

FINAL MITIGATED NEGATIVE DECLARATION

Project: Yuba River North Training Wall Project

Lead Agency: Three Rivers Levee Improvement Authority

PROJECT LOCATION

The Yuba River North Training Wall Project (project) site is located on the north bank of the Yuba River, approximately 6 miles northeast of the City of Marysville, in Yuba County, California. The project site can be accessed via State Route 20 and Walnut Avenue.

PROJECT DESCRIPTION

The North Training Wall (NTW) is an approximately 2.25-mile-long cobble embankment that was constructed by the California Debris Commission in the early 1900s to confine the Yuba River and facilitate downstream movement of mining debris within the floodway. Flood control was not an authorized purpose, but the NTW has historically provided and continues to provide flood risk reduction to the surrounding area. However, the height and width of the NTW have decreased over time. This reduction and ongoing, persistent erosion from storm events have combined to increase the flood risk to the Hallwood community, the City of Marysville, and portions of Reclamation District 10 (D-10). The Three Rivers Levee Improvement Authority (TRLIA) is proposing the project to decrease the flood risk to these areas by reshaping the NTW embankment to a more stable geometry, and enhance approximately 2.4 acres of aquatic and riparian habitat in the Yuba River floodplain.

FINDINGS

TRLIA has prepared an Initial Study/proposed Mitigated Negative Declaration (IS/MND), in accordance with the requirements of the California Environmental Quality Act (CEQA) and the State CEQA Guidelines, to assess the project's potential effects on the environment and the significance of those effects. Based on the IS, it has been determined that the proposed project would not result in significant adverse effects on the physical environment after implementation of proposed mitigation measures. This conclusion is supported by the following findings:

1. The proposed project would have no impacts on land use and planning, population and housing, public services, and recreation.
2. The proposed project would have less-than-significant impacts on agriculture and forestry resources, aesthetics, energy, greenhouse gas emissions, mineral resources, noise, transportation, utilities and service systems, and wildfire.
3. The proposed project would have potentially significant impacts on air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, and Tribal cultural resources, but mitigation measures are proposed to avoid or reduce these effects to less-than-significant levels.

4. The proposed project would not have the potential to substantially degrade the quality of the environment; substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; substantially reduce the number or restrict the range of an endangered, rare, or threatened species; or eliminate important examples of the major periods of California history or prehistory.
5. The proposed project would have beneficial impacts by reducing the flood risk in the local area, enhancing approximately 2.4 acres of aquatic and riparian habitat in the Yuba River floodplain, and indirectly making available approximately 300,000 cubic yards of aggregate materials for production.
6. The proposed project would not have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals.
7. The proposed project would not have possible environmental effects that are individually limited but cumulatively considerable and contribute to a significant cumulative impact. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.
8. The environmental effects of the proposed project would not cause substantial adverse effects on human beings, either directly or indirectly, and would reduce flood risks to the Hallwood Community, the City of Marysville, and portions of D-10.

Following are the proposed mitigation measures that would be implemented to avoid or minimize potentially significant and significant environmental impacts. Implementation of these mitigation measures would reduce the potentially significant and significant environmental impacts of the proposed project to less-than-significant levels. The responsibility for implementation of each mitigation measure is identified; however, TRLIA is ultimately responsible for ensuring each measure is implemented.

Mitigation Measure AQ-1: Reduce Average Daily Nitrogen Oxide Emissions during Construction or Contribute to Off-site Mitigation Program.

TRLIA and its construction contractor(s) will implement one or more of the following measures to reduce average daily nitrogen oxide emissions during NTW reshaping and excess material removal to below Feather River Air Quality Management District thresholds and/or compensate for emissions that exceed thresholds:

- Increase the number of working days for NTW reshaping and excess material removal, combined, from 70 days to 120 days and reduce the number of scrapers working each day from four to two.

