

**Final**  
**Environmental Impact Report**  
**500-year Flood Protection Project**



**State Clearinghouse No. 2021070157**

Prepared for:



Prepared by:



April 2022



**Final**

**Environmental Impact Report**

**500-year Flood Protection Project**

**State Clearinghouse No. 2021070157**

Prepared for:

Three Rivers Levee Improvement Authority  
1114 Yuba Street, Suite 218  
Marysville, CA 95901



Contact:

Leslie Wells, Executive Assistant  
(530) 749-7841

Prepared by:

GEI Consultants, Inc.  
2868 Prospect Park Drive, Suite 400  
Sacramento, CA 95670



Contact:

Anne King  
Environmental Compliance Project Manager  
(916) 382-7833

April 22, 2022

Project No. 050115, 10003



# Table of Contents

---

<b>Abbreviations and Acronyms .....</b>	<b>ii</b>
<b>Chapter 1. Introduction.....</b>	<b>1-1</b>
1.1 Document Overview .....	1-1
1.2 Document Organization.....	1-1
1.3 Environmental Review Process.....	1-1
<b>Chapter 2. Comments and Responses to Comments on the Draft EIR.....</b>	<b>2-1</b>
Desmond, Nolan, Livaich & Cunningham.....	2-6
Jeffer Mangels Butler & Mitchell LLP.....	2-15
Shady Oaks Ranch, LLC .....	2-33
<b>Chapter 3. Report Preparers and Reviewers .....</b>	<b>3-1</b>
 <b>List of Tables</b>	
Table 2-1. Draft Environmental Impact Report Comment Summary Information .....	2-1

# Abbreviations and Acronyms

---

AEP	annual exceedance probability
CEQA	California Environmental Quality Act
CVFPB	Central Valley Flood Protection Board
EIR	Environmental Impact Report
FEMA	Federal Emergency Management Agency
Goldfields	Yuba Goldfields
NOP	Notice of Preparation
project	500-year Flood Protection Project
project levees	State Plan of Flood Control levees
RD	Reclamation District
TRLIA	Three Rivers Levee Improvement Authority
USACE	U.S. Army Corps of Engineers
WPIC	Western Pacific Interceptor Canal

# Chapter 1. Introduction

---

## 1.1 Document Overview

This Final Environmental Impact Report (EIR) for the Three Rivers Levee Improvement Authority (TRLIA) 500-year Flood Protection Project (project) consists of the following information required in State California Environmental Quality Act (CEQA) Guidelines Section 15132:

- The Draft EIR (made available to the public on January 19, 2022)
- Comments and recommendations received on the Draft EIR either verbatim or in summary
- A list of persons, organizations, and public agencies commenting on the Draft EIR
- The responses of the lead agency (TRLIA) to significant environmental points raised in the review and consultation process
- Any other information added by the lead agency

This document, combined with the Draft EIR, comprises the Final EIR for the proposed project.

## 1.2 Document Organization

Chapter 1, “Introduction,” provides an overview and the organization of this Final EIR and summarizes the environmental review process.

Chapter 2, “Comments and Responses to Comments on the Draft EIR,” contains all comments verbatim as received during the Draft EIR public review period and presents responses to significant environmental points raised in the review and consultation process. All comment letters are labeled to correspond with an index table (Table 2-1). Each individual comment is assigned a number that corresponds with the response to the comment.

Chapter 3, “Report Preparers and Reviewers,” identifies the preparers and reviewers of this Final EIR.

## 1.3 Environmental Review Process

The environmental review process for the proposed project was initiated when the first Notice of Preparation (NOP) of the proposed project EIR was published on July 9, 2021; a revised NOP including an additional project component was published on August 2, 2021. A public scoping meeting was held on July 20, 2021, to solicit input from the community and public agencies on the scope and content of the EIR. The public scoping meeting, attended by 10 individuals, addressed all potential project components, including the new component addressed in the revised NOP. The Draft EIR was circulated for a 45-day public review period that began January 19, 2022

and ended March 4, 2022. A virtual public meeting was held on February 8, 2022, to solicit input from the public and public agencies on the Draft EIR; no members of the public or public agency staff attended this meeting on the Draft EIR.

The lead agency shall provide a written proposed response, either in a printed copy or in an electronic format, to a public agency on comments made by that public agency at least 10 days prior to certifying an EIR. (State CEQA Guidelines Section 15088[b]). No public agencies submitted comments on the Draft EIR; therefore, TRLIA is not required to provide this Final EIR to any public agencies for a 10-day review period. However, TRLIA has provided this Final EIR to all commenting entities for a 10-day review period. After the 10-day review period, TRLIA will consider the Final EIR and the whole of the administrative record to determine whether the Final EIR should be certified as adequate under CEQA. If so, TRLIA will adopt a resolution certifying the Final EIR, pursuant to Section 15090 of the State CEQA Guidelines.

If the Final EIR is certified, TRLIA will consider approving the proposed project or one of the project alternatives. TRLIA will adopt findings of fact, pursuant to Section 15091 of the State CEQA Guidelines, for each significant environmental effect of the approved project. For each significant environmental effect identified in the Final EIR, TRLIA must issue a written finding reaching one or more of three permissible conclusions. According to Section 15091 of the State CEQA Guidelines, the three possible findings are:

- Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR
- Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency
- Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR

In addition, if TRLIA approves the project, TRLIA will adopt a mitigation monitoring and reporting program, consistent with Section 15097 of the State CEQA Guidelines, that describes when each of the mitigation measures adopted for the project will be implemented, identifies who is the responsible implementing party, and provides a mechanism for monitoring and reporting implementation.



## Chapter 2. Comments and Responses to Comments on the Draft EIR

---

This section of the Final EIR contains written individual comments received on the Draft EIR during the public review period. No comments were received after the public review period ended and no oral comments were received. In conformance with Section 15088(a) of the State CEQA Guidelines, written responses were prepared addressing comments on significant environmental points received from reviewers of the Draft EIR during the public review period and are presented in this section.

**Table 2-1** presents a code for each comment letter received, the commenting entity, the author of the comment letter, the date of the comment letter, and the number of individual comments identified and addressed in each comment letter. Each comment letter is reproduced in its entirety and is followed by the responses to the comments in the letter. Each comment is identified by a line bracket and a comment code and number in the margin of the comment letter.

**Table 2-1. Draft Environmental Impact Report Comment Summary Information**

Comment Code	Commenting Entity	Author	Date	Number of Comments
DNLC	Desmond, Nolan, Livaich & Cunningham, on behalf of Michael Rue	Brian Manning	March 3, 2022	8
JMBM	Jeffer Mangels Butler & Mitchell LLP, on behalf of Western Aggregates, LLC	Kerry Shapiro	March 4, 2022	5
Shady Oaks	Shady Oaks Ranch, LLC; David and Becky Gibb	Stuart Hanson	March 4, 2022	21

**Comment: DNLC**

**DESMOND, NOLAN, LIVAICH & CUNNINGHAM**  
ATTORNEYS AT LAW

---

March 3, 2022

Leslie Wells, Executive Assistant  
Three Rivers Levee Improvement Authority  
1114 Yuba Street, Suite 218  
Marysville, California 95901  
E-mail: [lwells@co.yuba.ca.us](mailto:lwells@co.yuba.ca.us)

Via Email Only

RE: TRLIA 500-Year Project EIR- State Clearinghouse No. 2021070157

To Whom It May Concern:

I write on behalf of Michael Rue regarding the above referenced Draft Environmental Impact Report. Mr. Rue owns property that will be impacted by this proposed project. We have the following comments on the DEIR:

- Please explain the basis for this statement: “The RD 784 levee system meets and exceeds the requirements of 44 CFR 65.10, which is the FEMA 100-year standard.” (DEIR 3.11-8.)
- The DEIR states: “To determine how the proposed 500-year improvements would alter flows, HEC-RAS was used to conduct an encroachment analysis. The analysis considers the natural profile of the project rivers and surrounding topography, junctions with other rivers, presence of obstructions (bridges, dams, and levees), pump stations, storage areas, and other features that influence river hydraulics to estimate flow carrying capacity.” (DEIR 3.11-15.)
  - Please explain what the natural profile of the project rivers and surrounding topography means.

DNLC-1

DNLC-2

15<sup>th</sup> & S Building  
1830 15<sup>th</sup> Street  
Sacramento, California 95811-6649  
Telephone: 916/443-2051  
Facsimile: 916/443-2651  
E-mail: [bmannings@dnlc.net](mailto:bmannings@dnlc.net)

J. Russell Cunningham  
Brian Manning  
Kristen Ditlevsen Renfro  
Benjamin C. Tagert  
Mikayla Kutsuris  
Josh Dalavai

Of Counsel  
William W. Nolan (Ret.)  
Gary Livaich  
Edward K. Dunn

Earl D. Desmond  
(1895-1958)  
E. Vayne Miller  
(1904-1965)  
Richard F. Desmond  
(1923-2004)  
William C. Livaich  
(1950-2007)

- Did the encroachment and/ or the cumulative analyses assume that the existing levees and other “unnatural” improvements did not exist when modeling either the project and/or cumulative impacts analysis?
  - If not, why not?
- Was topographic mapping used to determine the “natural profile of the project rivers?”
  - If so, please include them as part of the FEIR.
- The modeling appears to assume that levees would overtop in the 1/50 AEP, 1/100 AEP, and 1/200 AEP scenarios. Please explain which levees would overtop in any of those scenarios.
- The DEIR states: “The existing RD 784 urban levee system meets these standards.” (DEIR 3.11-13.) This is in reference to the CVFPP’s call for a 200-year level of protection for urban areas.
  - What level of protection is provided by the RD 784 non-urbanized levee system (Horseshoe Levees)—i.e., in what AEP scenario would the levees that makeup the Horseshoe Levees fail?<sup>1</sup>
  - Was that level of protection for the Horseshoe Area used in modeling the project and cumulative impacts analyses?
  - If a level of protection was not determined for the Horseshoe Levees; please explain why this was not done and how a level of protection of less than 50 years would impact the modeling.
  - The FEIR should include a hydraulic analysis based on the estimated level of protection afforded by the Horseshoe Levees to determine the project and cumulative impacts.
- The DEIR states: “Hydraulic modeling results demonstrate that increasing the level of flood protection provided by the RD 784 urban levees would not worsen risk to areas not protected by this levee system and would not expose people or structures to a significant risk of loss, injury, or death involving flooding.” (DEIR 3.11-22.) The project also calls for raising the west bank of the WPIC by up to 1.9 feet. Please explain how raising the west bank of the

DNLC-2  
cont.

