

# **Real Estate Appendix E**

## **Draft Real Estate Plan**

### **Yuba River Ecosystem Restoration Feasibility Study**

**January 2018**

**DRAFT**

**U.S. Army Corps of Engineers**

**Sacramento District**

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YUBA RIVER RESTORATION STUDY  
REAL ESTATE PLAN

1. Introduction

This Real Estate Plan is prepared in accordance with ER 405-1-12, Section 12-16, and in support of the Yuba River Restoration Study is to determine Federal interest in Ecosystem Restoration (ER) improvements in the Yuba River in Northern California. The purpose and scope of this Real Estate Plan is to describe the Tentatively Selected Plan land costs for the habitat restoration project. This report is to be used for planning purposes only. There may be modifications to the plans that occur during Preconstruction, Engineering and Design (PED) phase, thus changing the final acquisition area(s) and/or land and administration costs.

Non Federal Sponsors

Local: Yuba County Water Agency

2. Study Authority

The authority to study the Sacramento River Basin for flood control and allied purposes, including ecosystem restoration, was granted in the Rivers and Harbors Act of 1962, P.L. 87-874, Section 209, which reads:

The Secretary of the Army is hereby authorized and directed to cause surveys for flood control and allied purposes, including channel and major drainage improvements...in drainage areas of the United States and its territorial possessions, which include the following named localities...Sacramento River Basin and streams in northern California draining into the Pacific Ocean for the purposes of developing, where feasible, multi-purpose water resource projects, particularly those which would be eligible under the provisions of Title III of Public Law 85-500.

On 28 April 2016, a Senate Committee Resolution clarified that ecosystem restoration is to be included in the investigation:

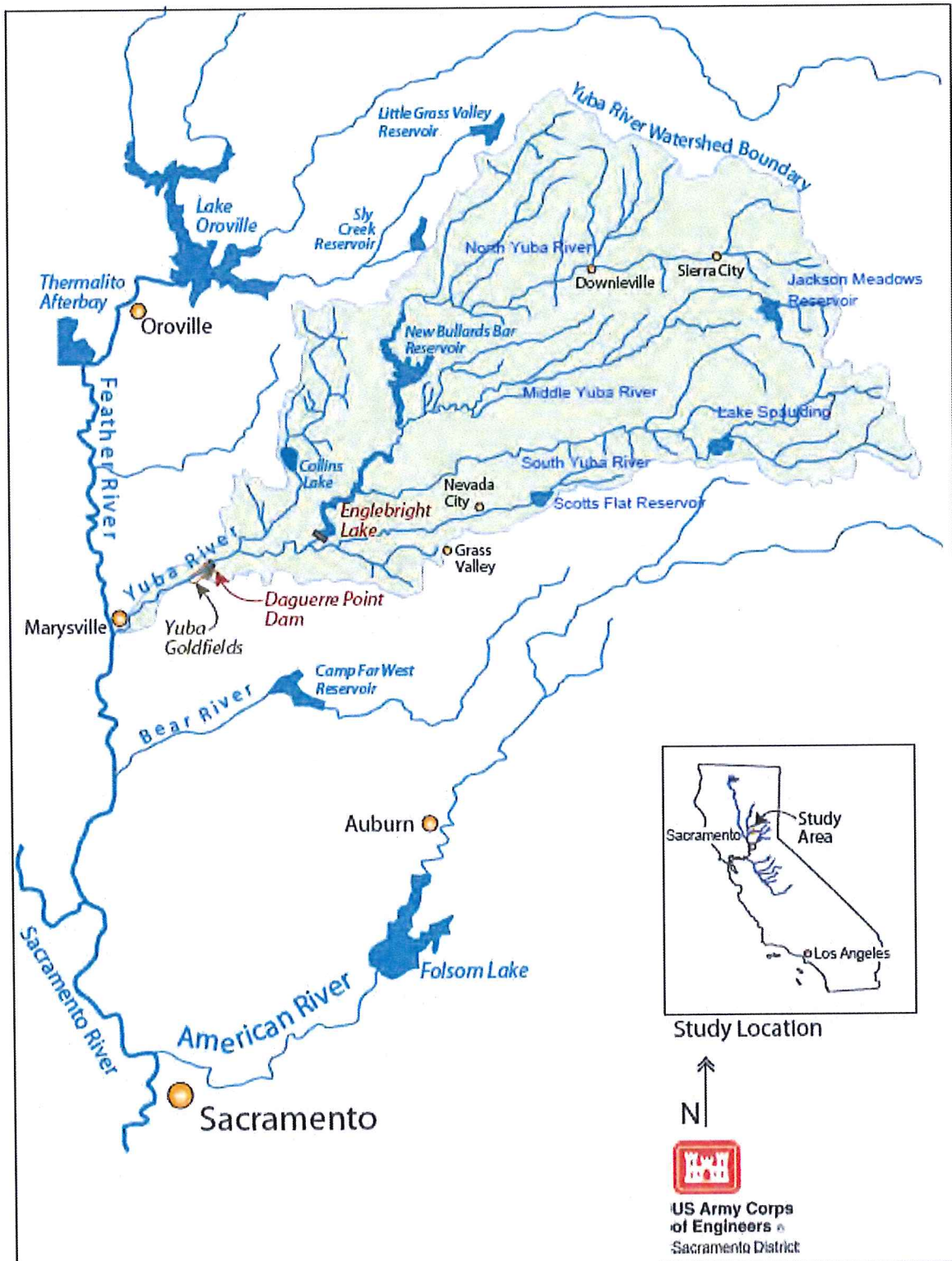
Resolved by the Committee on Environment and Public Works of the United States Senate, that the Secretary of the Army, pursuant to the Rivers and Harbors Act of 1962, Pub. L. 87-874 § 209, is requested to investigate ecosystem restoration opportunities in the Sacramento River Basin and streams in northern California draining into the Pacific Ocean, including the Yuba River Watershed.