- Evaluate and implement other feasible emissions reduction measures. Effectiveness of potential alternative measures shall be estimated using the Roadway Construction Emissions Model to confirm emissions would be reduced to below FRAQMD thresholds. Alternative measures may include the following:
 - Use a conveyor system, rather than heavy equipment, to transport some or all of the excess material to the potential stockpile area or an existing stockpile at the Hallwood Facility.
 - Use heavy equipment with engines that meet California Air Resources Board Tier 4 emissions standards to complete NTW reshaping and excess material removal.
 - Use single-engine scrapers or other alternative equipment that may have lower emissions to complete NTW reshaping and excess material removal.
- Contribute to the FRAQMD Off-site Mitigation Program.

Timing: Before and during project construction activities.

Responsibility: TRLIA and construction contractor(s).

Mitigation Measure BIO-1: Minimize Water Quality Impacts and Direct Injury and Mortality of Special-status Fish during Boulder Cluster Installation.

TRLIA and its construction contractor(s) will implement the following measures to avoid and minimize direct injury and mortality of special-status fish:

- Before project activities begin, worker awareness training shall be provided by a qualified biologist to inform on-site project personnel of the need to avoid and minimize potential impacts on special-status fish and the possible penalties for not complying with these requirements. The training shall include, at a minimum, a discussion of the relevant species and measures to be implemented for their protection. An appointed representative shall be identified and available to project personnel to ensure that questions regarding avoidance and protection measures are addressed in a timely manner.
- A biological monitor approved by the California Department of Fish and Wildlife (CDFW) and National Marine Fisheries Service (NMFS) shall be present onsite to monitor in-water construction activities and confirm proper implementation of water quality protection measures and other impact avoidance and minimization measures.
- During in-water work and dewatering, turbidity and total suspended solids shall be monitored by taking intermittent samples from the river, and construction activities shall be modified or curtailed if turbidity exceeds criteria specified in the Clean Water Act (CWA) Section 401 Water Quality Certification. Monitoring also shall be conducted in compliance with all other relevant permits, including the CWA Section 404 permit,

CDFW Streambed Alteration Agreement, and NMFS authorization. If appropriate, silt curtains shall be used to capture floating materials or sediments mobilized during construction activities and minimize water quality impacts.

- All dewatering pump intakes shall be screened and pumping rates shall be controlled according to CDFW and NMFS requirements.
- Cofferdam bulk bags/super sacks shall be installed in collaboration with an on-site qualified fisheries biologist and in a manner that facilitates movement of fish out of the dewatering area during installation. Before cofferdam installation is complete, the fisheries biologist shall determine if fish remain in the dewatering area and if relocation is necessary.
- If the fisheries biologist determines fish relocation is necessary, the biologist shall determine which fish relocation method is most appropriate for the conditions and will supervise relocation efforts. If feasible, relocation shall initially be attempted by herding the fish out of the work area to minimize impacts and avoid handling and transportation.
- If fish relocation using herding is not successful or the fisheries biologist decides it is not appropriate to attempt, fish capture and relocation shall be conducted. Before fish relocation begins, a qualified fisheries biologist shall identify the most appropriate release location(s).
- The method used to capture fish will depend on the nature of the work site and shall be selected and supervised by a qualified fisheries biologist with fish capture and handling experience. Electrofishing shall only be used if seining and/or dip netting is not feasible and shall only be conducted by properly trained personnel following NMFS guidelines.
- Fish shall not be anesthetized or measured. However, they shall be visually identified to species level, and year classes shall be estimated and recorded.
- Reports on fish relocation activities shall be submitted to CDFW and NMFS within 30 days after ecological enhancement activities are completed at each site.

Timing: Before and during project construction activities.

Responsibility: TRLIA and construction contractor(s).

Mitigation Measure BIO-2: Minimize Impacts on Valley Elderberry Longhorn Beetle.

TRLIA and its construction contractor(s) will implement the following measures to avoid and minimize impacts on elderberry shrubs and compensate for unavoidable impacts:

- Before project activities begin, worker awareness training shall be provided by a qualified biologist to inform on-site project personnel of the need to avoid and minimize

potential impacts on elderberry shrubs and the possible penalties for not complying with these requirements. The training shall include, at a minimum, a discussion of valley elderberry longhorn beetle and its habitat and measures to be implemented for its protection. An appointed representative shall be identified and available to project personnel to ensure that questions regarding avoidance and protection measures are addressed in a timely manner.