DNLC-3

DNLC-4

DNLC-5

---

<sup>1</sup>It is my understanding that MBK has knowledge of the estimated level of protection.

**DESMOND, NOLAN, LIVAICH & CUNNINGHAM**  
Attorneys at Law  
15<sup>th</sup> & S Building  
1830 15th Street  
Sacramento, California 95811  
Telephone: 916/443-2051

levee to a height greater than the east bank would not result in overtopping of the east bank.

- Does the hydraulic modeling in the project and cumulative analyses scenarios assume that waters flowing into the WPIC will be contained by the non-project levees north of Best Slough?
- Does the modeling assume the Horseshoe Levees would contain the flows in 1/50, 1/100, 1/200, or 1/500 AEP events?
- Please also explain how the waters flowing in the Bear River, Best Slough, and WPIC channels would be contained in an AEP event that is greater than the level of protection provided by the non-accredited levees that make up the Horseshoe Levees.
- The DEIR states: “Specific to the previous TRLIA projects on the Bear River and the WPIC, properties adjacent to the Horseshoe Levee system, which is east of the WPIC and south of Best Slough, benefited from the Bear River north levee setback at all recurrence flood intervals. Based on this analysis, maximum water surface elevations show reductions between 0.14 to 1.14 feet from the Bear River at WPIC to the WPIC at Best Slough between the 1/50 AEP and the 1/500 AEP flood events.” (DEIR 5-21.)
  - Did this analysis assume that the Horseshoe Levees contained the waters in each of the flood events?
  - If so, please explain the basis for assuming the levees would hold.

We look forward to hearing how non-accredited levees can hold back and contain the various flood events and further information showing how the past TRLIA projects benefitted levees that were left non-accredited. We look forward to seeing if the assumptions in the modeling reflect reality and actual estimated levels of protection afforded by the Horseshoe Levees. If they do not, an updated hydraulic analysis is necessary to accurately reflect the impact of this and past projects.

The DEIR did not provide a complete analysis of the situation faced by the Horseshoe Area. The FEIR should reflect and analyze the reality of the situation. TRLIA improved every linear foot of the levees within RD 784’s boundaries, except

DNLC-5  
cont.

DNLC-6

DNLC-7

DNLC-8

**DESMOND, NOLAN, LIVAICH & CUNNINGHAM**  
Attorneys at Law  
15<sup>th</sup> & S Building  
1830 15th Street  
Sacramento, California 95811  
Telephone: 916/443-2051

for the Horseshoe Levees. The Horseshoe Levees fell out of compliance and became ineligible for PL 84-99 assistance. A conscious decision was made to isolate this part of RD 784's integrated system of flood control works when TRLIA, in concert with RD 784, went forward with its various projects. The modeling and FEIR should reflect reality and own up to the implications of these decisions.

The project proposes to spend tens of millions of dollars to prevent flooding that has a two-thousandths percent chance of happening in any given year—all while continuing to ignore the situation faced by the people in the Horseshoe Area. It is another example of the Horseshoe Area being detrimentally left out of any planning or funding by TRLIA. We, therefore, demand that improving the Horseshoe Levees to provide a 100-year level of protection to the Horseshoe Area be included in the analysis and decision-making process.

DNLC-8  
cont.

Should you have any questions regarding the foregoing, please do not hesitate to contact me.

Sincerely,

**DESMOND, NOLAN, LIVAICH & CUNNINGHAM**



Brian Manning  
BTM/kms  
cc: Client

**DESMOND, NOLAN, LIVAICH & CUNNINGHAM**  
Attorneys at Law  
15<sup>th</sup> & S Building  
1830 15th Street  
Sacramento, California 95811  
Telephone: 916/443-2051

Comment Code and Number	Comment Response
DNLC-1	<p>TRLIA completed a certification package in June 2019 that provides the documentation that the urban portion of the Reclamation District (RD) 784 levee system meets or exceeds the Federal Emergency Management Agency (FEMA) criteria outlined in 44 CFR 65.10 (i.e., the 100-year standard).</p>
DNLC-2	<p>Information on river profiles and surrounding topography incorporated into the U.S. Army Corps of Engineers (USACE) Hydrologic Engineering Center River Analysis System (commonly known as “HEC-RAS”) hydraulic analysis conducted for the project was obtained from surveys of the existing landforms. These survey data were used in the hydraulic model to establish the existing condition. The topographic data are in electronic form and not easily publishable. The topography used for this analysis was obtained by the California Department of Water Resources.</p> <p>As indicated in Section 3.11, “Hydrology and Water Quality,” (page 3.11-15) of the Draft EIR, the hydraulic impact analysis predicted water surface elevations under the following conditions: pre-project (baseline), with implementation of the proposed project, with implementation of each project alternative, and cumulative. The pre-project condition represents existing conditions when the NOP was issued, with the addition of one imminent future project expected to be completed in 2022 (RD 817 Bear River Setback Levee Project). The existing levees are part of the baseline physical condition that provides the basis by which it is determined whether the proposed project would result in a significant impact under CEQA, consistent with State CEQA Guidelines Section 15125. Therefore, the existing levees and all other components of the baseline physical conditions are included as part of the pre-project condition in the hydraulic analysis. The RD 817 Bear River Setback Levee is also included because its construction is imminent and to exclude it from the hydraulic analysis would have been misleading, as it would not have represented actual conditions that will exist at the time the proposed project is constructed. Importantly, however, including this setback levee does not affect the hydraulic impact analysis conclusions. In preparing the EIR, the consulting team measured the significance of the project’s environmental impacts using a baseline with and without the Bear River Setback Levee, and all impact analyses rendered similar results.</p>

- DNLC-3 Model runs were conducted for the 1/50 annual exceedance probability (AEP), 1/100 AEP, and 1/200 AEP events. (A 1/50 AEP event indicates a flood level that would occur on average once every 50 years.) If the water surface elevation exceeds the existing top of levee, the model allows the levee to overtop. No State Plan of Flood Control levees (project levees) in the project area would overtop during the 1/50, 1/100, or 1/200 events. Non-project levees along the north bank of Best Slough would overtop during the 1/100 AEP, 1/200 AEP, and 1/500 AEP events. Non-project levees along the east bank of the Western Pacific Interceptor Canal (WPIC) and north of Best Slough would overtop in all scenarios and events modeled.
- DNLC-4 The level of protection has not been estimated for the surrounding levee systems, including the “Horseshoe levees.” The hydraulic impact analysis is not based on an established level of protection and assumes the levees withstand water to the top of the levee. Hydraulic impact analyses, including that conducted for the proposed project, are based on evaluating stage increases on a levee system, assuming all the levees either overtop without failing or fail when overtopped. These two scenarios are used to quantify hydraulic impacts to the surrounding levee system. The Horseshoe levees would not overtop under any of the flood events that were analyzed.
- The hydraulic impact analysis demonstrates that the proposed project would result in an extremely small increase (up to less than half an inch) in water surface elevation along the Horseshoe levees and a reduction or extremely small increase under cumulative conditions (depending on the specific location). Altering the hydraulic impact analysis to identify a specific level of protection for the Horseshoe levees and assume these levees fail at some identified flood stage would not change the hydraulic impact analysis conclusions.
- DNLC-5 The hydraulic impact analysis concludes the increase in flood stage that would result from implementing the proposed project ranges from 0.01 to 0.04 foot (less than half an inch) on the WPIC, depending on the AEP and location. This is considered a less-than-significant impact. The WPIC West Levee is higher than the WPIC East Levee under existing conditions. Therefore, raising the West Levee as proposed would not cause the East Levee to overtop sooner than under existing conditions.
- DNLC-6 The hydraulic impact analysis assumes the levees withstand water to the top of the levee; this assumption applies to the project levees and the non-project levees, including the Horseshoe levees. Two scenarios were

evaluated for all levees: (1) when water reaches the top of the levee, it would flow over the levee without causing failure, or (2) the levee would fail when it is overtopped. The hydraulic modeling does not address the risk of levees failing before water reaches the top of levee, consistent with procedures used by both the Central Valley Flood Protection Board (CVFPB) and U.S. Army Corps of Engineers (USACE) for determining the impact of a proposed project/action on surrounding hydraulic basins. The same assumptions apply to the comparison of the pre-project baseline condition to conditions without implementation of the previous TRLIA projects. Altering the hydraulic impact analysis to identify a specific level of protection for the Horseshoe levees and assume these levees fail at some identified flood stage would not change the hydraulic impact analysis conclusions.

DNLC-7

As indicated in the above comment responses, the level of protection provided by the Horseshoe levees has not been estimated. However, the hydraulic analysis is not based on an established level of protection for any of the levees and assumes all levees withstand water to the top of the levee. The hydraulic analysis clearly shows that past TRLIA projects benefitted the area levees, including non-project levees, by substantially reducing water surface elevations under all analyzed flood stages at nearly all the index points, including those along the WPIC. Altering the hydraulic impact analysis to identify a specific level of protection for the Horseshoe levees and assume these levees fail at some identified flood stage would not change these conclusions.

DNLC-8

RD 784 comprises two hydraulic basins, the urban basin and the rural, Horseshoe basin. TRLIA's mission is to improve the urban basin to meet State requirements for urban areas, as outlined in the Urban Levee Design Criteria, and to meet FEMA 100-year requirements. The State grant programs cover repair of existing rural levees but do not cover improvement of rural levees to meet FEMA 100-year or State 200-year standards, as these grant programs do not want to incentivize development behind rural State Plan of Flood Control facilities. The State grant programs available for rural hydraulic basins are limited to repair of the levee systems. Accordingly, improvements to the Horseshoe levees are beyond the scope of this project.



