

**MEETING OF THE CENTRAL VALLEY FLOOD PROTECTION BOARD  
FEBRUARY 24, 2012  
STAFF REPORT  
YUBA RIVER BASIN PROJECT GRR  
RECOMMEND SELECTING THE NATIONAL ECONOMIC DEVELOPMENT PLAN AS  
THE TENTATIVELY SELECTED PLAN**

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**1.0 - ITEM**

Consider approval of Resolution No. 2012-02 (See Attachment A) to:

- 1.1 Approve submitting a letter to the U.S. Army Corps of Engineers requesting the National Economic Development Plan be selected as the Tentatively Selected Plan for the Yuba River Basin Project General Reevaluation Report in substantially the form attached.
- 1.2 Delegate to the Board Executive Officer the Authority to execute the letter in substantially the form attached.

**2.0 - PROJECT SPONSORS**

Federal: U.S. Army Corps of Engineers, Sacramento District  
State: Central Valley Flood Protection Board  
Local: Yuba County Water Agency

**3.0 - LOCATION**

The Yuba River Basin Project General Reevaluation Report's (GRR) study area is located in the Yuba County along the Yuba, Feather, and Bear Rivers, and Western Pacific Interceptor Canal (See Attachment D). The Marysville Ring Levee Project is a separate element of the Three Rivers Levee Improvement Authority Project and is located North-East of the Yuba and Feather River's confluence.

**4.0 - BACKGROUND**

The GRR will address levee deficiencies and improvements along the Yuba, Feather, and Bear Rivers, and Western Pacific Interceptor Canal. The improvements are needed to reduce flood risk to the communities of Marysville, Linda, Olivehurst, Arboga, and surrounding area from a flood having 1 in 200 chance of occurring in any given year. The GRR is being prepared by the U.S. Army Corps of Engineers (USACE) and the non-federal sponsors, the Central Valley Flood Protection Board (Board) and the Yuba County Water Agency (YCWA).

The GRR is an evaluation of what USACE would have constructed. The GRR describes the authorized project and presents the alternative plan that maximizes federal interest, the National Economic Development Plan (NED).

The Locally Preferred Plan (LPP) was initially selected as the Tentatively Selected Plan because USACE Sacramento District and non-federal sponsors felt that the LPP met the requirements to achieve a favorable benefit to cost ratio to show federal interest. The LPP consist of all the advance construction completed by the non-federal sponsors. However, LPP was not supported by the Assistant Secretary of the Army (Civil Works) (ASA) and USACE Division and HQ because of a policy issue. The policy issue is that the County of Yuba approved the Plumas Lake construction development in 1993 and ASA believes that this construction was performed with the knowledge that it was within the designated floodplain. The ASA believes that the LPP's favorable benefit to cost evaluation was primarily due to this development being at risk within the floodplain and increased risk resulting from the assessment of the condition of the levees prior to 2003. The ASA believes that federal policy precludes the consideration of structures constructed in the designated floodplain in the benefit to cost evaluation for justifying flood protection projects.

The lack of support by ASA for LPP necessitated selection of NED as the Tentatively Selected Plan for the GRR. The NED is supported by the non-federal sponsors and provides federal credit from the advanced construction to complete the Marysville Ring Levee Project. The difference in the federal credit (\$63 million) between LPP and NED will be requested in the next Water Resources Development Act. This action will be possible by including an Integral Determination Report in the Chief's Report.

#### **5.0 - AUTHORIZATIONS:**

Federal: Energy and Water Development Appropriation Act of 1998 (Public Law 105-62)  
Section 101(a)(10) of Water Resources Development Act of 1999 (Public Law 106-053) as modified by Section 3041 of the Water Resources Development Act of 2007 (Public Law 110-114)

State: California Water Code Sections 8615, 12616, and 12670.7

#### **6.0 - STAFF RECOMMENDATION:**

Staff recommends that the Board approve the decision to submit a letter to USACE requesting NED be selected as the Tentatively Selected Plan for GRR and Delegate to the Board Executive Officer the Authority to execute this letter. This recommendation is also supported by the local agencies, Yuba County Water Agency and Marysville Levee Commission, and ASA has indicated their support for this approach through USACE District and Division staff.

Your support will ensure:

1. Prompt ASA and USACE policy review approvals without further delays;

2. Meeting the immediate needs of the non-federal sponsors, by providing federal credit from the advanced construction to complete the Marysville Ring Levee Project and minimize the funds required by the non-federal sponsors;
3. The upgraded flood protection system is part of USACE's authorized project so that future flood damage repairs (or repairs due to new standards) are federally cost-shared; and
4. Completion of GRR around December 2012.

**7.0 - LIST OF ATTACHMENTS:**

- A. Board Resolution No. 12-02
- B. Yuba River Basin Project GRR Pursuit of NED Letter
- C. YCWA Pursuit of NED Letter
- D. Location Map
- E. Power Point Presentation

STATE OF CALIFORNIA  
THE NATURAL RESOURCES AGENCY  
CENTRAL VALLEY FLOOD PROTECTION BOARD

RESOLUTION NO. 2012-02

YUBA RIVER BASIN, CALIFORNIA, PROJECT  
APPROVE NATIONAL ECONOMIC DEVELOPMENT PLAN SELECTION

WHEREAS, on June 13, 2000, The Reclamation Board, predecessor of the Central Valley Flood Protection Board (Board) and the U. S. Army Corps of Engineers (USACE) executed a Design Agreement for the preconstruction engineering and design of the Yuba River Basin, California, Project (Project); and