3. Project Description

The Yuba River Watershed (Figure 1) encompasses 1,340 square miles on the western slopes of the Sierra Nevada Mountain Range, and is located in portions of Sierra, Placer, Yuba, and Nevada counties (Reynolds et al. 1993). The Yuba River is a tributary of the Feather River which, in turn, flows into the Sacramento River near the town of Verona, California.

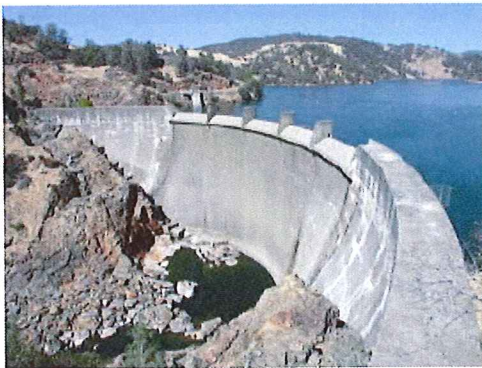
The Yuba River flows through forest, foothill chaparral, and agricultural lands. Levees are absent from most of its course except for near the river's confluence with the Feather River. At that point, the Yuba River is bounded by setback levees for approximately six miles.

Figure 1. Study Area Map



The primary watercourses of the upper Yuba River Watershed are the South, Middle, and North Yuba rivers. The South Yuba River flows into Englebright Lake. The Middle Yuba River flows into the North Yuba River and together they are referred to as the upper Yuba River. Beginning at the confluence of the North Yuba and the Middle Yuba rivers, the main stem upper Yuba River flows approximately 7.8 miles downstream to Englebright Dam. Englebright Dam's reservoir extends approximately 8 miles from its high water surface elevation at RM 32.2 to the Englebright Dam at RM 24 (YSF 2013). Below Englebright Dam, the lower Yuba River reach extends approximately an additional 24 miles downstream to the confluence with the Feather River. The study area begins in the city of Marysville and extends upstream approximately 90 miles, past Sierra City, California, in Sierra County.

Figure 2. Englebright Dam



Daguerre Point Dam is located on the lower Yuba River approximately 11.5 river miles (RM) upstream from the confluence of the lower Yuba and lower Feather rivers near Marysville (USACE 2013). Owned by USACE, Daguerre Point Dam is a 25 feet (ft.) tall, low-head dam across the lower Yuba River and there is no reservoir associated with the dam. Englebright Dam, located approximately 12.3 miles upstream of Daguerre Point Dam, is a 260-ft tall concrete dam also owned by USACE. Located on the Yuba River approximately 18 miles upstream of Englebright Dam, the 645 ft. high New Bullard's Bar Dam (owned by YCWA) is the tallest man-made structure in the Yuba River Watershed.

Figure 3. Daguerre Point Dam

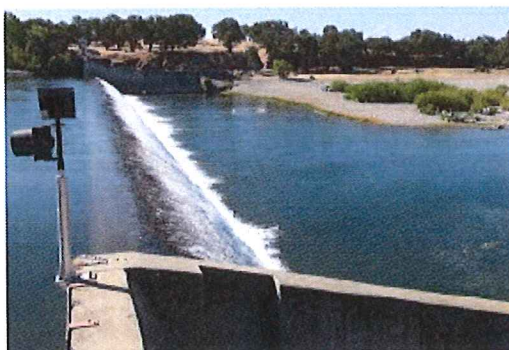
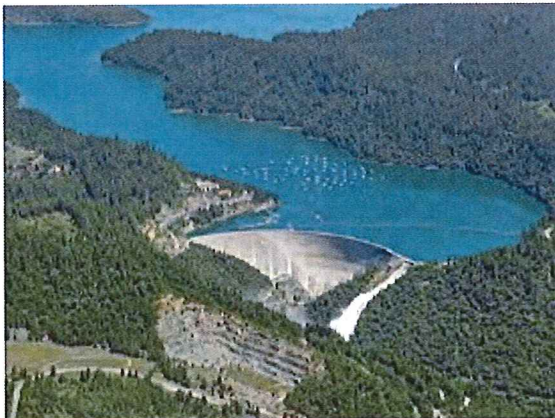


Figure 4. New Bullard's Bar Dam



The Yuba River is one of California's signature rivers. Since the Gold Rush, prior to California statehood, the Yuba River has been a source of life-sustaining water for native peoples, farmers and ranchers, as well as for salmon, steelhead and other fish and wildlife.