Kerry Shapiro  
 Direct: (415) 984-9612  
 Fax: (877) 746-5619  
 KShapiro@jmbm.com

Two Embarcadero Center, 5th Floor  
 San Francisco, California 94111-3813  
 (415) 398-8080 (415) 398-5584 Fax  
 www.jmbm.com

March 4, 2022

**VIA E-MAIL ([lwells@co.yuba.ca.us](mailto:lwells@co.yuba.ca.us))**

Leslie Wells  
 Executive Assistant  
 Three Rivers Levee Improvement Authority  
 1114 Yuba Street, Suite 218  
 Marysville, CA 95901

**Re: Draft Environmental Impact Report,  
 500-Year Flood Protection Project**

Dear Ms. Wells:

On behalf of Western Aggregates LLC (“Western”), we hereby submit the following comments on the Three Rivers Levee Improvement Authority’s (“TRLIA”) 500-Year Flood Protection Project Draft Environmental Impact Report (“DEIR”). Western conducts a large-scale surface mining operation in the Yuba Goldfields (“Goldfields,” as identified in the DEIR), and owns substantial property interests in and adjacent to the Goldfields in connection therewith.

As a preliminary matter, Western supports TRLIA’s efforts to improve flood protection facilities in the vicinity of the Goldfields and more broadly in the region. Over the years, Western has established a track record of cooperation with TRLIA’s efforts to negotiate agreements and authorizations for the 100- and 200-Year Flood Protection Projects on areas of Western’s real property interests in the Goldfields. Although the currently proposed 500-year Flood Protection Project (the “Project”) would occur near the western periphery of the Goldfields, we must clarify that this permanent Project—like the 200-Year Project—still cuts across and would occupy portions of Western’s mining operation; and no agreement or framework for any agreement yet exists between Western and TRLIA to effectuate the Project. Nevertheless, Western remains open to the possibility of some version of the Project, to the extent that TRLIA can design, analyze, and implement it in a way that does not impact or adversely affect Western’s vested mineral, aggregate, and/or property interests in and access to the Goldfields, or adjacent areas.. Our preliminary comments on the DEIR follow.

JMBM-1

Again, the Project would directly impact the Goldfields by, among other things, substantially affecting existing and/or future operations and precluding access to substantial quantities of mineral resources to which Western holds a vested and entitled right to mine. Further, the Project could threaten Western’s historic rights-of-way along the Yuba River South Levee and adjacent to the Goldfields. As described in greater detail below, Western believes the

JMBM-2

DEIR should provide greater detail for the Project and Alternatives, to permit a more accurate assessment of the effect of the Project on mineral resources and related operations. Also, to the extent the DEIR designates Alternatives 1 as “Environmentally Superior,” Western believes that determination should give greater weight to impacts on mineral resources, and that an appropriate weighting of the relevant factors would actually favor Alternative 2.

JMBM-2  
cont.

**1. The Draft EIR Should more closely Consider Access to Mineral Resources When Comparing Alternatives.**

The DEIR states the Goldfields West Levee extends into the Goldfields, and acknowledges the affected portion of the Goldfields, the vested nature of the right to mine the area, and the irreplaceability for the construction industry of some of the resource mined there. (DEIR, pp. 13-1–2.) But despite this, the DEIR then mischaracterizes the relevance of SMARA to the Project and concludes, with barely a single paragraph of analysis, that no significant impact to mineral resources would occur. The law requires more.

Specifically, the DEIR concludes that SMARA is not implicated merely because the Project itself does not include mining. (DEIR, p. 13-2.) This assertion is misleading: in fact, SMARA requires that any project that may have the effect of interfering with *the potential* to extract mineral resources requires consultation with the State Geologist and the State Mining and Geology Board. (Pub. Res. Code § 2762.) Thus, SMARA imposes a specific, direct obligation on TRLIA in connection with the Project. Yet, the DEIR fails to disclose that requirement, and provides no discussion of any such consultation, or the conclusions of the State Geologist regarding the effect of the Project.

JMBM-3

Instead of a bare paragraph of analysis that concludes, without any substantial evidence, that the Project-related loss of access to mineral resources would not be significant, the DEIR should include an evaluation of the loss of mineral resources to this MRZ-2 production-consumption region, by precluding areas underlain and adjacent to the various levee alternatives from future mining. The potential loss should be evaluated in terms of volume, value, and reduction in years of permitted/vested reserves. The DEIR provides none of this: it merely contains the bare conclusion that because “only” 15 acres would be affected by the Goldfield West Levee, and the Project would use aggregate resources from the Goldfields, no significant impact would occur. (DEIR, pp. 13-3–4.) This failure of the DEIR provides decisionmakers and the public an incomplete and inaccurate picture of the potential effects of the Project, and precludes meaningful review and comment.

**2. The Project Appears to Affect Access to and Operation of the Goldfields, and the DEIR Should Provide Greater Detail for Some Aspects of the Project.**

The levee design(s) must account for Western’s historic fee and easement rights-of-way across the Yuba River South Levee, as well as previously negotiated and granted access easements on the adjacent property located immediately west of the Goldfields , and must

JMBM-4



avoid abridging them. These rights-of-way interests and access easements, which historically have accommodated rail lines, comprise important elements of the overall existing and future operations of the Goldfields, and their alignments cross the proposed Goldfield West Levee and run atop the existing Yuba River South Levee system, along Simpson and Dantoni Roads. These alignments appear to match those of the proposed Cutoff Wall and levee height increases, and the proposed Goldfields West Levee appears to cross two other exclusive (to Western) easements that also contain rail and road alignments. We have indicated the approximate locations of these fee and easement rights-of-way and access easements in a markup of DEIR Figure 2-12, provided as Attachment “A” to this letter.

JMBM-4  
cont.

The DEIR does not appear to disclose or evaluate the existence of any of these fee or easement rail rights-of-way and access easements,<sup>1</sup> and also does not evaluate the potential of the Project either to disrupt, alter, or permanently remove them. As stated above, this access is critical to the ongoing operation of the Goldfields, as it allows Western to provide an important means of transporting the mined materials. The removal or substantial disruption of this access would substantially affect these ongoing operations: the DEIR must evaluate the associated effects on mineral and aggregate production. It does not do so, and that failure deprives decisionmakers and the public of information that would allow an informed discussion of the relative benefits and adverse impacts of the Project. Further—and together with the impacts to mineral and aggregate resources described above—this failure deprives the conclusions of the DEIR regarding impacts to mineral resources of any evidentiary support, let alone substantial evidentiary support. TRLIA must revise the DEIR provide this analysis, and must recirculate the DEIR to permit informed comment and participation in the EIR process.

### **3. Western Looks Forward to Working with TRLIA to Address Concerns Regarding the Goldfields.**

Thank you for the opportunity to review and comment on the DEIR. Western values its relationship with TRLIA and views this Project as an opportunity to continue what has been a fruitful and mutually beneficial collaboration. Nevertheless, the DEIR contains significant errors and omissions that TRLIA must address.

JMBM-5

///

---

<sup>1</sup> The sole reference to rail appears in a single exhibit that does not pertain to Western’s access.



Leslie Wells  
500-Year Flood Protection Project DEIR  
March 4, 2022  
Page 4

Western looks forward to working with TRLIA to ensure an accurate and comprehensive analysis of the Project.

JMBM-5  
cont.

Very truly yours,



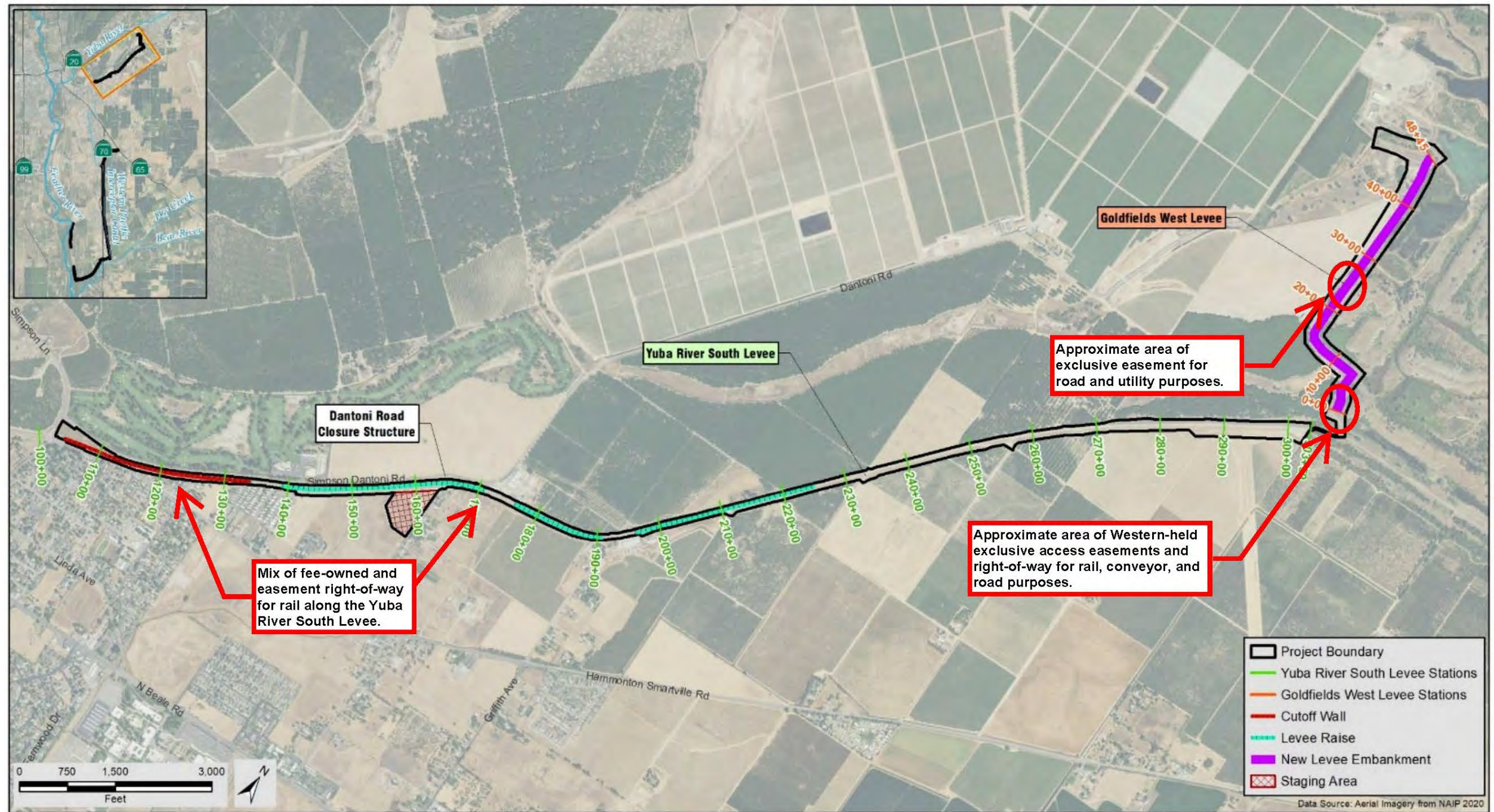
KERRY SHAPIRO of  
Jeffer Mangels Butler & Mitchell LLP

cc: Dana Davis, Western Aggregates LLC  
Neill Brower, Jeffer Mangels Butler & Mitchell LLP