- Before project activities near elderberry shrubs begin, stakes and/or flagging (substrate and slopes preclude use of fencing) shall be placed to clearly delineate the extent of NTW excavation and reshaping and ecological enhancement areas. A buffer shall be provided around each elderberry shrub to prevent accidental damage during construction activities. To the maximum extent feasible, buffers shall be a minimum of 20 feet from the dripline of elderberry shrubs.
- A qualified biological monitor shall supervise buffer establishment and conduct periodic inspections of the construction area to ensure that impact avoidance and minimization measures are properly implemented.
- To the maximum extent feasible, trimming of elderberry shrub branches and stems shall occur between November and February and shall avoid removal of branches and stems greater than 1 inch in diameter.
- The three elderberry shrubs that must be removed to accommodate NTW reshaping shall be transplanted, if feasible to safely do so, given potential access challenges related to their location on the relatively steep slope. The transplant location shall be suitable for elderberry growth and reproduction and as close as possible to the shrubs' original location. Transplanting shall be implemented as follows:
 - If feasible, elderberry shrubs shall be transplanted when they are dormant (November through the first 2 weeks in February) and after they have lost their leaves.
 - A qualified biologist shall conduct an exit hole survey immediately before transplanting and shall be onsite during transplanting activities. The biologist shall record the number of exit holes found on each shrub, the precise location of each shrub that is removed, and the precise transplant location for each shrub. This information shall be reported to U.S. Fish and Wildlife Service (USFWS) and the California Natural Diversity Database.
 - Transplanting shall follow the most current version of the American National Standards Institute A300 (Part 6) guidelines. If possible, the entire root ball shall be removed.
 - The transplanted shrubs shall be protected to ensure they become reestablished.

- Compensatory mitigation shall be provided for elderberry shrub removal. An appropriate mitigation ratio shall be determined in consultation with USFWS. The ratio shall be a minimum of one credit at a USFWS-approved mitigation bank or one 1,800-square-foot area at an approved mitigation site for each removed shrub.

Timing: Before and during project construction activities.

Responsibility: TRLIA and construction contractor(s).

Mitigation Measure BIO-3: Avoid and Minimize Potential to Destroy or Result in Failure of Active Bird Nests.

TRLIA and its construction contractor(s) will implement the following measures to minimize potential to destroy an active bird nest or result in failure of a special-status bird nest during project implementation:

- If construction activity would begin during the bird nesting season (February 1 – September 15), a survey for active bird nests shall be conducted by a qualified biologist. The survey shall cover all potential on-site and off-site nesting habitat within 500 feet of the grading limits. The survey shall be conducted no more than 15 days before the start of project activities. If a lapse in project-related activities of 14 days or longer occurs, another focused survey is required before project activities can be reinitiated.
- If any active nests are found, a qualified biologist shall prepare a site-specific take avoidance plan to comply with the Fish and Game Code (FGC). Measures may include but are not limited to nest-specific no disturbance buffers, biological monitoring, rescheduling project activities around sensitive periods for the species (e.g. nest establishment), or implementing construction best practices, such as staging equipment out of the species' line of sight from the nest tree. The avoidance/protection measures shall be implemented before construction activities begin within 500 feet of an identified nest and continue until the nest is no longer active.
- If construction activity would begin during the Swainson's hawk nesting season (March 15 – August 31), focused surveys for active Swainson's hawk nests shall be conducted within 0.5 mile of the project site by a qualified biologist, in accordance with *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley* (Swainson's Hawk Technical Advisory Committee 2000). To meet the minimum level of protection for the species, surveys should be completed for the two survey periods immediately before construction activities begin. If a lapse in project-related activities of 14 days or longer occurs, another focused survey is required before project activities can be reinitiated.
- If an active Swainson's hawk nest is found, a qualified biologist shall prepare a site-specific take avoidance plan that includes measures to comply with the California Endangered Species Act and the FGC. Measures may include but are not limited to

nest-specific no disturbance buffers, biological monitoring, rescheduling project activities around sensitive periods for the species (e.g. nest establishment), or implementing construction best practices, such as staging equipment out of the species' line of sight from the nest tree. The avoidance/protection measures shall be implemented before construction activities begin and continue until the birds are no longer reliant on the nest site.