The United States Army Corps of Engineers (USACE) has a long history of involvement with the Yuba River. With the advent of the California gold rush in the mid-1800s, hydraulic mining washed away entire sections of the upper Yuba River Watershed. The release of incredible amounts of sediment and contaminated mining debris threatened nearby cities, farms and the river itself. The United States Congress directed the Federal California Debris Commission (CDC) to manage this dangerous mining sediment. In 1906 construction was completed on Daguerre Point Dam, and then the 260-foot tall Englebright Dam was completed in 1941, both to impound mining debris. These dams continue to contain this contaminated mining debris, with an estimated 28 million cubic yards impounded behind Englebright Dam and 4 million cubic yards behind Daguerre Point Dam. Upon Congressional decommissioning of the CDC in 1986, administration of Englebright Dam and Lake was assumed by USACE. The creation of these debris dams and historical hydraulic mining activities have minimized the existing critical habitat of some species listed as threatened under the Endangered Species Act included 1) spring-run Chinook salmon; 2) steelhead; and 3) green sturgeon.

All of the planning objectives focus on activities to be conducted within the study area over a 50-year period of analysis. Based upon the problems and opportunity identified in the study area, planning objectives include the following.

- **Improve the quantity, quality, and complexity of aquatic habitats.**

This objective addresses the improvement of aquatic habitats and the functions those habitats provide for all life stages of anadromous fish, water birds, amphibians, and other wildlife within the watershed.

- **Improve the quantity, quality, complexity, and connectivity of riparian**



**habitats.**

This objective addresses the improvement of riparian habitats and migratory corridors and the functions those habitats provide for waterfowl, water birds, riparian songbirds, amphibians, and other wildlife within the watershed.

- **Restore longitudinal river connectivity.**

This objective addresses the improvement of hydrologic and aquatic habitat connectivity. Critical components of connectivity include the longitudinal, or downstream, movement of water and sediment, and the upstream movement of anadromous fish and the oceanic nutrients they provide.

- **Restore lateral connectivity of the river to its floodplain.**

This objective addresses the improvement of hydrologic connectivity within and between aquatic and floodplain habitats. Critical components of connectivity include the lateral, or horizontal movement of water within the channel and onto the floodplain, and the vertical, or downward movement of water into the ground.

#### 4. Description of Land, Easements, Rights-Of-Way, Relocation, and Disposal Areas (LERRDs)

Once the Project Partnership Agreement (PPA) process is complete, the Sacramento District Engineering Branch will prepare the final design for advertisement and construction. During this process the tract register and tract maps will be updated to reflect any modifications to include final staging areas, access requirements, and restoration features. This information will be used for future crediting purposes.

The Tentatively Selected Plan includes the following habitat increments: 2, 3A, 5A and 5B.

Increment 2 (Highway 20 to Hammon Bar) consists of flood plain grading, riparian planting using excavators and waterjet stingers (a tool to plant dormant unrooted cuttings of willows, cottonwoods, dogwoods, and other species), bank scalloping, and creation of a small backwater area. Areas that are graded into flood plains will not receive riparian planting. This increment includes a temporary bridge access and staging.

Increment 3A (Hammon Bar to Upstream of Daguerre Point Dam) consists of flood plain grading, side channel creation, riparian planting using excavators and waterjet stingers (a tool to plant dormant unrooted cuttings of willows, cottonwoods, dogwoods, and other species), minor bank scalloping, and channel stabilization through the installation of engineered log jams. Areas that are graded into flood plains will not receive riparian planting. This increment includes a temporary bridge for access and staging areas.

Increments 5A (Bar C to Bar D) and 5B (Bar D to Island B) consists of flood plain grading, side channel creation, riparian planting using excavators and waterjet stingers (a tool to plant dormant unrooted cuttings of willows, cottonwoods, dogwoods, and other species), and creation of a small backwater area. Areas that are graded into flood plains will not receive riparian planting. This increment includes access and staging areas.

#### **Potential Borrow Sites and Disposal Sites**

Borrow volumes are expected to be extremely small and any necessary borrow can be supplied by nearby excavation associated with this project. Multiple potential placement/disposal sites for excavated material are present in the project area, including the Teichert-Hallwood Facility, Western Aggregates, and Butte Sand and Gravel. Placement/disposal of excavated material will likely require characterization of the material.

#### **Access**

From the proposed staging areas, vehicles accessing the restoration sites would haul primarily on the sand bars along the river. In some cases, temporary haul roads may need to be constructed in order to provide better access to the sites. Occasionally, rather than hauling on sand bars, vehicles would have access to farm roads.

In some cases, access to the restoration sites could only be provided through temporary river crossings. These would consist of 10 foot wide by 10 foot long railroad Flatcar Bridge that would be placed over the river channel for temporary access, when needed.

#### **Monitoring and Adaptive Management Plan**

Monitoring and Adaptive Management costs, which are anticipated to be minimal, will be included in first costs and operations, maintenance, repair, replacement, and relocations (OMRR&R) costs, as appropriate.