## Attachment A: Approximate Locations of Western's Fee-Owned and Easement Right-of-Way Access Interests

Figure 2-12. Goldfields West Levee and Yuba River South Levee Project Components



Source: Project components identified by HDR, Inc. and GEI Consultants, Inc. in 2021

04Jan2022 RS Z:\Projects\050115\_TRLIA\050115\_500Year\050115\_500Year\_G008\_YubaRiverSouthLevee\_GF\_WestLevee\_Alignments.mxd

*[This page intentionally left blank.]*

Comment Code and Number	Comment Response
JMBM-1	<p>TRLIA appreciates the continued support and cooperation of Western Aggregates in past and future flood protection efforts. TRLIA is committed to working with Western Aggregates on any agreements necessary to implement the proposed project and will actively engage with Western Aggregates as design and planning for the Yuba Goldfields (Goldfields) portion of the proposed project progresses.</p>
JMBM-2	<p>The Draft EIR acknowledges that the Goldfields West Levee would infringe on a portion of the Goldfields from which aggregate has not been extracted. As estimated in Section 3.13, “Mineral Resources,” (page 3.13-4) of the Draft EIR, this overlap would be approximately 15 acres. After the levee is constructed, materials within the levee and maintenance zone footprint would no longer be available for extraction from this area and these mineral resources would be permanently lost. It is estimated that access to materials on approximately 5 acres within Western Aggregates’ vested rights would be lost. This represents an extremely small proportion of the thousands of acres of Western Aggregates’ vested rights in the Goldfields and does not constitute a substantial quantity of mineral resources to which Western Aggregates holds a vested and entitled right to mine. As stated in the Draft EIR and discussed further under JMBM-3 and JMBM-4 below, implementing the proposed project would not affect existing or future operations in the Goldfields and would not preclude access to the Goldfields; this includes areas where Western Aggregates holds a vested and entitled right to mine and rights-of-way described in the comment letter.</p> <p>As described on page 6-27 of the Draft EIR, Alternative 1 (No WPIC West Levee Extension) is considered the Environmentally Superior Alternative because it would avoid potentially significant and unavoidable impacts associated with two resource areas (aesthetics and agricultural resources); this is true in comparison to the proposed project and to Alternative 2 (No Goldfields West Levee). Alternative 2 would not avoid any potentially significant and unavoidable impacts. In addition, it would have greater impacts associated with noise and would impact sensitive habitat that would not otherwise be affected by the proposed project or Alternative 1. Giving greater weight to impacts on mineral resources would not offset these additional and more severe impacts on multiple</p>

other environmental resource areas under Alternative 2 and would not support identification of Alternative 2 as the Environmentally Superior Alternative.

JMBM-3

The Surface Mining and Reclamation Act discussion in the Draft EIR focuses on Public Resources Code Section 2770 because that section would apply directly to TRLIA, if the project activities were considered mining. Public Resources Code Section 2762 referenced in the comment letter states that prior to permitting a use which would threaten the potential to extract minerals from an area classified by the State Geologist as an area of regional or statewide significance, and if the lead agency either has designated that area in its general plan as having important minerals to be protected pursuant to subdivision (a), or otherwise has not yet acted pursuant to subdivision (a), the lead agency shall prepare a statement specifying its reasons for permitting the proposed use and shall forward a copy to the State Geologist and the State Mining and Geology Board for review. The lead agency in the case of Section 2762 is Yuba County, not TRLIA. Therefore, Section 2762 does not impose an obligation on TRLIA to prepare such a statement. Approval or consent from the State Geologist or State Mining and Geology Board is not required before the lead agency can act. As discussed in Section 3.12, "Land Use and Planning," (on page 3.12-1) of the Draft EIR, the project site, including the Goldfields portion, is designated as Natural Resources land use in the Yuba County General Plan. Levees, levee borrow areas, and related facilities are identified as allowable uses in lands designated as Natural Resources.

Loss of access to approximately 15 acres of mineral resources in areas that would be underlain by the Goldfields West Levee represents an extremely small proportion of the thousands of acres of available resources in the Goldfields and the larger MRZ-2 production-consumption region referenced in the comment letter. Although the Draft EIR does not quantify the volume of material that would be lost, the acreage estimate provides a meaningful comparative basis upon which the extent and magnitude of the impact can be evaluated under CEQA. Therefore, the EIR provides sufficient information to comply with CEQA. Regarding value and reduction in years of permitted/vested reserves, TRLIA has in the past and will actively engage with Western Aggregates in the future regarding mining revenue and cost issues, although these are not environmental issues addressed under CEQA or in this EIR.

JMBM-4

TRLIA is aware of Western Aggregates' fee and easement rail rights-of-way and access easements referenced in the comment letter. The proposed

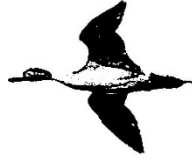


project would not disrupt or permanently remove these interests or easements. Improvements to the Yuba River South Levee would result in very minor modifications to the existing levee that would not disrupt or remove Western Aggregates' access rights. Constructing the Goldfields West Levee would involve modifying an existing tailing feature and would not create a new access issue. It is a common occurrence to construct ramps over flood protection embankments to continue or enable access to areas on both sides of an embankment. Therefore, constructing the Goldfields West Levee would not remove Western Aggregates' access rights and would not block access to areas of existing or future operations or means of transporting mined materials. Because there would be no such impact that requires disclosure, the EIR provides sufficient information to comply with CEQA.

JMBM-5

TRLIA appreciates Western Aggregates' comments and the opportunity to respond to the expressed concerns and looks forward to continuing collaboration with Western Aggregates to facilitate mutually acceptable agreements for project implementation.

Comment: Shady Oaks



**SHADY OAKS RANCH, LLC**

C/o Stuart A. Hanson  
P.O. Box 1148  
Rocklin CA 95677  
Tel. (916) 899-8084  
[stuarthanson@jps.net](mailto:stuarthanson@jps.net)

March 4, 2022

**VIA E-MAIL: lwells@co.yuba.ca.us**

Leslie Wells, Executive Assistant  
Three Rivers Levee Improvement Authority  
1114 Yuba Street, Suite 218  
Marysville, CA 95901

**Re: TRLIA 500-Year Project EIR- State Clearinghouse No. 2021070157  
Comments to DEIR**

Dear Ms. Wells:

The comments in this letter are submitted on behalf of Shady Oaks Ranch, LLC, and David and Becky Gibb, together referred to as "Landowners." Landowners own property that will be impacted by this proposed project.

Landowners' comments to the DEIR are as follows:

1. We have been provided with a copy of the March 3, 2022, DEIR comment letter to TRLIA submitted by Brian Manning, counsel for Michael Rue, a copy of which is attached hereto as Exhibit A. Mr. Manning does not represent Landowners, but Landowners agree with the comments and questions raised in his letter. For convenience, each and every comment and question set forth in Mr. Manning's letter is hereby incorporated as though fully set forth herein as comments and questions of Landowners.

2. Landowners' counsel, George T. Kammerer, submitted letters dated August 25, 2021, and September 27, 2021, to TRLIA. Those letter are hereby

Shady  
Oaks-1

Shady  
Oaks-2

incorporated as though fully set forth herein as comments and questions of Landowners.

Landowners' 9/27/21 letter restates the comments of the CVFPB that the proposed project's intention to strengthen only the west side levees of the WPIC serves to protect only the urban areas to the detriment of Landowners and other property owners in the "Horseshoe Area" and raises concerns "in relation to levee superiority and inequities that arise from raising only one side of the WPIC." These concerns have not been addressed in the DEIR.

The DEIR fails to identify the level of protection provided by the RD 784 non-urban Horseshoe Levee. It fails to analyze how greatly strengthening all other components of the RD 784 levee system will increase stress in high-water events on the Horseshoe Levee and the other weak, unaccredited levees in the rural areas. It fails to properly analyze the resulting increase the likelihood of failure of the Horseshoe Levee and the increased risks of flooding to agricultural properties resulting from greatly strengthening the urban levees from 200-year to 500-year protection – by strengthening all other parts of the system, the project in effect relatively weakens the non-urban levees. The DEIR fails to discuss any impacts at all upon agriculture from the increase in flooding risk to the rural properties. It also fails to adequately discuss measures to mitigate these risks, including provisions for improved maintenance of the rural levees to reduce failure risk, improvements to internal drainage to minimize impacts in the event of levee over-topping or failure and measures to support repairs and rebuilding of the levees if PL 84-99 assistance or other funding is not available.

As Mr. Manning states in his letter, the DEIR does not provide a complete analysis of the situation faced by the Horseshoe Area. By failing to adequately analyze all of the project's impacts and address the concerns previously raised by Landowners and the CVFPB, and to adequately analyze measures to mitigate those impacts and concerns, the DEIR is fundamentally flawed and fatally deficient and violates the requirements of CEQA.

Shady  
Oaks-2  
cont.