- If construction activity would begin during the white-tailed kite nesting season (March 1 – August 31), a focused survey for active white-tailed kite nests shall be conducted by a qualified biologist. The survey shall cover all potential on-site and off-site nesting habitat within 0.25 mile of the project site. The survey shall be conducted no more than 15 days before the start of project activities. If a lapse in project-related activities of 14 days or longer occurs, another focused survey is required before project activities can be reinitiated.
- If an active white-tailed kite nest is found, a qualified biologist shall prepare a site-specific take avoidance plan that includes measures to comply with the FGC. Measures may include but are not limited to nest-specific no disturbance buffers, biological monitoring, rescheduling project activities around sensitive periods for the species (e.g. nest establishment), or implementing construction best practices, such as staging equipment out of the species' line of sight from the nest tree. The avoidance/protection measures shall be implemented before construction activities begin and continue until the birds are no longer reliant on the nest site.

Timing: Before and during project construction activities.

Responsibility: TRLIA and construction contractor(s).

Mitigation Measure BIO-4: Comply with Endangered Species Acts.

If State or Federally listed species are found during project surveys or otherwise encountered during the project, TRLIA shall avoid take of State and/or Federally listed species to comply with State and Federal Endangered Species Acts. If project implementation may result in take of a State or Federally listed species, TRLIA shall consult with CDFW and/or the appropriate Federal agency and may seek related take authorization as provided by the Fish and Game Code and Federal Endangered Species Act.

Timing: Before and during project construction activities.

Responsibility: TRLIA and construction contractor(s).

Mitigation Measure CR-1: Conduct Cultural Resources Awareness Training.

TRLIA shall provide a cultural resources sensitivity and awareness training program for all personnel involved in project construction, including field consultants and construction workers. The training shall be developed in coordination with an archaeologist meeting Secretary of the Interior Professional Qualifications Standards for Archaeology. TRLIA

shall invite Native American representatives from interested culturally affiliated Native American Tribes to participate. The training shall be conducted before any project-related construction activities begin on the project site and shall include relevant information regarding sensitive cultural resources, including applicable regulations, protocols for avoidance, and consequences of violating Federal and State laws and regulations.

The training shall also describe what to do and who to contact if any potential cultural resources are encountered. The training shall emphasize the requirement for confidentiality and culturally appropriate treatment of any discovery of significance to Native Americans and shall discuss appropriate behaviors and responsive actions, consistent with Native American Tribal values.

Timing: Before project construction activities begin.

Responsibility: TRLIA and construction contractor(s).

Mitigation Measure CR-2: Implement Procedures for Inadvertent Discovery of Cultural Material.

If an inadvertent discovery of buried or otherwise previously unidentified historical resources, including archaeological resources (e.g., unusual amounts of shell, animal bone, any human remains, bottle glass, ceramics, building remains), is made at any time during project-related construction activities or project planning, TRLIA, with input from other interested parties, will develop and implement appropriate protection and avoidance measures, where feasible. If such resources are discovered during project construction, all work within a 100-foot radius of the find shall cease. TRLIA shall retain a professional archaeologist meeting the Secretary of the Interior's Professional Standards for Archaeologists to assess the discovery and recommend what, if any, further treatment or investigation is necessary for the find. Culturally affiliated Native American Tribes will also be contacted concerning resources of Native American origin. Avoidance is the preferred CEQA mitigation measure for cultural resources. If avoidance is not possible, any necessary treatment/investigation shall be developed in coordination with interested Native American Tribes providing recommendations to TRLIA and shall be completed before project activities continue in the vicinity of the find. The final disposition of archaeological, historical, and paleontological resources recovered on State lands under the jurisdiction of the California State Lands Commission must be approved by the Commission. An inadvertent discovery plan shall be developed before construction begins and shall be implemented in the event of a discovery during project construction.

