



# THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

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## Responses to Public Comment March 3, 2009 - TRLIA Board Meeting Proposed Benefit Assessment District

**Statement:** TRLIA hired as its engineer the Reclamation District 784's engineer.

**Response:** While there is nothing to prohibit TRLIA from hiring an engineer used by a member agency (RD 784), the TRLIA engineering team has generally not been the same as the RD 784 engineering team. RD 784's engineer has been Mike Smith of MHM. While TRLIA has worked with a number of engineers, its Program Manager (Ric Reinhardt) is employed by MBK Engineers.

**Q:** Why doesn't TRLIA just turn over creating the assessment district to RD 784?

**A:** RD 784's boundaries exclude 9,300 acres that receive benefit from TRLIA's levee improvements. As a result, RD 784 may not legally charge these lands for operations and maintenance on improved levees. By having TRLIA impose the assessment, all lands benefited from the project can pay the assessment, thus assuring adequate funds for operations and maintenance. While some have suggested RD 784 change its boundaries, this process is time consuming and not guaranteed (it requires an RD 784 vote, a LAFCO vote, and likely a vote of the property owners of the lands to be added). The additional operation and maintenance funds are needed now, so the option of expanding RD 784's boundaries is not considered a viable alternative at this time.

**Statement:** Of the \$800,000 assessment, over \$300,000 is proposed for TRLIA overhead.

**Response:** This is not true. The \$300,000 is to cover administrative costs, as well as engineering and legal costs. These funds are intended to go to RD784 to perform the increased maintenance work.

**Statement:** The last set of Q&A's says that TRLIA talked to the Yuba County Assessor. TRLIA did not talk to the Yuba County Assessor. Therefore, TRLIA lied about having spoken with Yuba County Assessor.

**Response:** TRLIA did not claim to have spoken with the Yuba County Assessor. The relevant answer in the Q&A reflects that TRLIA used some Yuba County assessment data. This data was obtained from a private company that purchases data from county assessors and sells it to the public, so it was not necessary to contact the Assessor. Purchasing data for multiple counties is typically less expensive when purchased through a third party.

**Statement:** TRLIA's counsel did not read the entire answer from the previous Q&A in answering Ms. Hofman's claim that TRLIA lied about having spoken with the Yuba County Assessor.

**Response:** Mr. Shapiro read only the portion of the previously presented Q&A that was relevant to the point being made. It was unnecessary to read the remaining portion. The entire answer is on TRLIA's Web site and copies were offered to the public at the meeting.

March 5, 2009

**Statement:** TRLIA does not have the authority to levy this assessment.

**Response:** TRLIA does have the authority to levy this assessment. This issue has been previously addressed and a memorandum analyzing this issue is on the TRLIA Web site for the public to review.

**Statement:** The County and RD 784's intent is relevant to interpreting the joint powers authority agreement, and these agencies only intended for TRLIA to construct improvements.

**Response:** Based upon TRLIA staff's investigations, the intent of Yuba County and RD 784 was to take the actions necessary to avoid a FEMA remapping. This assessment is necessary for that goal. Therefore, it is consistent with the parties' intentions as well as the joint powers authority agreement.

**Statement:** The public needs more time to consider this issue.

**Response:** The proposed assessment was discussed at a public workshop held on February 17, 2009. This was further discussed on March 3. The Board has continued consideration of its resolution to start the assessment district formation process until March 10 to give the public further time to provide input. If the Board decides on March 10 to move forward with an election process, TRLIA will continue its public outreach efforts during the balloting period and encourage public involvement. At the conclusion of the balloting period, TRLIA will conduct a formal public hearing where public testimony will be received by the Board. If the assessment is approved by property owners, the Board will then consider the public testimony and vote on forming the district and levying the assessment.

**Statement:** TRLIA should not have unfettered discretion to adjust the assessment each year.

**Response:** TRLIA will be restricted to increases equal to or less than the Consumer Price Index (CPI), a federally controlled indicator of inflation. Even if the CPI increases by more than 4 percent in a particular year, TRLIA's ability to raise the assessment will be capped at 4 percent.

**Statement:** The Yuba County Water Agency (YCWA) should pay for the increased operations and maintenance out of the funds it raises when it sells water.

**Response:** TRLIA does not have the legal authority to require that YCWA spend its money on this, just as TRLIA cannot make the Federal or State governments pay for operation and maintenance on improved levees. Levee operations and maintenance is the legal responsibility of TRLIA and RD 784.