Shady  
Oaks-3

Shady  
Oaks-4

The project will continue a years-long history of TRLIA and RD 784 providing many millions of dollars-worth of better and stronger flood protection to the urban areas, while the Horseshoe Levee is isolated and under-maintained and the rural landowners are subjected to increased flooding risk and costs of protection. TRLIA cannot continue to use taxpayer funds to enrich the developers and landowners in the urban areas at the expense and to the detriment of the residents, landowners and farmers in the agricultural areas.

Shady  
Oaks-5

Sincerely,



Stuart A. Hanson,  
Co-Manager, Shady Oaks Ranch LLC

cc: Hon. State Senator Jim Nielsen  
Anne King, GEI  
David & Becky Gibb  
Valeri Strachan  
Michael Rue  
Brian Manning, Esq.

# EXHIBIT A

## **DESMOND, NOLAN, LIVAICH & CUNNINGHAM**

**ATTORNEYS AT LAW**

---

March 3, 2022

Leslie Wells, Executive Assistant  
Three Rivers Levee Improvement Authority  
1114 Yuba Street, Suite 218  
Marysville, California 95901  
E-mail: [lwells@co.yuba.ca.us](mailto:lwells@co.yuba.ca.us)

Via Email Only

RE: TRLIA 500-Year Project EIR- State Clearinghouse No. 2021070157

To Whom It May Concern:

I write on behalf of Michael Rue regarding the above referenced Draft Environmental Impact Report. Mr. Rue owns property that will be impacted by this proposed project. We have the following comments on the DEIR:

- Please explain the basis for this statement: “The RD 784 levee system meets and exceeds the requirements of 44 CFR 65.10, which is the FEMA 100-year standard.” (DEIR 3.11-8.)
- The DEIR states: “To determine how the proposed 500-year improvements would alter flows, HEC-RAS was used to conduct an encroachment analysis. The analysis considers the natural profile of the project rivers and surrounding topography, junctions with other rivers, presence of obstructions (bridges, dams, and levees), pump stations, storage areas, and other features that influence river hydraulics to estimate flow carrying capacity.” (DEIR 3.11-15.)
  - Please explain what the natural profile of the project rivers and surrounding topography means.

15<sup>th</sup> & S Building  
1830 15<sup>th</sup> Street  
Sacramento, California 95811-6649  
Telephone: 916/443-2051  
Facsimile: 916/443-2651  
E-mail: [bmanning@dnlc.net](mailto:bmanning@dnlc.net)

J. Russell Cunningham  
Brian Manning  
Kristen Ditlevsen Renfro  
Benjamin C. Tagert  
Mikayla Kutsuris  
Josh Dalavai

Of Counsel  
William W. Nolan (Ret.)  
Gary Livaich  
Edward K. Dunn

Earl D. Desmond  
(1895-1958)  
E. Vayne Miller  
(1904-1965)  
Richard F. Desmond  
(1923-2004)  
William C. Livaich  
(1950-2007)

- Did the encroachment and/ or the cumulative analyses assume that the existing levees and other “unnatural” improvements did not exist when modeling either the project and/or cumulative impacts analysis?
  - If not, why not?
- Was topographic mapping used to determine the “natural profile of the project rivers?”
  - If so, please include them as part of the FEIR.
- The modeling appears to assume that levees would overtop in the 1/50 AEP, 1/100 AEP, and 1/200 AEP scenarios. Please explain which levees would overtop in any of those scenarios.
- The DEIR states: “The existing RD 784 urban levee system meets these standards.” (DEIR 3.11-13.) This is in reference to the CVFPP’s call for a 200-year level of protection for urban areas.
  - What level of protection is provided by the RD 784 non-urbanized levee system (Horseshoe Levees)—i.e., in what AEP scenario would the levees that makeup the Horseshoe Levees fail?<sup>1</sup>
  - Was that level of protection for the Horseshoe Area used in modeling the project and cumulative impacts analyses?
  - If a level of protection was not determined for the Horseshoe Levees; please explain why this was not done and how a level of protection of less than 50 years would impact the modeling.
  - The FEIR should include a hydraulic analysis based on the estimated level of protection afforded by the Horseshoe Levees to determine the project and cumulative impacts.
- The DEIR states: “Hydraulic modeling results demonstrate that increasing the level of flood protection provided by the RD 784 urban levees would not worsen risk to areas not protected by this levee system and would not expose people or structures to a significant risk of loss, injury, or death involving flooding.” (DEIR 3.11-22.) The project also calls for raising the west bank of the WPIC by up to 1.9 feet. Please explain how raising the west bank of the

---

<sup>1</sup>It is my understanding that MBK has knowledge of the estimated level of protection.

**DESMOND, NOLAN, LIVAICH & CUNNINGHAM**  
Attorneys at Law  
15<sup>th</sup> & S Building  
1830 15th Street  
Sacramento, California 95811  
Telephone: 916/443-2051

levee to a height greater than the east bank would not result in overtopping of the east bank.

- Does the hydraulic modeling in the project and cumulative analyses scenarios assume that waters flowing into the WPIC will be contained by the non-project levees north of Best Slough?
- Does the modeling assume the Horseshoe Levees would contain the flows in 1/50, 1/100, 1/200, or 1/500 AEP events?
- Please also explain how the waters flowing in the Bear River, Best Slough, and WPIC channels would be contained in an AEP event that is greater than the level of protection provided by the non-accredited levees that make up the Horseshoe Levees.
- The DEIR states: “Specific to the previous TRLIA projects on the Bear River and the WPIC, properties adjacent to the Horseshoe Levee system, which is east of the WPIC and south of Best Slough, benefited from the Bear River north levee setback at all recurrence flood intervals. Based on this analysis, maximum water surface elevations show reductions between 0.14 to 1.14 feet from the Bear River at WPIC to the WPIC at Best Slough between the 1/50 AEP and the 1/500 AEP flood events.” (DEIR 5-21.)
  - Did this analysis assume that the Horseshoe Levees contained the waters in each of the flood events?
  - If so, please explain the basis for assuming the levees would hold.

We look forward to hearing how non-accredited levees can hold back and contain the various flood events and further information showing how the past TRLIA projects benefitted levees that were left non-accredited. We look forward to seeing if the assumptions in the modeling reflect reality and actual estimated levels of protection afforded by the Horseshoe Levees. If they do not, an updated hydraulic analysis is necessary to accurately reflect the impact of this and past projects.

The DEIR did not provide a complete analysis of the situation faced by the Horseshoe Area. The FEIR should reflect and analyze the reality of the situation. TRLIA improved every linear foot of the levees within RD 784’s boundaries, except

**DESMOND, NOLAN, LIVAICH & CUNNINGHAM**  
Attorneys at Law  
15<sup>th</sup> & S Building  
1830 15th Street  
Sacramento, California 95811  
Telephone: 916/443-2051

March 3, 2022

Page 4

---

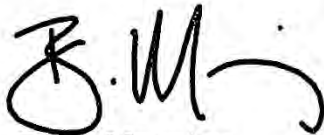
for the Horseshoe Levees. The Horseshoe Levees fell out of compliance and became ineligible for PL 84-99 assistance. A conscious decision was made to isolate this part of RD 784's integrated system of flood control works when TRLIA, in concert with RD 784, went forward with its various projects. The modeling and FEIR should reflect reality and own up to the implications of these decisions.

The project proposes to spend tens of millions of dollars to prevent flooding that has a two-thousandths percent chance of happening in any given year—all while continuing to ignore the situation faced by the people in the Horseshoe Area. It is another example of the Horseshoe Area being detrimentally left out of any planning or funding by TRLIA. We, therefore, demand that improving the Horseshoe Levees to provide a 100-year level of protection to the Horseshoe Area be included in the analysis and decision-making process.

Should you have any questions regarding the foregoing, please do not hesitate to contact me.

Sincerely,

**DESMOND, NOLAN, LIVAICH & CUNNINGHAM**



Brian Manning

BTM/kms

cc: Client

**DESMOND, NOLAN, LIVAICH & CUNNINGHAM**  
Attorneys at Law  
15<sup>th</sup> & S Building  
1830 15th Street  
Sacramento, California 95811  
Telephone: 916/443-2051



**George T. Kammerer  
Attorney At Law  
P.O. Box 951  
Rancho Murieta, CA 95683-0951**

08/25/2021

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

Via US Mail & E-Mail to  
*PBrunner@co.yuba.ca.us*

**Subject: Notice of Preparation of Environmental Impact Report for the  
500-year Flood Protection Project (Bear River Levees, Western  
Pacific Interceptor Canal Levee and Extension, ODB Ring Levee)**

Dear Mr. Brunner:

We submit this letter on behalf of Shady Oaks Ranch, LLC and the Gibb Family Ranch ("Landowners") directly adjacent to which properties the Three Rivers Levee Improvement Authority ("TRLIA") proposes to construct portions of the 500-year Flood Protection Project (the "Project") in which location there is a highly foreseeable, substantial likelihood of significant extensive flooding and flood damage occurring as a result of construction of the Project. Without Project design modifications and mitigation measures, these Landowners will be significantly and substantially adversely affected by TRLIA's construction and subsequent operation of the Project.

Shady  
Oaks-6

**Failure to Provide Legally-Mandated Individual NOP and Advance Scoping Meeting Notice**

Despite being the most-likely-to-be-adversely-affected landowners within this portion of the Project area, TRLIA never provided these Landowners with notice (for reasons TRLIA has not explained) regarding TRLIA's intention to move forward with the Project or to request affected community input upon the scope of the analysis within the Environmental Impact Report (EIR) TRLIA intends to prepare.

No notice was provided to either Shady Oaks Ranch, LLC or the Gibb Family despite a plethora of past correspondence from these same Landowners to Reclamation District (RD) 784 (TRLIA is a Joint Powers Agency comprised of Yuba County and RD 784). Two of the Directors of TRLIA are long-time members of the RD 784 Board of Trustees. These two Directors (and TRLIA itself through them) are well aware that Landowners have for over a decade expressed concerns to RD 784 that the operation and maintenance of these same facilities present significant risks of flooding these Landowners' lands for extended periods of time, greatly interfering with these Landowners' ability to farm, manage wildlife habitat, hunt, and otherwise use and enjoy these lands in the multitude of ways to which they are legally entitled.