Timing: Before and during project construction activities.

Responsibility: TRLIA and construction contractor(s).

Mitigation Measure CR-3: Avoid Potential Effects to Previously Unknown Human Remains.

If an inadvertent discovery of human remains is made at any time during project planning or project-related construction activities, TRLIA will implement the procedures listed below. If human remains are identified on the project site, the following performance standards shall be met prior to implementing or continuing actions, such as construction, that may result in damage to or destruction of human remains:

- In accordance with the California Health and Safety Code, if human remains are uncovered during ground-disturbing activities, TRLIA will immediately halt potentially damaging excavation in the area of the burial and notify the Yuba County Coroner and a professional archaeologist to determine the nature of the remains. The Coroner is required to examine all discoveries of human remains within 48 hours of receiving notice of a discovery on private or State lands (California Health and Safety Code Section 7050.5[b]). If the Coroner determines that the remains are those of a Native American, he or she must contact the Native American Heritage Commission (NAHC) by phone within 24 hours of making that determination (California Health and Safety Code Section 7050[c]). After the Coroner's findings have been made, the archaeologist and the NAHC-designated Most Likely Descendant (MLD), in consultation with the landowner, shall determine the ultimate treatment and disposition of the remains. The responsibilities of TRLIA for acting upon notification of a discovery of Native American human remains are identified in California Public Resources Code (PRC) Section 5097.9 et seq.
- Upon the discovery of Native American human remains, TRLIA will require that all construction work within 100 feet of the discovery stop, until consultation with the MLD has taken place. The MLD will have 48 hours to complete a site inspection and make recommendations to the landowner after being granted access to the site. A range of possible treatments for the remains, including nondestructive removal, preservation in place, relinquishment of the remains and associated items to the descendants, or other culturally appropriate treatment may be discussed. PRC Section 5097.98(b)(2) suggests that the concerned parties may mutually agree to extend discussions beyond the initial 48 hours to allow for the discovery of additional remains.
- If agreed to by the MLD and the landowner, TRLIA or its authorized representative will rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance. If the NAHC is unable to identify an MLD, or if the MLD fails to make a recommendation within 48 hours after being granted access to the site, TRLIA or its authorized representative may also reinter the remains at a location not subject to further disturbance if recommendation of the MLD is rejected and mediation by the NAHC fails to provide measures acceptable to TRLIA.

- If the human remains are of historic age and are determined not to be of Native American origin, TRLIA will follow the provisions of the California Health and Safety Code Section 7000 (et seq.) regarding the disinterment and removal of non-Native American human remains.

Timing: Before and during project construction activities.

Responsibility: TRLIA and construction contractor(s).

Mitigation Measure GEO-1: Implement a Stormwater Pollution Prevention Plan and Associated Best Management Practices.

TRLIA shall prepare and implement the appropriate Stormwater Pollution Prevention Plan (SWPPP), or Stormwater Management Plan (SWMP), as needed, to prevent and control pollution and to minimize and control runoff and erosion in compliance with State and local laws. The SWPPP or SWMP shall identify the activities that may cause pollutant discharge (including sediment) during storms, techniques to control pollutant discharge, and an erosion control plan. Regardless of the need for a SWPPP or SWMP, construction techniques and Best Management Practices (BMPs) shall be identified and implemented, as appropriate, to reduce the potential for erosion and sedimentation. These may include silt fences, staked straw bales/wattles, silt/sediment basins and traps, water bars, or other methods appropriate to the site conditions.

The SWPPP or SWMP shall also include a spill prevention, control, and countermeasure plan, and applicable hazardous materials business plans. The SWPPP or SWMP shall identify the types of materials used for equipment operation (including fuel and hydraulic fluids), measures to prevent hazardous material and waste spills, and materials available to clean up hazardous material and waste spills. The SWPPP or SWMP shall also identify emergency procedures for responding to spills.

