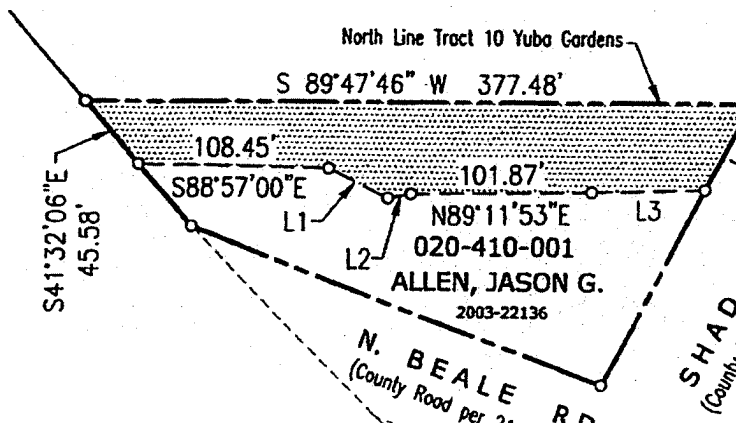


020-020-001
COUNTY OF YUBA

North Line Tract 10 Yuba Gardens

S 89°47'46" W 377.48'

P.O.B.
NE Corner
Allen Property



S 41°32'06" E
45.58'

STATE HIGHWAY 70

N. BEALE RD.
(County Road per 241 O.R. 167)

SHAD ROAD
(County Road per 241 O.R. 167)

020-020-089
TRLTA

020-020-090
RAETZ

FOUND 3/4" IRON PIPE @
NORTHERLY COR.
PARCEL 1 PER
RS 71-32

FOUND 6"X6" CONCRETE MON. @
NE'LY LINE OF
HIGHWAY 70 (99E)
PER RS 6-46

LINE DATA TABLE		
LINE	BEARING	DISTANCE
L1	S64°58'25"E	37.47'
L2	N79°03'39"E	13.09'
L3	N88°15'29"E	64.61'
L4	N28°20'46"E	53.89'

THE BASIS FOR BEARINGS SHOWN HEREON IS THE CALIFORNIA COORDINATE SYSTEM, ZONE II, NAD 83. DISTANCES SHOWN HEREON ARE GROUND DISTANCES. MULTIPLY GROUND DISTANCE BY 0.9999115 TO OBTAIN GRID DISTANCES.



DATE: 12/12/2011

Exhibit 'A-2'	
OWNER:	Allen, Jason G.
A.P.N.:	020-410-001
AREA:	FEE ACQUISITION AREA = 0.351 Ac.

DATE: 12/12/2011	DRAWN BY: KAH	SHEET 1 OF 1
SCALE: 1"=100'	JOB NO. 06-008-004	
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY Proposed Acquisition for Lower Yuba Levee Improvement Project Portion of Tract 10, Yuba Gardens R.S. 3-2 County of Yuba State of California		

EXHIBIT B-1

All that real property situate in the County of Yuba, State of California, being a portion of that certain parcel of land, being a portion of Tract 10 of Yuba Gardens, as shown on the plat thereof filed in the office of the County Recorder of Yuba County in Book 3 of Surveys, Page 2 and as described in the deed to Jason G. Allen, filed in the office of the County Recorder of Yuba County as Document No. 2003-22136 and being described as follows:

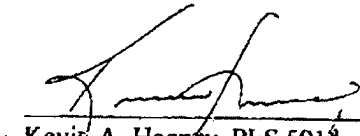
Commencing at a point on the North line of said Tract 10, being the Northeasterly corner of the above described Jason G. Allen property, from which a 3/4" iron pipe at the Northerly corner of Parcel 1, as shown on that certain Parcel Map filed in Book 71 of Surveys, Page 32 bears South 76°32'08" East, 3282.70 feet and also from which a 6" by 6" concrete monument on the Northeasterly right of way of State Highway 70 (99E) as shown on that certain Record of Survey filed in Book 6 of Surveys, Page 46 at the Westerly end of the course labeled S81°08'44"W 181.35' bears South 42°14'36" East, 1548.58 feet; thence along the East line of said Jason G. Allen property, South 28°20'46" West, 53.89 feet to the Point of Beginning; thence continuing along said East line, South 28°20'46" West, 44.03 feet; thence leaving said East line, North 61°12'38" West, 75.73 feet; thence North 89°11'53" East, 22.70 feet; thence North 88°15'29" East, 64.61 feet to the Point of Beginning, containing 0.038 acres, more or less.

See Exhibit 'B-2' attached hereto and made a part of this description.

The basis of bearings for this description is the California Coordinate System, Zone II, NAD 83. Distances contained herein are ground distances. To obtain grid distances, multiply the distance by 0.9999115.

End of Description

Prepared by CTA Engineering & Surveying under the supervision of the undersigned



Kevin A. Heeney, PLS 5914
Portion of:
APN 020-410-001

01/25/2012
Date





020-020-001
COUNTY OF YUBA

North Line Tract 10 Yuba Gardens

NE Corner
Allen Property

T.R.L.I.A. ACQUISITION

P.O.B.