Table 1 – Recommended Plan Features

Restorations Sites	Project Features	Estate	Acres
Increment 2 – (Highway 20 to Hammon Bar) Restoration Increments 19-22 Increment 3A (Hammon Bar to Upstream of Daguerre Point Dam) Restoration Increments 24,26,28,29,30, 32,33,34 Increment 5A – (Bar C to Bar D) Restoration Increments 46,47 Increment 5B – (Bar D to Island B) Restoration Increments 48,49,50,51,52,53,54	Floodplain lowering, bank scalloping, riparian planting, side channels, channel stabilization, large woody material placement, engineered log jam placement, new back water areas, anabranching channel	Fee Title	176.28
	Staging Areas and Temporary Bridges	Temporary Work Area Easement	11.48
	O&M Roads	Permanent Road Easement	17.5
	64 parcels, 39 mineral rights, 25 private owners, 2 government owners	Total Acres: (Rounded)	205.00

5. LERRDs Owned by the Non-Federal Sponsor and Crediting

It is understood that the sponsor will provide a credit appraisal for project lands associated with the USACE Recommended Plan. This credit appraisal will be prepared in accordance with the Uniform Appraisal Standards (USPAP) and prepared by a certified appraiser who will be approved as a qualified appraiser by the USACE Sacramento District Appraisal Branch. At this time there are no sponsor owned land identified in the project footprint.

6. Standard Federal Estates

The non-Federal sponsor will be required to acquire the minimum interest in real estate that will support the construction and subsequent operation and maintenance of the proposed USACE project.

The following standard estates (with definitions) are identified as required for the project:

*Temporary Work Area Easement*

A temporary easement and right-of-way in, on, over and across for a period not to exceed 5 years after the execution of the construction contract, beginning with date possession of the land is granted to the Yuba County Water District, for use by the Yuba County Water District, its representatives, agents, and contractors as a (borrow area) (work area), including the right to borrow and/or deposit fill, spoil and waste material thereon) (move, store and remove equipment and supplies, and erect and remove temporary structures on the land and to perform any other work necessary and incident to the construction of the Yuba Restoration Project, together with the right to trim, cut, fell and remove there from all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the right-of-way; reserving however, to the landowners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

*Fee Simple Title*

The fee simple title to [the lands described in Exhibit B], subject however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

*Road Easement*

A [perpetual [exclusive] [non-exclusive] and assignable) (temporary) easement and right-of-way in, on, over and across (the land described in Tract Register) for the location, construction, operation, maintenance, alteration replacement of (a) road(s) and appurtenances thereto; together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions and other vegetation, structures, or obstacles within the limits of the right-of-way; (reserving, however, to the owners, their heirs and assigns, the right to cross over or under the right-of-way as access to their adjoining land at the locations indicated in Schedule B); subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

7. Description of any Existing Federal Projects in or Partially in the Proposed Project

There are no federal projects located in the proposed construction footprint.

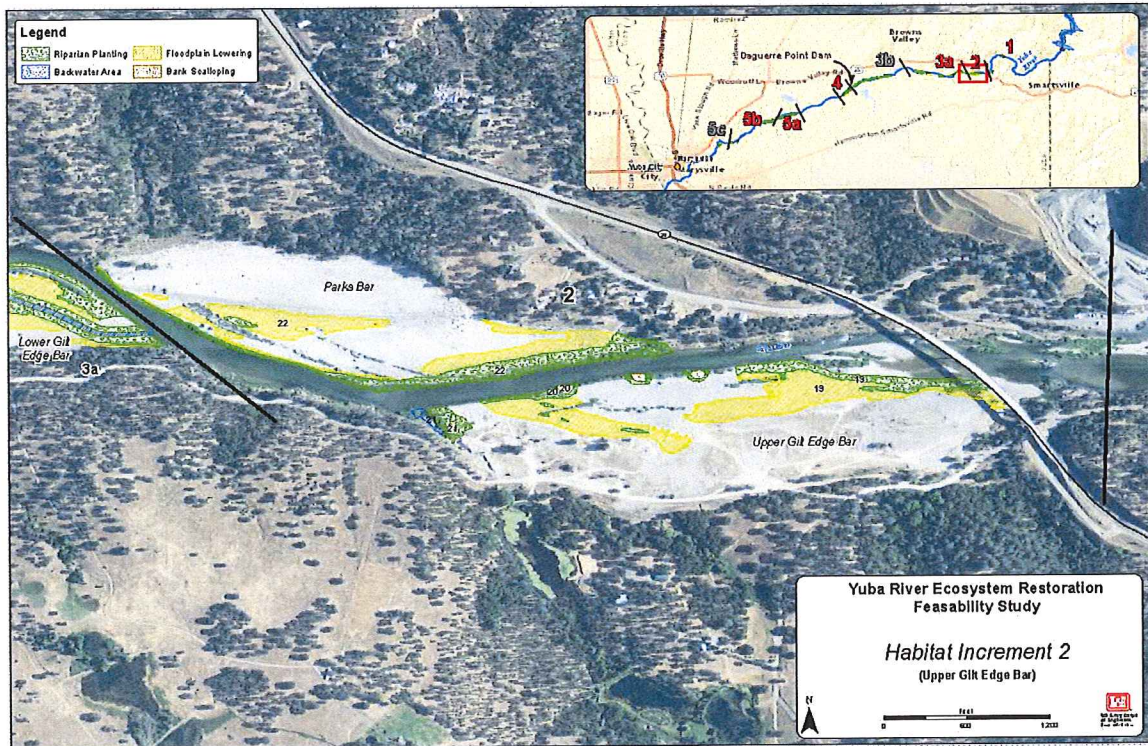
8. Description of any federally owned Land needed for the Project