**Q:** Why is Beale Air Force Base not paying any assessment?

**A:** The assessment may only be imposed on those properties that obtain a benefit. Engineering studies show Beale Air Force Base outside the area that receives benefit from the improved levees.

**Q:** How much is the TRLIA executive director paid?

**A:** None of the revenues from the proposed Benefit Assessment will be used for TRLIA employee salaries and benefits. Assessment revenues can be used to support RD 784 salaries and benefits.

**Q:** How will TRLIA keep ATVs and other recreation vehicles off of the levees to assure that the levees stay in good shape?

**A:** RD 784 will cooperate with the Yuba County Sheriff's Office to increase enforcement of current regulations. RD 784 does not have law enforcement authority, but will attempt to organize volunteers to create a "levee watch" program to report trespassers. Efforts will also be made to recover damages from individuals who damage the levees. Additionally, RD 784 – with TRLIA's help – has been installing more barriers to prevent intrusion.

**Statement:** The public should not pay for duplicative services from TRLIA and RD 784.

**Response:** The services to be offered by TRLIA and RD 784 are not duplicative. TRLIA's levee improvement construction program, which is anticipated to be in place for several more years, is separate from RD 784. TRLIA's levee improvement program is paid for by state and local funds not associated with RD 784. TRLIA's responsibilities include improving the levees, spelling out the needs for increased levee maintenance, and ensuring maintenance on improved levees is being accomplished. The ultimate fate of TRLIA will be determined by the County Board of Supervisors and Reclamation District 784 Board.

**Statement:** TRLIA should not spend funds for operations and maintenance just because the funds are collected.

**Response:** The reason TRLIA is proposing to collect the funds is to pay for operations and maintenance on improved levees, which is required in order to ensure the levee improvements provide the requisite level of flood control. In addition, a properly funded operations and maintenance program is a requirement for FEMA accreditation of improved levees. There are mechanisms for TRLIA to lower the assessment if the funds are not needed for the authorized purpose.

**Statement:** The cost of assessment increases should be tied to some Federal index.

**Response:** The cost of assessment increases will be tied to the US Department of Labor's Consumer Price Index (CPI).

**Statement:** The operations and maintenance should be paid for from existing funds collected by government.

**Response:** TRLIA has no other existing funds. RD 784's funds are not adequate to pay for the operations and maintenance on improved levees. The County does not have excess funds that can be dedicated to this purpose. There is no legal mechanism to make the state or federal government provide funding.

**Q:** Why is the LOMR for my home in the Central B Zone not relevant to the remapping?

**A:** We are not familiar with which Letter of Map Revision (LOMR) applied to your home. It may be that the LOMR was limited to interior drainage issues. The current remapping effort deals only with levee protection from outside sources of flooding. If you would like to provide more information on the LOMR, we would be happy to provide a more detailed answer.

**Q:** How will the \$800,000 for operations and maintenance actually be spent?

**A:** Categories for expenditures can be found in the Engineer's Report (online at [www.trlia.org](http://www.trlia.org); Assessment District link, Documents & News).

As proposed, TRLIA and RD 784 will enter into a signed agreement for TRLIA to supplement RD784 revenues to accomplish increased levee maintenance activities outlined in the Engineer's Report and the RD784/TRLIA Operations & Maintenance analysis report. TRLIA will receive Assessment revenues. The revenues will be deposited into a TRLIA account maintained by the TRLIA Treasurer (also the County Treasurer). Each year, the TRLIA Board will participate in the RD 784 levee maintenance budgeting process to ensure assessment revenues are being used to achieve the operations and maintenance requirements of the many federal, State, and local agreements signed by TRLIA. Once assured, TRLIA will supplement the RD 784 revenues by levying the needed annual assessment based on the approved budget amount. As required by government regulations, both TRLIA and RD 784 will conduct yearly audits of their respective revenues and expenses. TRLIA will most likely collect an administrative fee, probably in the range of one to two percent of the projected yearly assessment revenues. This administrative fee would be used to cover TRLIA's administrative costs associated with recurring costs, like updating the Engineer's Report.

**Statement:** There is a discrepancy between the \$100,000 that RD 784 claims it received from TRLIA for operations and maintenance on improved levees, and the approximately \$145,000 that TRLIA claims to have spent on operations and maintenance in its current budget year.

**Response:** The approx \$145,000 spent by TRLIA includes the money provided to RD 784 for operations and maintenance on improved levees, as well as certain costs associated with the development of this proposed assessment district and other costs associated with operations and maintenance.