The BMPs presented in either document shall be clearly identified and maintained in good working condition throughout the construction process. The construction contractor shall retain a copy of the approved SWPPP or SWMP on the construction site and modify it as necessary to suit specific site conditions.

TRLIA and all contractors will abide by regulations governing hazardous materials transport included in California Code of Regulations (CCR) Title 22, the California Vehicle Code (CCR Title 13), and the State Fire Marshal Regulations (CCR Title 19). Transport of hazardous materials can only be conducted under a registration issued by the California Department of Toxic Substances Control. Construction contractors shall be required to use, store, and transport hazardous materials in compliance with all Federal, State, and local regulations.

Timing: Before and during project construction activities.

Responsibility: TRLIA and construction contractor(s).

Mitigation Measure TCR-1: In the Event that Tribal Cultural Resources are Discovered Before or During Construction, Implement Procedures to Evaluate Tribal Cultural Resources and Implement Avoidance and Minimization Measures to Avoid Significant Impacts.

California Native American Tribes that are traditionally and culturally affiliated with the geographic area in which the project is located may have expertise concerning their Tribal Cultural Resources (TCRs). Consistent with PRC Section 21080.3.1, culturally affiliated Tribes shall be consulted concerning TCRs that may be impacted, if these types of resources are discovered before or during construction. Consultation with culturally affiliated Tribes shall focus on identifying measures to avoid or minimize impacts on any such resources discovered during construction. If TCRs are identified on the project site, before or during construction, the following performance standards will be met before proceeding with project activities that may result in damage to or destruction of TCRs:

- Each identified TCR shall be evaluated for California Register of Historic Resources (CRHR) eligibility through application of established eligibility criteria (CCR 15064.636), in consultation with interested Native American Tribes.
- If a TCR is determined to be eligible for listing in the CRHR, TRLIA shall avoid damaging the TCR in accordance with PRC Section 21084.3, if feasible. If TRLIA determines that the project may cause a substantial adverse change to a TCR, and measures are not otherwise identified in the consultation process, the following are examples of mitigation steps capable of avoiding or substantially lessening potential significant impacts to a TCR or alternatives that would avoid significant impacts to a TCR. These measures may be considered to avoid or minimize significant adverse impacts and constitute the standard by which mitigation specifically addresses inadvertent discovery of TCRs:
 - i. Avoid and preserve resources in place, including, but not limited to, planning construction to avoid the resources and protect the cultural and natural context, or planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
 - ii. Treat the resource with culturally appropriate dignity, taking into account the Tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - a. Protect the cultural character and integrity of the resource.
 - b. Protect the traditional use of the resource.
 - c. Protect the confidentiality of the resource.

- d. Establish permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or using the resources or places.
- e. Protect the resource.

Timing: Before and during project construction activities.

Responsibility: TRLIA and construction contractor(s).

Mitigation Measure TCR-2: Conduct Tribal Cultural Resources Awareness Training.

TRLIA shall provide TCR sensitivity and awareness training program for all personnel involved in project construction, including field consultants and construction workers. The training shall be developed in coordination with an archaeologist meeting Secretary of the Interior Professional Qualifications Standards for Archaeology, as well as culturally affiliated Native American Tribes. TRLIA shall invite Native American representatives from interested culturally affiliated Native American Tribes to participate. The training shall be conducted before any project-related construction activities begin on the project site and shall include relevant information regarding TCRs, including applicable regulations, protocols for avoidance, and consequences of violating Federal and State laws and regulations.

The training shall also describe what to do and who to contact if any potential TCRs are encountered. The training shall emphasize the requirement for confidentiality and culturally appropriate treatment of any discovery of significance to Native Americans and shall discuss appropriate behaviors and responsive actions, consistent with Native American Tribal values.

Timing: Before project construction activities begin.

Responsibility: TRLIA and construction contractor(s).