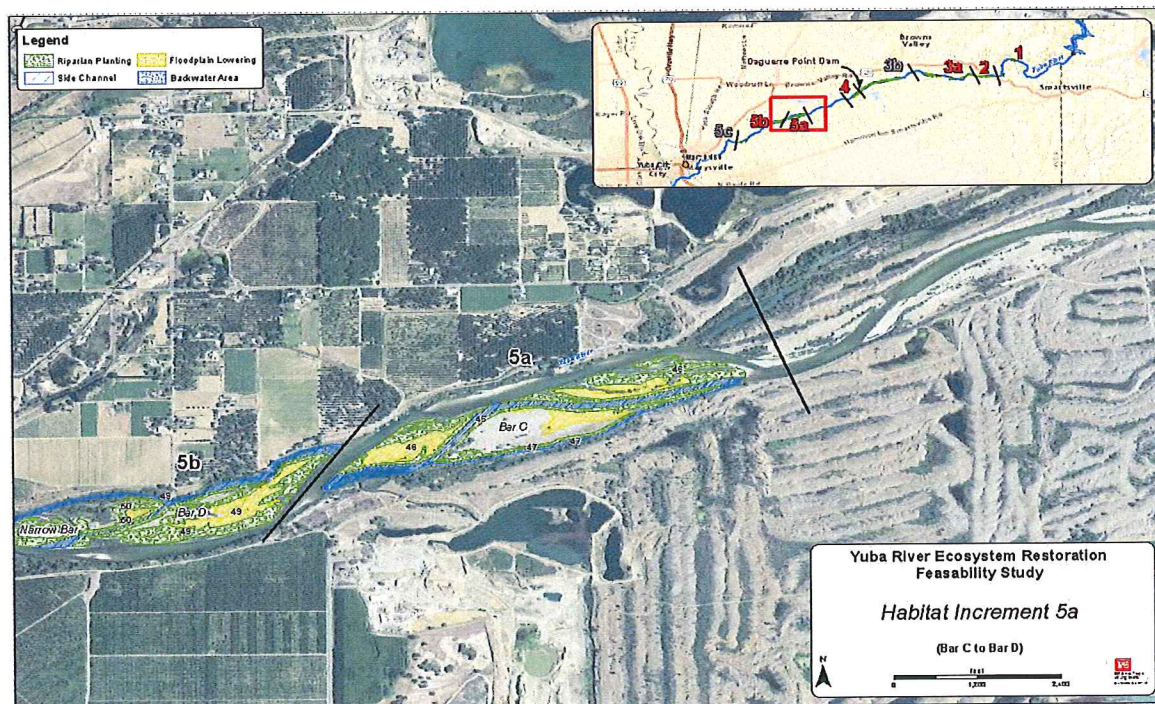
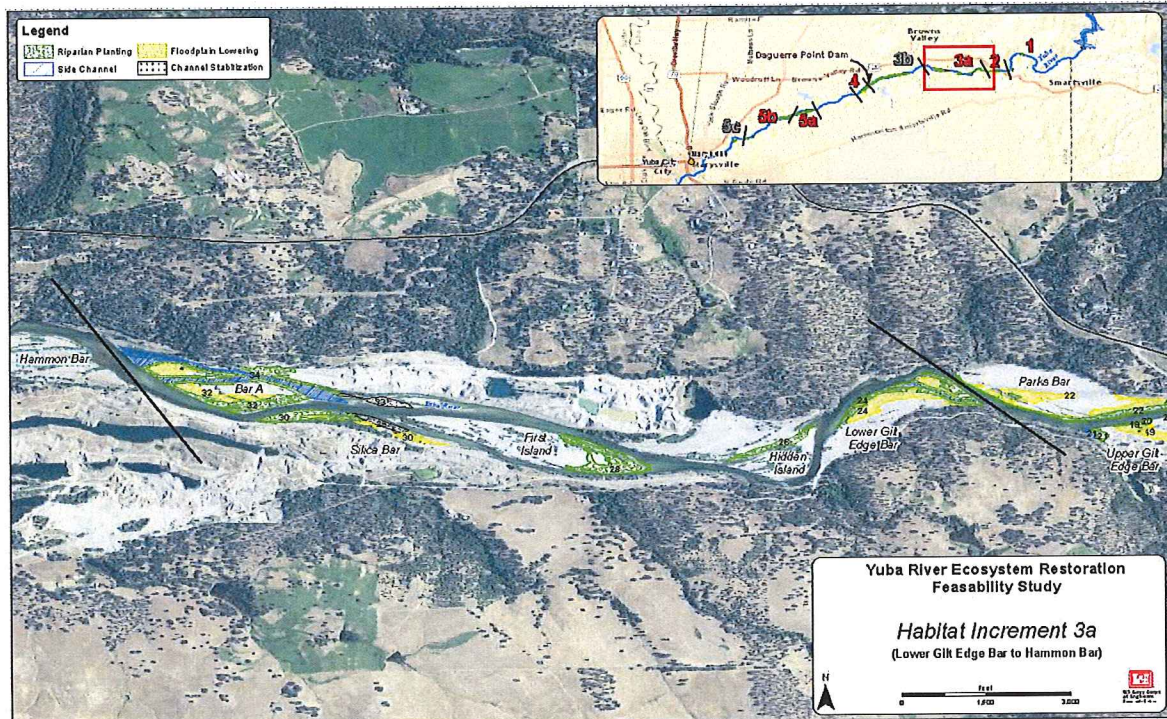
There are no federal parcels needed for this proposed project.