020-410-001
ALLEN, JASON G.
2003-22136

020-020-089
TRLIA

N. BEALE RD.
(County Road per 241 O.R. 167)

SHAD ROAD
(County Road per 241 O.R. 167)

020-020-090
RAETZ

FOUND 3/4" IRON PIPE @
NORTHERLY COR.
PARCEL 1 PER
RS 71-32

FOUND 6"X6" CONCRETE MON. @
NE'LY LINE OF
HIGHWAY 70 (99E)
PER RS 6-46

STATE HIGHWAY 70

LINE DATA TABLE		
LINE	BEARING	DISTANCE
L1	S28°20'46"W	53.89'
L2	S28°20'46"W	44.03'
L3	N61°12'38"W	75.73'
L4	N89°11'53"E	22.70'
L5	N88°15'29"E	64.61'

THE BASIS FOR BEARINGS SHOWN HEREON IS THE CALIFORNIA COORDINATE SYSTEM, ZONE II, NAD 83. DISTANCES SHOWN HEREON ARE GROUND DISTANCES. MULTIPLY GROUND DISTANCE BY 0.9999115 TO OBTAIN GRID DISTANCES.



Exhibit B-2		DATE: 01/25/2012	DRAWN BY: KAH	SHEET 1 OF 1
OWNER:	Allen, Jason G.	SCALE: 1"=100'	JOB NO. 06-008-004	
A.P.N.:	020-410-001			
AREA:	ACCESS EASEMENT AREA = 0.038 Ac.	THREE RIVERS LEVEE IMPROVEMENT AUTHORITY Proposed Access Easement for Lower Yuba Levee Improvement Project		
cta Engineering & Surveying		Portion of Tract 10, Yuba Gardens R.S. 3-2		
		County of Yuba State of California		

DATE: 01/25/2012

Exhibit B-3

ACCESS EASEMENT

JASON G. ALLEN, a married man, do(es) hereby grant to the Three Rivers Levee Improvement Authority, a joint powers authority composed of Yuba County and Reclamation District 784, hereinafter referred to as TRLIA, an easement for the perpetual right of ingress and egress, including vehicular traffic, as TRLIA may require from time to time, to provide access to and from an adjacent levee, with said ingress and egress to be over and across that certain real property in the County of Yuba, State of California, bounded and described as follows:

See Exhibits "B-1" and "B-2"
attached hereto and made a part hereof.

The grant of this easement includes the right to improve it in the manner determined to be necessary by TRLIA, including, but not limited to the right to maintain, repair, and improve. Any use of the area subject to this easement which is not compatible with, or interferes with, the rights herein granted shall not be allowed, and if installed in violation hereof, the same shall be removed at the expense of the party responsible for such installation or their successor.

Exhibit C-1

All that real property situate in the County of Yuba, State of California, being a portion of that certain parcel of land, being a portion of Tract 10 of Yuba Gardens, as shown on the plat thereof filed in the office of the County Recorder of Yuba County in Book 3 of Surveys, Page 2 and as described in the deed to Jason G. Allen, filed in the office of the County Recorder of Yuba County as Document No. 2003-22136 and being described as follows:

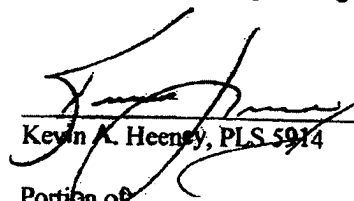
Beginning at a point on the Easterly line of said Allen property, said point lying South 28°20'46" West, 53.89 feet from the Northeast corner thereof; thence along said Easterly line, South 28°20'46" West, 44.03 feet; thence leaving said Easterly line, North 61°12'38" West, 54.21 feet; thence North 87°00'48" West, 124.12 feet; thence North 85°26'38" West, 122.22 feet to a point on the Southwesterly line of said Allen property, being also the Northeasterly line of State Highway No. 70; thence along said Southwesterly line, North 41°32'06" West, 11.27 feet; thence leaving said Southwesterly line, South 88°57'00" East, 108.45 feet; thence South 64°58'25" East, 37.47 feet; thence North 79°03'39" East, 13.09 feet; thence North 89°11'53" East, 101.87 feet; thence North 88°15'29" East, 64.61 feet to the Point of Beginning, containing 0.086 acres, more or less.

See Exhibit C-2 attached hereto and made a part of this description.

The basis of bearings for this description is the California Coordinate System, Zone II, NAD 83. Distances contained herein are ground distances. To obtain grid distances, multiply the distance by 0.9999115.