Shady  
Oaks-7

We are mystified as to how RD 784 / TRLIA could fail to notify both Shady Oaks Ranch, LLC and the Gibb Family when TRLIA knew that they have had serious on-going concerns about maintenance and management of RD 784 / TRLIA levees which comprise the precise Project area at issue. TRLIA acknowledged providing individual written notice to many other lesser-affected landowners throughout the Project area, but not to these Landowners.

As a result, failure by TRLIA to provide these Landowners with individual written notice of the original NOP and scoping meeting date is a direct violation of CEQA Guidelines Section 15082(c)(2)(D) which mandates that, "The lead agency *shall* provide notice of the scoping meeting to all of the following: . . .(D) any organization or individual who has filed a written request for the notice." Clearly Landowners had requested notice of all RD 784 levee work.

TRLIA's failure to comply with this CEQA notice mandate is a defect under which this EIR may be later invalidated (Public Resources Code Section 21092.2).

Due to TRLIA's defective scoping notice to Shady Oaks Ranch, LLC and the Gibb Family, they ***were never made aware of, and as a result were deprived of their right to attend, the July 20, 2021 scoping meeting*** which they clearly would have attended, in order to become adequately informed about TRLIA's plans and to be able to comment in detail in person to TRLIA about the:

\*\*\* range of actions proposed;

\*\*\* range of alternatives that must be considered;

\*\*\* environmental effects of the Project;

\*\*\* methods of assessment (of alternatives, environmental effects, mitigation measures); and

\*\*\*feasible mitigation measures to avoid, minimize and mitigate adverse Project impacts.

Without the chance for direct dialogue with TRLIA staff, these Landowners were deprived of a very important opportunity on July 20 for input upon the scope of the Project and its impacts.

TRLIA's failure to provide these Landowners with that essential opportunity for input on scope is likely to be quite compelling to a Court considering that these Landowners are the two most directly-affected within the entire Project area, since it is reasonably foreseeable the Project will significantly increase the strain on the Horseshoe Levee which protects these Landowners' properties, greatly increasing the likelihood of Horseshoe Levee failure as a direct result of the TRLIA Project as currently designed. TRLIA and RD 784 are both well aware of this.

Publication in a local newspaper is legally insufficient to provide adequate scoping notice.

It is especially inadequate for a project which has such clear "statewide, regional or areawide significance" (Public Resources Code (PRC) Section 21083.9 (a),(b)) because of its substantial potential to adversely affect sensitive habitats, including riparian lands, wetlands, marshes, and habitats for rare, threatened or endangered species (CEQA Guidelines Sections 15206 (b)(5); 15380), and which could also interfere with attainment of regional water quality standards (CEQA Guidelines Sections 15206 (b)(6)) as this project easily could, and also by being within 1/4 mile of a river which could well receive wild and scenic river status (CEQA Guidelines Sections 15206 (b)(4)(D)).

Shady  
Oaks-7  
cont.

Furthermore, it is common practice today by lead agencies to always notify any landowners within 300-1,000 feet by individually mailing them all NOPs and scoping meeting notices.

As the two most-affected landowners within the entire Project area, **Shady Oaks Ranch, LLC and the Gibb Family must insist that TRLIA schedule a second scoping meeting and notify them individually so that they may attend** to ask questions and provide detailed information to TRLIA in person to ensure that TRLIA is fully aware of all key issues regarding the Project.

Shady  
Oaks-7  
cont.

### **Range of Alternatives, Environmental Effects, Assessment Methods, Mitigation Measures**

#### A. Range of Actions Proposed

The range of actions proposed as part of the Project need to be revised to reduce the extremely high likelihood that the Project as currently designed will result in damage to and failure of the Horseshoe Levee directly causing significant flooding of the Shady Oaks Ranch, LLC and the Gibb Family properties. Engineers have estimated that the Horseshoe Levee currently only provides 15-20 year flood "protection" to the Shady Oaks Ranch, LLC and the Gibb Family properties. Relative to the current 200-year strength of the rest of the RD 784 system, this leaves the Horseshoe Levee as the "weak link". Increasing the Western Pacific Intercepting Channel (WPIC) east levee to 500-year protection will dramatically exacerbate the situation, significantly increasing the risk of Horseshoe Levee failure and flooding.

Shady  
Oaks-8

#### B. Range of Alternatives That Must Be Considered

The range of alternatives for the proposed Project must include one or more alternatives which will mitigate and minimize the high likelihood of increased flood occurrences and flood durations on Landowners' properties caused directly by the proposed TRLIA Project.

#### C. Environmental Effects of the Project

The Shady Oaks Ranch, LLC and the Gibb Family properties include Prime Farmland soils. Under PRC Section 21061.2, a Land Evaluation and Site Assessment (LESA) analysis must be performed in order to ensure that any agricultural land productivity loss (due to more frequent and longer duration inundations caused by the Project) are quantitatively and qualitatively assessed and mitigated (PRC Section 21095(b)). Furthermore, these Landowners' properties contain important upland habitat; habitat for waterfowl and shorebirds; habitat for rare, threatened and endangered species; and provide water quality treatment and greenhouse gas remediation (CO2 absorption) through their irrigated crops, wetlands and riparian vegetation. Flooding will drown these habitats, preclude their use by wildlife, and preclude their ability to perform water quality and greenhouse gas remediation functions for lengthy periods of time, if not permanently.

Shady  
Oaks-9

D. Methods of Assessment (of Alternatives, Environmental Effects, Mitigation Measures)

While agencies have latitude in determining the precise assessment methodology used, the Draft EIR must use unbiased, clearly depicted and readily understandable methods of assessment of the feasibility, costs and impacts of alternatives, environmental effects, and mitigation measures, when determining the proper scope for the analysis to be conducted in the TRLIA Project EIR.

Shady  
Oaks-10

TRLIA must assess possible effects upon the environment by analyzing "physical conditions which exist within the area and include both natural *and man-made conditions*" (CEQA Guidelines Section 15360). (Emphasis added.)

E. Mitigation Measures to Avoid, Minimize and Mitigate Adverse Project Impacts.

It is highly foreseeable that raising the RD 784 / TRLIA levees to 500-year protection levels will create more frequent and longer duration inundations of the Shady Oaks Ranch, LLC and the Gibb Family properties. RD 784 / TRLIA's own engineering studies by MBK Engineers predict flood depths of up to seventeen (17) feet on these very properties. Raising the WPIC east levee increases the risk even more that the Horseshoe Levee will fail and flood the Shady Oaks Ranch, LLC and the Gibb Family properties. Damage from this Project-induced flooding is expected to be extensive, including damage to or loss of the Gibb Family's home and various other outbuildings on their property, the drowning death of Gibb Family cattle and other livestock, as well as scour damage and sand, soil and toxic debris deposition in cultivated farm fields, pastures, drainage ditches, roads, house backyards, and the overtopping, contamination and destruction of drinking water wells and irrigation wells, among other damage.

Shady  
Oaks-11

To adequately mitigate this foreseeable damage, TRLIA will need to incorporate into the Project and certify in the EIR a detailed set of mitigation measures that mitigate and reduce to less than significant levels the highly-foreseeable environmental impacts of significantly greater and longer duration high-water flows, flood risks and inevitable flooding caused by the Project.

Proposed mitigation measures for adoption within the Draft EIR should include:

1. Integration into the TRLIA Project and TRLIA's assumption of all responsibility to repair and maintain the Horseshoe Levee against failure due to increased stresses on the Horseshoe Levee caused by the Project.
3. TRLIA's assessment of the urban and urbanizing areas west of the WPIC to pay for the costs of mitigating the risks to the Horseshoe Levee in perpetuity since the existing urban and urbanizing areas of RD 784 are the ultimate beneficiaries of a fully integrated, stable and properly functioning WPIC floodwater diversion system (**which system includes both the west and east levees**).

Mr. Paul Brunner / TRLIA 500-Year Project

August 25, 2021

5 | Page

In summary, Shady Oaks Ranch, LLC and the Gibb Family must insist that:

1. RD 784 / TRLIA schedule a second scoping meeting and notify these Landowners individually so that they may attend in person to ask questions and provide detailed information to TRLIA to ensure that TRLIA is fully aware of all major key issues regarding the Project.

Shady  
Oaks-12

2. RD 784 / TRLIA modify the Project design to incorporate the mitigation measures described herein, to offset and mitigate to less than significant levels all of the adverse environmental, operational and other effects of the Project upon the Shady Oaks Ranch, LLC and the Gibb Family properties as explained in this letter.

Shady  
Oaks-13

Thank you for addressing and remedying all of these important concerns in the Project EIR.

Very truly yours,



George T. Kammerer, Attorney at Law

cc: Shady Oaks Ranch, LLC  
David and Rebecca Gibb  
Michael Rue, Rue Farms  
Anne King

**George T. Kammerer  
Attorney At Law  
P.O. Box 951  
Rancho Murieta, CA 95683-0951**

09/27/2021

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

Via US Mail & E-Mail to  
[PBrunner@co.yuba.ca.us](mailto:PBrunner@co.yuba.ca.us)

**Subject: Notice of Preparation (NOP) of Environmental Impact Report for the 500-year Flood Protection Project (Bear River Levees, Western Pacific Interceptor Canal Levee and Extension, ODB Ring Levee)**

Dear Mr. Brunner:

As we stated in our 08/25/21 NOP scoping comment letter to you, we also submit today's letter on behalf of Shady Oaks Ranch, LLC and the Gibb Family Ranch ("Landowners") directly adjacent to which properties the Three Rivers Levee Improvement Authority ("TRLIA") proposes to construct portions of the 500-year Flood Protection Project (the "Project") in which location there is a highly foreseeable, substantial likelihood of significant extensive flooding and flood damage occurring as a direct result of construction of the Project. Without Project design modifications and binding mitigation measures, these Landowners will be significantly and substantially adversely affected by TRLIA's construction and subsequent operation of the Project.

Shady Oaks-14

Thank you for extending the NOP scoping period for the Draft Environmental Impact Report ("DEIR") to meet with these Landowners, myself, and adjacent landowner, Michael Rue and his counsel, Brian Manning, on Monday 09/27/21 at TRLIA's office along with TRLIA EIR consultant, Anne King.