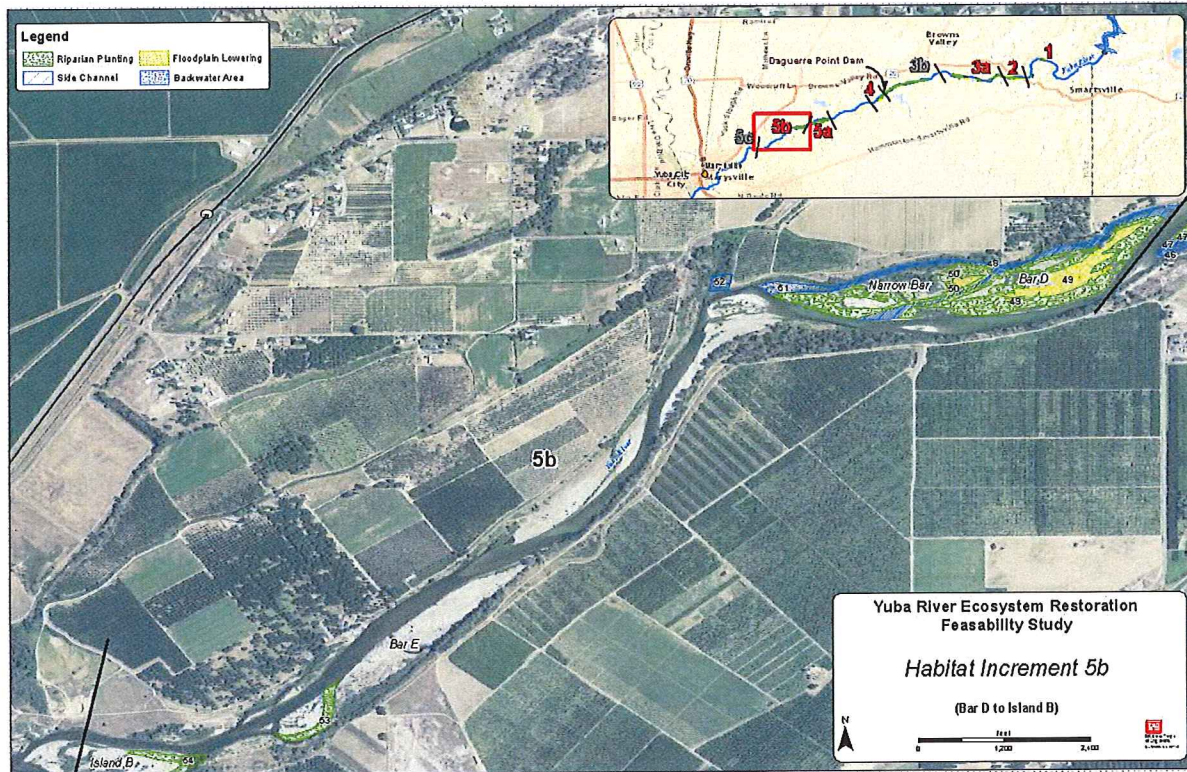
9. Application of Navigational Servitude to the LERRDs Requirement

Navigational servitude will not be invoked for this ecosystem restoration study. The sponsor's should engage and coordinate with the State of California Lands Commission which has jurisdiction over the bed of all state navigable waterways up to the high water mark. Acquiring a State Lands Commission lease will also trigger engagement with the CA Department of Fish and Wildlife which issues stream bed alteration agreements. The Non Federal Sponsor will be required to obtain both a State Lands Commission lease and a stream bed alteration agreement.

10. Project Maps







### 11. Anticipated Increased Flooding and Impacts

Project features would not affect the ability of the river to access high floodplain nor would it affect the hydrology of the watershed and therefore would not result in significant effects to this resource. Based on hydraulic modeling results, there will be no increased flooding from the proposed project.

### 12. Cost Estimate

The following is a preliminary analysis estimating the costs of acquiring the required LERRDs to support the USACE Tentatively Selected Plan to assist in the determination of federal interest for a cost benefit analysis. The format and level of investigation of this cost estimate is considered to be consistent with, and meet the intent of, the Real Estate Policy Guidance Letter No. 31-Real Estate Support to Civil Works Planning Paradigm (3X3X3). This policy letter states that “For projects in which the value of real estate (lands, improvements, and severance damages) are not expected to exceed **ten percent** of total project costs (total cost to implement project), a cost estimate (**or rough order of magnitude**) will be acceptable for purposes of the feasibility phase.” The table below estimates the costs associated with acquiring real property interests necessary to construct, operate and maintain the proposed project. The date of the approved cost estimate was November 24, 2017.