End of Description

Prepared by CTA Engineering & Surveying under the supervision of the undersigned

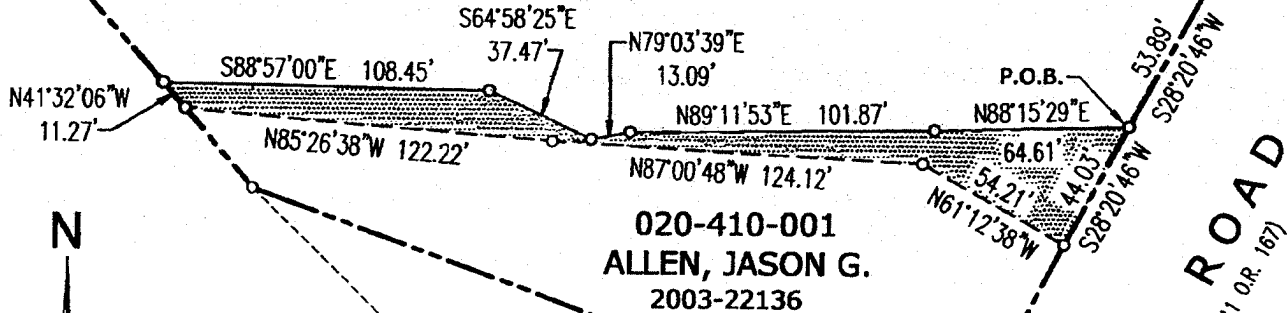

Kevin A. Heeney, PLS 5914
Portion of
APN 020-410-001

03/06/2012
Date



020-020-001
 COUNTY OF YUBA
 LOT "2"
 Bk 54 of Deeds, Pg. 242

NE Corner
 Allen Property

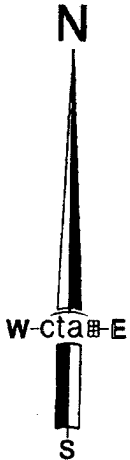


020-410-001
 ALLEN, JASON G.
 2003-22136

N. BEALE RD.
 (County Road per 241 O.R. 167)

SHAD ROAD
 (County Road per 241 O.R. 167)

STATE HIGHWAY 70



THE BASIS FOR BEARINGS SHOWN HEREON IS THE CALIFORNIA COORDINATE SYSTEM, ZONE II, NAD 83. DISTANCES SHOWN HEREON ARE GROUND DISTANCES. MULTIPLY GROUND DISTANCE BY 0.9999115 TO OBTAIN GRID DISTANCES.



DATE: 03/06/2012

Exhibit 'C-2'	
OWNER:	Allen, Jason G.
A.P.N.:	020-410-001
AREA:	EASEMENT AREA = 0.086 Ac.

cta Engineering & Surveying

DATE: 03/06/2012	DRAWN BY: KAH	SHEET 1 OF 1
SCALE: 1"=60'	JOB NO. 06-008-004	

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY
 Lower Yuba Levee Improvement Project
Utility Easement
 Portion of Tract 10, Yuba Gardens
 R.S. 3-2
 County of Yuba State of California

Exhibit C-3

UTILITY EASEMENT

JASON G. ALLEN, hereinafter called Grantor, hereby grants to Three Rivers Levee Improvement Authority, a joint powers authority composed of Yuba County and Reclamation District 784, hereinafter referred to as Grantee, the right from time to time to construct, reconstruct, install, inspect, maintain, replace, remove, and use facilities of the type hereinafter specified, together with a right of way therefore, within the easement area as hereinafter set forth, and also ingress thereto and egress therefrom, over and across the lands of Grantor situated in the County of Yuba, State of California, more particularly described and depicted in EXHIBITS "C-1" and "C-2", attached hereto and made a part hereof.

Said facilities and easement area are described as follows:

Such poles, aerial wires, cables, electrical conductors with associated crossarms, braces, transformers, anchors, guy wires and cables, fixtures and appurtenances, as Grantee deems necessary for the distribution of electric energy located within the parcel of land described and depicted in EXHIBITS "C-1" and "C-2", attached hereto and made a part hereof.

Grantor further grants to Grantee the right, from time to time, to trim or to cut down any and all trees and brush now or hereafter within said easement area, and shall have the further right, from time to time, to trim and cut down trees and brush along each side of said easement area which now or hereafter in the opinion of Grantee may interfere with or be a hazard to the facilities installed hereunder, or as Grantee deems necessary to comply with applicable state or federal regulations.

Grantor shall retain the right to fully use and enjoy said easement area in a manner that will not unreasonably interfere with use by the Grantee, its successors or assigns. This includes, but is not limited to, the right to use said easement area for ingress and egress, parking passenger vehicles and light trucks (pickups and vans), and the right to pave the ground surface over said easement area; provided, however, that Grantee shall have the right from time to time to break through said paving at Grantee's cost for the purpose of installing or maintaining said facilities. Grantor shall not erect or construct any building or other structure or drill or operate any well within said easement area. Grantee shall not install facilities in the easement area in any location that would unreasonably interfere with Grantor's use of the easement area for ingress and egress.

The provisions hereof shall inure to the benefit of and bind the successor and assigns of the respective parties hereto.

The foregoing instrument is a true and correct
copy of the document on file in this office

ATTEST: DONNA STOTTEMEYER
Clerk of the Board of Supervisors of the
County of Yuba, State of California

By: Donna Stottlemyer
Date: ⁵³³⁰ May 22 2012