Shady Oaks-15

We thank you for your personal assurances in our 09/27/21 meeting that, in your words, "the TRLIA Project will not make flood conditions worse for the Horseshoe Levee and the adjacent landowners who depend on it for protection." We appreciate that you repeated these assurances at least three times during our meeting. We believe that you were sincere in doing so. However, we know you are retiring from TRLIA at the end of 2021, and so we will need these assurances contained within binding written enforceable conditions within the Project description / design and within binding mitigation measures within the Project and Project EIR Mitigation and Monitoring Program ("MMRP").

Shady Oaks-16

Our clients, the Landowners, along with Michael Rue and his counsel, share the serious concerns expressed also by the Central Valley Flood Protection Board ("CVFPC") in its 09/01/21 TRLIA Project NOP comment letter in which the CVFPB clearly states:

"The property owners that receive flood risk reduction benefit from the Horseshoe Levee contend that RD 784 is seeking to only protect urban areas. The proposed project intends to strengthen only the west side levees of the WPIC which gives the Board concern in relation to levee superiority and inequities that arise from raising only one side of the WPIC." (CVFPB 09/01/21 letter, page 3, "Notice of Preparation Specific Comments", second bullet comment.)

Shady Oaks-17

"As described above, the proposed project will require a permit from the Board and the Board may deny a permit if a project increases the damaging effects of flood flows. The Board has specific concerns that

the proposed project will potentially increase the damaging effects of flood flows to the east side of the WPIC levee. Without a detailed study to prove otherwise, the proposed project when raised to provide protection level from 200-year to 500-year on the WPIC west levee, will potentially push more flood flows toward the eastside of the WPIC levee, increasing damaging effects to the area including to the WPIC East Levee (an SPFC levee) under flood events at 200-year and above. As stated above, the Board recommends a specific flood facility impacts analysis section in the environmental document and requests that the analysis address these concerns related to the WPIC East Levee at a minimum." (CVFPB 09/01/21 letter, page 3, "Notice of Preparation Specific Comments", third bullet comment.)

Shady  
Oaks-17  
cont.

The CVFPB letter validates and verifies the Landowners' contentions as expressed in the Landowners' 08/25/21 NOP comment letter to TRLIA and again in the Landowners' 09/27/21 NOP scoping meeting discussions and verbal comments to TRLIA, that, specifically:

A. The WPIC East Levee (Horseshoe Levee) is part of the same integrated WPIC flood water diversion system along with the WPIC West Levee over which TRLIA must ensure that both levees are maintained and operated in conjunction with each other so as not to worsen flood risks and flood damage to Landowners; and,

Shady  
Oaks-18

B. The 500-Year Project improvements to the WPIC West Levee, as currently designed, raise serious concerns in relation to levee superiority and inequities that arise from raising only one side of the WPIC and will potentially push more flood flows toward the eastside of the WPIC levee, increasing damaging effects to the area including to the WPIC East Levee under flood events at 200-year and above.

Precisely the concerns the Landowners expressed to TRLIA, and have expressed to RD 784 for years.

Furthermore, it is the lands located to the west of the WPIC West Levee which derive all or the majority of the benefit of the flood protections provided by the WPIC East Levee and WPIC West Levee, which westerly lands should bear all or the majority of the cost of constructing and maintaining any measures necessary to protect lands east of the WPIC East Levee from increased flood risks.

Shady  
Oaks-19

At the end of the day, to adequately minimize and mitigate these risks, the TRLIA 500-Year Project must:

1. Integrate into the TRLIA Project, TRLIA's assumption of all responsibility to repair and maintain the WPIC East Levee (Horseshoe Levee) against damage and failure in perpetuity due to increased stresses on the WPIC East Levee caused by the overall TRLIA Project.

2. Modify the TRLIA Project design and incorporate mitigation measures to offset and mitigate to less than significant levels all of the adverse construction, operations and other effects of the Project upon lands east of the Horseshoe Levee, including the Shady Oaks Ranch, LLC and the Gibb Family properties, including, but not limited to:

a. Replacing and upsizing all through-levee drainage conduits with new, effective, drainage conduit improvements along the full reach of the WPIC East Levee; and

Shady  
Oaks-20

b. Analyzing and quantifying all flows, including increases in flows, as a result of the WPIC north extension in the vicinity of the Olivehurst Detention Basin (ODB) and / or flows from other Project improvements and any other foreseeable future extensions or expansions of Project facilities.

3. Financially assess urban and urbanizing areas west of the WPIC West Levee to pay for most of the costs of mitigating the risks to the WPIC East Levee (Horseshoe Levee) in perpetuity since the

existing urban and urbanizing areas of RD 784 to the west are the ultimate beneficiaries of a fully integrated, stable and properly functioning WPIC floodwater diversion system (requiring both WPIC West and WPIC East Levees functioning together in order to protect urban lands west of the WPIC West levee).

Shady  
Oaks-20  
cont.

Additionally, the Landowners reiterate their serious concerns expressed numerous times in recent years to RD 784 and to TRLIA, that MBK Engineers should NOT be the TRLIA Project engineers to make any hydraulic or other analyses in relation to the WPIC East Levee or WPIC West Levee in regards to potential impacts upon Shady Oaks Ranch, LLC and the Gibb Family properties.

MBK has a serious conflict of interest after performing work in the past for RD 784 which erroneously concluded that the only properties "protected" by the WPIC East Levee (Horseshoe Levee) are the "Horseshoe Area properties", including the Shady Oaks Ranch, LLC and the Gibb Family properties, which as the CVFPB verified in its 09/01/21 NOP comment letter to TRLIA, is a factually incorrect conclusion by MBK because the WPIC system is comprised of both the WPIC West and WPIC East Levee (Horseshoe Levee), the integrity of both of which is essential to protect the urban and urbanizing areas to the west of the WPIC West Levee.

Shady  
Oaks-21

Furthermore, MBK Engineers prepared a Technical Memorandum dated 03/25/20 for RD 784 for RD 784's use in its benefit assessment determination which used grossly inappropriate methodology raising serious questions about MBK's objectivity and credibility to serve as TRLIA's engineer on the TRLIA 500-Year Project.

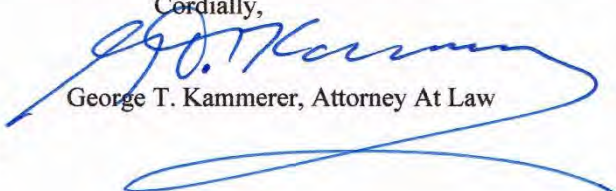
TRLIA's Project engineers who will be conducting any hydraulic or other water flow analyses going forward for TRLIA must be absolutely objective and 100% free of any influence from past engineering opinions on related matters or any work history for any other parties (RD 784) with a stake in the outcome of any TRLIA 500-Year Project analyses. MBK Engineers is unable to meet those tests.

For the TRLIA 500-Year Project flood facility impacts analysis section of the DEIR (mandated for inclusion in the DEIR by the CVFPB) to have any legal or technical credibility, all analyses related to the WPIC East Levee must be performed by another engineering firm other than MBK Engineers.

We will consider the DEIR to be flawed and legally inadequate if it relies upon any MBK Engineers' analyses related to the WPIC East Levee (Horseshoe Levee) or any drainage flows affecting in any way the WPIC East Levee (Horseshoe Levee).

Thank you for modifying the scope of the TRLIA 500-Year Project as requested herein and for including binding mitigation measures in the DEIR and MMRP which will fully mitigate Project drainage flow impacts to the WPIC East Levee (Horseshoe Levee) and to Shady Oaks Ranch, LLC and the Gibb Family properties to less than significant levels, and for engaging a different Project engineer than MBK.

Cordially,

  
George T. Kammerer, Attorney At Law

cc: Shady Oaks Ranch, LLC  
Gibb Family  
Michael Rue  
Brian Manning, Esq.  
CVFPB Board



**Shady Oaks Ranch, LLC**

March 4, 2022

<b>Comment Code and Number</b>	<b>Comment Response</b>
Shady Oaks-1	Comment noted. Responses to comments and questions set forth in Mr. Manning’s letter are addressed above on pages 2-6 through 2-8 of this Final EIR.
Shady Oaks-2	The August 25, 2021 and September 27, 2021 letters from Mr. Kammerer are included above, after the Shady Oaks Draft EIR comment letter; comments provided in these letters have been numbered Shady Oaks-6 through Shady Oaks-21 and a response to each comment is provided below under the relevant number. All NOP comment letters, including those submitted by the CVFPB and Mr. Kammerer, were fully considered during formulation and completion of the impact analyses and preparation of the Draft EIR. As described in Section 3.11, “Hydrology and Water Quality,” (pages 3.11-15 through 3.11-17) of the Draft EIR, the hydraulic impact analysis was conducted in consideration of these comments. TRLIA consulted with CVFPB before and after completing the hydraulic impact analysis, and CVFPB staff reviewed the draft hydraulic impact analysis and provided comments that were addressed in the Draft EIR.
Shady Oaks-3	The level of protection provided by the Horseshoe levees has not been estimated and is not required to be identified in the Draft EIR because it would not alter the hydraulic impact analysis conclusions. The hydraulic impact analysis evaluates how flood stages in the levee system would change with implementation of the proposed project, consistent with procedures used by both the CVFPB and USACE for determining the impact of a proposed project/action on surrounding hydraulic basins. The hydraulic impact analysis concludes that for the full range of flood events, changes in water surface elevation under the proposed project would be less than significant. The cumulative analysis shows that flood stages would be lowered for the Horseshoe basin. An additional analysis was also conducted to evaluate how flood stages have changed with implementation of past TRLIA projects. This analysis clearly showed that past TRLIA projects benefitted the area levees, including the Horseshoe levees, by substantially reducing water surface elevations under all analyzed flood stages. Specifically, constructing the Bear River setback levee reduced flood stage and associated flood risk for the Horseshoe area.