Table 2 – Cost Table

TSP Features	Cost	Contingency	Total Costs Rounded
Code of Accounts 01	FEDERAL		
Fed RE Admin Account 01	\$475,000	\$25,000	\$500,000
01	NON FEDERAL		
Lands and damages Account 01	\$1,533,482	\$2,077,518	\$3,611,000
Non RE Fed Admin Account 01	\$2,180,250	\$114,750	\$2,295,000
		TOTAL LERRDS	\$6,406,000

### 13. Relocation Assistance Benefits.

The non-Federal sponsors must comply with the Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970, as amended, 42 U.S.C. 4601 *et seq.* (P.L. 91-646, “the Uniform Act”) and provide relocation assistance to qualifying residences and businesses within the project area that are displaced, as defined in the Uniform Act, as a consequence of USACE project implementation. Presently, no displacements are anticipated as a consequence of implementation of the Recommended Plan.

### 14. Mineral / Timber Activity.

There are six operating permitted gravel pits located near the project footprint. Only one appears to be impacted by the project – the Long Bar Property owned by Silica Resources, Inc. The Corps project only impacts the existing haul road on the Long Bar Property. There are 39 parcels that include mineral rights. 24 of these parcels will require severed mineral rights due to fee and permanent easements. The temporary work areas should not impact the mineral rights. All permanent easements and fee takes include a severance damages of 100% because the project leaves many uneconomic remnants. There has been a 50% incremental cost included to account for the severed mineral rights that includes willing seller restrictions, possible litigation for land owners, the value of marketable gravel is potentially high on some of the takings and unknown information of the potential value of residual gold and other valuable minerals that can be extracted from gold mining tailings. Non-federal acquisition costs were increased by 50% to account for severed mineral rights as well.

Research was completed on the regional market for sales and listing of existing gravel pits. Actual sales and offerings of properties whose primary use was for sand, gravel, or other mineral extractions were reviewed. Quantities and values of gravel material being extracted in the project area and surveys of gravel royalty values in the California



market were reviewed in an effort to estimate the present in place value of gravel. The royalty rates across the state of California range from .41 cents to \$1.14 per ton. The project area is a former gold field therefore a higher royalty value should apply to the subject area. \$1.25 per ton royalty was used for this cost estimate. The California Office of Mine Reclamation inspection reports were reviewed of the nearby operating gravel pits to the project footprint. The inspection reports estimate the annual production in tons and projected production period in years. Higher discount rates applied to mineral bearing property due to risks in estimated quality and quantity estimates, commodity price changes, regulatory compliance issues, and relatively long production periods. Suggested discount rates applied to royalty and ranges from 10-15%. A lower rate usually applies to a passive interest with little or no capital outlays. Based on the cost estimate presented by the Corps on 21 November 2017 a discount rate of 12% was applied. The acre value of gravel pits was calculated using the royalty rate information, the discount rate, the annual production and production term. Based on land listings and local sales, a range of values for gravel pit properties was between \$21,477 and \$64,000 per acre. Based on the mineral interest data a value of \$35,000 per acre is indicated for operation and potential gravel pit properties that are impacted by the project.

There is no timber harvesting in the project footprint.

15. Non-Federal Sponsor's Ability to Acquire.

The non-Federal sponsors have capability and resources for acquiring real estate for this project as indicated by their assessment shown in Exhibit A.

16. Zoning Anticipated in Lieu of Acquisition.

There is no zoning in lieu of acquisition planned in connection with the project.

7. Acquisition Schedule.

The non-Federal sponsors will be directed to begin real property acquisition for the project only after the PPA is fully executed. A risk letter was sent from the Corps to the Yuba County Water District alerting them to the risks associated with purchasing project lands in advance of the PPA execution in November 2017. The construction contracts extend out four years.

REAL ESTATE ACQUISITION SCHEDULE				
Project Name: Yuba River Ecosystem Restoration Study Contracts	COE Start	COE Finish	NFS Start	NFS Finish
Receipt of preliminary drawings from Engineering/PM	07/2017	11/2017		
Receipt of final drawings from Engineering/PM	11/2017	02/2019		
Execution of PPA/Finalize Chief's Report	July 2019			
PED Nov 2019 – Nov 2022 Formal transmittal of final drawings & instruction to acquire LERRDS	2019	2022	2019	2022
<b>Years for Construction Sequence and Duration</b>				
<b>Year 1</b>	05/2021			
<b>Year 2</b>	05/2022			
<b>Year 3</b>	05/2023			
<b>Year 4</b>	05/2024			
Conduct Landowner Meetings			2019	2022
Prepare/review mapping & legal descriptions			2019	2022
Obtain/review title evidence			2019	2022
Obtain/review tract appraisals			2019	2022
Conduct negotiations			2019	2022
Certify all necessary LERRDS are available for construction			2019	2022
Prepare and submit credit requests			2022	2026
Review/approve or deny credit requests	2022	2026		

18. Description of Facility and Utility Relocations.

There are no utility facility relocations required for this project.