The hydraulic impact analysis supports the EIR conclusion that further increasing the level of flood protection provided by the RD 784 urban levees, as proposed in the Draft EIR, would not worsen flood risk in areas not protected by this levee system, including the Horseshoe basin, and would not expose people or structures to a significant risk of loss, injury, or death involving flooding. The extremely small increase in water surface elevation (up to 0.04 foot [less than half an inch] in the WPIC at Best Slough under the 1/200 AEP) would have an extremely minor potential effect on agricultural lands in the Horseshoe Basin and would not result in conversion of farmland to non-agricultural uses. Because potentially adverse hydraulic impacts of the project would be small and less than significant, and net impacts on drainage patterns, stormwater facilities, and flood flows would be beneficial, mitigation measures are not required.

Shady Oaks-4

The Draft EIR comprehensively analyzes potential hydraulic impacts of the proposed project (including cumulative impacts) and the project alternatives. The hydraulic impact analysis conducted to support the Draft EIR considered concerns raised by landowners and the CVFPB in the NOP comments (see Section 3.11, “Hydrology and Water Quality,” pages 3.11-15 through 3.11-17). The hydraulic impact analysis was prepared by qualified engineers and employed standard methodologies and assumptions used frequently for CEQA documents and CVFPB reviews. The hydraulic analysis conducted for the proposed project substantiates the Draft EIR conclusions that the proposed project would not result in significant adverse hydraulic impacts and net hydraulic impacts would be beneficial. Therefore, the Draft EIR is not required to include measures to mitigate less-than-significant and beneficial hydraulic impacts, is not flawed or deficient, and does not violate CEQA requirements.

Shady Oaks-5

This comment does not relate to the environmental effects of the project, and therefore no response is required. The Central Valley Flood Protection Plan was required by State legislation passed in 2007 and was adopted in 2012 and revised in 2017. This plan establishes a vision for how to manage flood risk in the Central Valley. It establishes goals of providing a minimum of 200-year flood protection for urban areas and 100-year flood protection for small communities; for rural areas, the levees are to be repaired but not improved. The Horseshoe levees have not been improved because the Horseshoe hydraulic basin is in a rural area. However, TRLIA partnered with the State to improve the RD 784 urban hydraulic basin to meet the State 200-year standard in a way that also benefited the surrounding hydraulic basins by constructing setback levees and lowering flood stages in those surrounding basins. This is evidenced in the portion of the hydraulic impact analysis that evaluated how flood

stages have changed with implementation of past TRLIA projects. As previously stated, this analysis clearly showed that past TRLIA projects benefitted the area levees, including the Horseshoe levees, by substantially reducing water surface elevations under all analyzed flood stages.

Shady Oaks-6 See response to Shady Oaks-3. In summary, and as indicated in Section 3.11, “Hydrology and Water Quality,” (pages 3.11-15 through 3.11-17) of the Draft EIR, the hydraulic impact analysis was conducted in consideration of these NOP comments. The hydraulic impact analysis supports the EIR conclusion that further increasing the level of flood protection provided by the RD 784 urban levees, as proposed in the Draft EIR, would not worsen flood risk in areas not protected by this levee system, including the Horseshoe basin, and would not expose people or structures to a significant risk of loss, injury, or death involving flooding. Because potentially adverse hydraulic impacts of the project would be extremely small and less than significant, and net impacts on drainage patterns, stormwater facilities, and flood flows would be beneficial, mitigation measures are not required.

Shady Oaks-7 TRLIA circulated the NOP to all required agencies consistent with the CEQA Guidelines. Additionally, TRLIA met with the concerned Horseshoe basin landowners on September 27, 2021, to provide them an opportunity to discuss the proposed project and provide comments regarding the NOP and scope and content of the EIR. TRLIA also provided additional documentation requested by the landowners at this meeting and assured the landowners that additional comments submitted in response to the NOP would be considered during EIR analyses and preparation. The landowner concerns expressed during the scoping period and relevant to CEQA review are fully addressed in the Draft EIR. Each concern raised in the Shady-Oaks NOP comment letters is also addressed in these responses to comments.

Shady Oaks-8 The hydraulic impact analysis in Section 3.11, “Hydrology and Water Quality,” (pages 3.11-18 through 3.11-22) of the Draft EIR supports the EIR conclusion that implementing the proposed project would not worsen flood risk to the Horseshoe basin, regardless of the level of protection afforded by the Horseshoe levees. CEQA requires that an EIR describe a range of reasonable alternatives to the project which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project. The alternatives evaluated in the EIR would lessen significant impacts associated with aesthetics, biological resources, and noise. Because the proposed project

would not result in significant hydraulic impacts, an alternative that would reduce hydraulic impacts was not analyzed.

- Shady Oaks-9 The extremely small increase in water surface elevation (up to 0.04 foot [less than half an inch] in the WPIC at Best Slough under the 1/200 AEP) would have an extremely minor potential effect on agricultural lands in the Horseshoe basin. Accordingly, the secondary impacts of flooding suggested in this comment would not actually occur as a result of this project.
- Shady Oaks-10 The Draft EIR applies standard methods for evaluating potential impacts of the proposed project and project alternatives on the environment. As indicated in response to DNLC-2, the existing levees and all other components of the existing physical conditions are considered part of the baseline against which the proposed project is evaluated to determine if it would result in a significant impact under CEQA, consistent with State CEQA Guidelines Section 15125.
- Shady Oaks-11 See response to Shady Oaks-3. Because potentially adverse hydraulic impacts of the project on the Horseshoe basin would be extremely small and less than significant, mitigation measures are not required.
- Shady Oaks-12 See response to Shady Oaks-2. TRLIA met with the concerned Horseshoe Basin landowners in response to the request to provide them an opportunity to ask questions and provide information.
- Shady Oaks-13 See response to Shady Oaks-3. Because potentially adverse hydraulic impacts of the project on the Horseshoe basin would be extremely small and less than significant, mitigation measures are not required.
- Shady Oaks-14 See response to Shady Oaks-3. In summary, the hydraulic impact analysis in Section 3.11, “Hydrology and Water Quality,” (pages 3.11-18 through 3.11-22) of the Draft EIR supports the EIR conclusion that further increasing the level of flood protection provided by the RD 784 urban levees, as proposed in the Draft EIR, would not worsen flood risk in areas not protected by this levee system, including the Horseshoe basin, and would not expose people or structures to a significant risk of loss, injury, or death involving flooding. Because potentially adverse hydraulic impacts of the project would be extremely small and less than significant, and net impacts on drainage patterns, stormwater facilities, and flood flows would be beneficial, mitigation measures are not required.

- Shady Oaks-15           TRLIA responded positively to commenter’s request to meet separately and discuss the project. Comment noted.
- Shady Oaks-16           The Draft EIR and associated hydraulic impact analysis provide evidence that the proposed project would not worsen flood risk to the Horseshoe basin (see Section 3.11, “Hydrology and Water Quality,” pages 3.11-18 through 3.11-22 of the Draft EIR).
- Shady Oaks-17           See response to Shady Oaks-4. The hydraulic impact analysis conducted to inform the Draft EIR evaluated potential hydraulic impacts of the proposed project and project alternatives and considered concerns raised by landowners and the CVFPB in the NOP comments. The hydraulic analysis employed standard methodologies and assumptions used frequently for CEQA documents and CVFPB reviews. In addition, TRLIA consulted with CVFPB before and after completing the hydraulic impact analysis, and CVFPB staff reviewed the draft hydraulic impact analysis and provided comments that were addressed in the Draft EIR.
- Shady Oaks-18           See response to Shady Oaks-5. The Horseshoe levees have not been improved because the Horseshoe hydraulic basin is in a rural area and the Central Valley Flood Protection Plan indicates levees in rural areas are to be repaired but not improved. However, past TRLIA projects have also benefited the surrounding hydraulic basins, including the Horseshoe basin, by constructing setback levees and lowering flood stages in those surrounding basins, as described in the Draft EIR cumulative impact analysis (see Section 5.2.10, pages 5-16-5-22). In addition, potentially adverse hydraulic impacts of the project on the Horseshoe basin would be extremely small and less than significant.
- Shady Oaks-19           The WPIC East Levee is part of the Horseshoe levees. In reviewing the RD 784 records, the Horseshoe basin was historically subject to flooding prior to construction of the Sacramento River Flood Control Project. There is no documentation in the record that suggests the Horseshoe levee was constructed to mitigate for construction of the adjacent levee systems.
- Shady Oaks-20           The hydraulic impact analysis conducted for the proposed project included all components of the proposed project, including the WPIC West Levee Extension, and the cumulative analysis included all reasonably foreseeable projects. Requests for TRLIA to assume responsibilities related to the WPIC East Levee, modify the project design, and incorporate mitigation measures to offset and mitigate to less-than-significant levels the adverse effects of the project on lands in the Horseshoe basin are not required because the project would not have significant impacts on the basin.

Shady Oaks-21

USACE and CVFPB identify the Horseshoe levee system as an “hydraulic basin” that is independent of the surrounding hydraulic basins, including the RD 784 urban hydraulic basin. The lands protected by the Horseshoe levee were subject to flooding prior to construction of the Sacramento River Flood Control Project. While all these hydraulic basins are part of the Sacramento River Flood Control Project, which itself is a system, the Horseshoe levee has not been identified by the USACE or CVFPB as a mitigation feature. MBK Engineers’ analysis has been independently reviewed by a variety of individuals and agencies depending on the product. Hydraulic impact analyses have been reviewed by CVFPB and USACE (when supporting a Section 408 Permission request). Hydraulic design information has been reviewed by these same agencies as well as a Board of Senior Consultants and the California Department of Water Resources.

# Chapter 3. Report Preparers and Reviewers

---

## Three Rivers Levee Improvement Authority (Lead Agency)

Kevin Mallen, PE..... Yuba County Administrator, Document Review

## GEI Consultants, Inc. (EIR Preparation)

Phil Dunn ..... EIR Director and Document Review

Anne King..... EIR Manager and Document Preparation

## MBK Engineers (Program Management and Hydraulics)

Richard Reinhardt, PE .....Program Manager and Document Preparation and Review

Don Trieu, PE .....Document Review

Patrick Ho, PE.....Document Review

*[This page intentionally left blank.]*