19. Hazardous, Toxic, and Radiological Waste (HTRW).

A Phase I Environmental Site Assessment was performed in conformance with the scope and limitations of ASTM Practice E 1527-13 for the Yuba River Ecosystem Restoration by the Environmental Design Section. This assessment has revealed no Recognized Environmental Conditions in connection with the project site.

No Recognized Environmental Conditions were observed on the Yuba River Ecosystem Restoration project boundaries. All of the adjacent properties appeared well maintained and clean during the site visit. The material threat of any hazardous substances release is very small. The records research report and site visit indicates that there are no Recognized Environmental Conditions within or adjacent to the proposed restoration property.

19. Attitude of Landowners

Residents at the public meetings held in 2016 were mostly supportive of the goals of the project.

EXHIBIT A

ASSESSMENT OF NON-FEDERAL SPONSOR'S REAL ESTATE ACQUISITION  
CAPABILITY  
YUBA RIVER ECOSYSTEM FEASIBILITY STUDY

SPONSOR: Yuba County Water Agency

I. Legal Authority:

a. Does the sponsor have legal authority to acquire and hold title to real property for project Purposes?

Yes. Yuba County Water Agency was formed and exists under the Yuba County Water Agency Act (West Water Code Appendix chapter 84). Section 3.5 of the Act authorizes the Agency to acquire, hold, and use real property for Agency purposes, which includes purposes relating to the Yuba River Ecosystem Feasibility Study and related restoration projects.

b. Does the sponsor have the power of eminent domain for this project?

Yes. See section 3.4 of the Yuba County Water Agency Act and the California Eminent Domain Law at California Code of Civil Procedure sections 1230.010 - 1273.050.

c. Does the sponsor have "quick-take" authority for this project?

By "quick-take," the Agency assumes that the Corps means an eminent domain process by which the government takes possession of the condemned land before the final adjudication of compensation. Yes, the California Eminent Domain Law authorizes the condemning agency to request the court to approve an order for possession of the subject property (prior to final judgment) upon demonstrating a right to take and payment of a just compensation deposit. If the court approves the order for possession, the condemning agency may take possession of the property during the pendency of the eminent domain lawsuit and the final compensation to be paid to the landowner will be determined in subsequent court proceedings.

d. Are any of the lands/interests in land required for the project located outside the sponsor's Political boundary?

No. The proposed ecosystem restoration projects are located within the Yuba County portion of the Yuba River watershed, which is within the Agency's jurisdictional boundaries.

e. Are any of the lands/interests in land required for the project owned by an entity whose property the sponsor cannot condemn?

No. The Agency lacks the authority to condemn real property owned by the federal government, but we are not aware of any federally owned land within the area of the proposed ecosystem restoration projects.

## II. Human Resource Requirements:

a. Will the sponsor's in-house staff require training to become familiar with the real estate? Requirements of Federal projects including P.L. 91-646, as amended?

At this time, the Agency does not believe that it will need to undertake any staff training. If any of the real property acquisition for the project requires relocation assistance, then the Agency likely would retain a relocation consultant to advise regarding compliance with the federal requirements.

b. If the answer to a. is "yes," has a reasonable plan been developed to provide such training?

Not applicable.

c. Does the sponsor's in-house staff have sufficient real estate acquisition experience to meet its responsibilities for the project?

Yes. However, the Agency in-house staff would be assisted by its general counsel (which is retained through a services agreement with a law firm) and a local title company. The Agency also may retain as needed a surveyor, appraiser, or right-of-way consultant.

d. Is the sponsor's project in-house staffing level sufficient considering its other workload, if any, and the project schedule?

Yes.

e. Can the sponsor obtain contractor support, if required, in a timely fashion?

Yes. The Agency is a small government agency with the ability to quickly approve consultant and contractor agreements as needed from time to time and the Agency General Manager has broad contracting authority.

f. Will the sponsor likely request USACE assistance in acquiring real estate?

No. At this time, the Agency does not plan on requesting such assistance.

## III. Other Project Variables:

a. Will the sponsor's staff be located within reasonable proximity to the project site?

Yes. The Agency administrative staff are located in Marysville, California, which is close to the proposed ecosystem restoration project areas.

b. Has the sponsor approved the project real estate schedule/milestones?

Sponsor will review real estate and milestone schedule after DQC and legal reviews are complete.

#### IV. Overall Assessment:

a. Has the sponsor performed satisfactorily on other USACE projects?

Yes. To the best of the Agency's knowledge, it has performed satisfactorily on other USACE projects and it is not aware of any complaints or concerns from the USACE.

b. With regard to this project, the sponsor is anticipated to be:

Fully capable of meeting legal and land acquisition requirements for this project.

#### V. Coordination:

a. Has this assessment been coordinated with the sponsor?

Yes. This assessment has been reviewed with and approved by the sponsor.

b. Does the sponsor concur with this assessment?

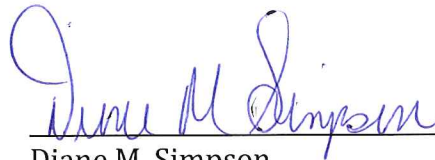
Yes.

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