WHEREAS, the construction of the Yuba River Basin, California, Project for flood risk management (Authorized Project) at Yuba County, California, was authorized by the federal government through Section 101(a)(10) of the Water Resources Development Act of 1999 (Public Law 106-53) as modified by Section 3041 of the Water Resources Development Act of 2007 (Public Law 110-114); and

WHEREAS, the Board and the Yuba County Water agency (YCWA) desire to select the National Economic Development Plan (NED) as the Tentatively Selected Plan (TSP) in the Alternative Formulation Briefing (AFB); and

WHEREAS, the selection of the NED will secure the Assistant Secretary of the Army's (Civil Works) support of the GRR to enable USACE to issue a Chief's Report that will allow Congress to reauthorize the Project; and

WHEREAS, reauthorization of the Project will secure enough credit to complete the Marysville ring levee and will provide that the upgraded flood protection system is part of USACE's authorized project so that future flood damage repairs (or repairs due to new standards) are federally cost-shared; and

WHEREAS, the Board has the power and authority, under the terms of Design Agreement, to approve the selection of the NED.

NOW, THEREFORE, LET IT BE RESOLVED that the Central Valley Flood Protection Board:

- 1) Approve submitting a letter to the US Army Corps of Engineers requesting the National Economic Development Plan be selected as the Tentatively Selected Plan for the Yuba River Basin Project General Reevaluation Report in substantially the form attached hereto.
- 2) Delegate to the Board Executive Officer the Authority to execute the letter in substantially the form attached hereto.

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Benjamin F. Carter  
President

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Board Secretary

Approved as to Legal Form and Sufficiency

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Jeremy D. Goldberg  
Legal Counsel  
State of California, Department of Water Resources

**CENTRAL VALLEY FLOOD PROTECTION BOARD**

3310 El Camino Ave., Rm. 151  
SACRAMENTO, CA 95821  
(916) 574-0609 FAX: (916) 574-0682  
PERMITS: (916) 574-2380 FAX: (916) 574-0682



February 24, 2012

Colonel William J. Leady  
District Engineer  
Sacramento District  
U.S. Army Corps of Engineers  
1325 J Street  
Sacramento, California 95814-2922

Dear Colonel Leady:

The Central Valley Flood Protection Board (BOARD) requests the U.S. Army Corps of Engineers (USACE) to select the National Economic Development Plan (NED) as the Tentatively Selected Plan for the Yuba River Basin Project General Reevaluation Report (GRR). This recommendation is also supported by the local sponsor, Yuba County Water Agency.

The selection of the NED will ensure:

1. The Assistant Secretary of the Army (Civil Works) and USACE support on policy reviews for GRR;
2. Meeting the immediate needs of the non-federal sponsors, by providing federal credit from the advanced construction to complete the Marysville Ring Levee Project and minimize the funds required by the non-federal sponsors;
3. The upgraded flood protection system is part of USACE's authorized project so that future flood damage repairs (or repairs due to new standards) are federally cost-shared; and
4. Completion of the GRR in December 2012.

Colonel William J. Leady  
February 24, 2012  
Page 2 of 3

Attachment B

If you have any questions, please contact Len Marino, the BOARD's Chief Engineer at (916) 574-0608, or your staff may contact Robert Scarborough, DWR's Senior Engineer at (916) 574-1422.

Sincerely,

Jay S. Punia  
Chief Executive Officer

Attachment: Yuba County Water Agency's NED support letter.  
Yuba County Water Agency's Update letter.

cc: (Please see attached list of cc's)

Colonel William J. Leady  
February 24, 2012  
Page 2 of 3

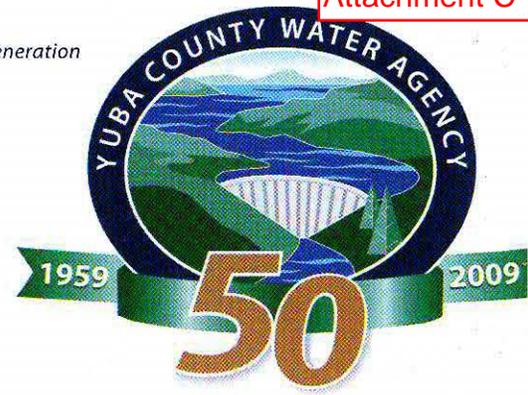
Attachment B

cc: Curt Aikens, General Manager  
Yuba County Water Agency  
1220 F Street  
Marysville, California 95901

Patrick Ajuria  
Marysville Levee District  
P.O. Box 150  
Marysville, California 95901

Ric Reinhardt, Principal  
MBK Engineers  
1771 Tribute Road, Suite A  
Sacramento, California 95815

Len Marino, CVFPB  
Michael Sabbaghian, DWR  
David Wright, DWR  
Robert Scarborough, DWR  
Kent Zenobia, DWR



December 27, 2011

Jay Punia, Executive Officer  
Central Valley Flood Protection Board  
3310 E1 Camino Ave., Room 151  
Sacramento, CA 95821

**Subject: Local Support for Pursuit of the National Economic Development (NED) Plan  
in the Yuba River Basin, California General Reevaluation Report (GRR)**

Dear Mr. Punia:

This letter is submitted by the Yuba County Water Agency (YCWA) to memorialize local support for pursuing the National Economic Development (NED) Plan in the Corps of Engineers Yuba River Basin, California project general reevaluation report (GRR). YCWA has been working closely with Board staff and the Corps Sacramento District to finalize the GRR with the Locally Preferred Plan (LPP) as the tentatively selected plan to secure federal credit for all advance construction completed in RD 784 by the State and local interests. Due to federal law and Corps policy, the NED plan excludes portions of the LPP that have already been constructed and would result in approximately \$63 million less credit in the authorized project.

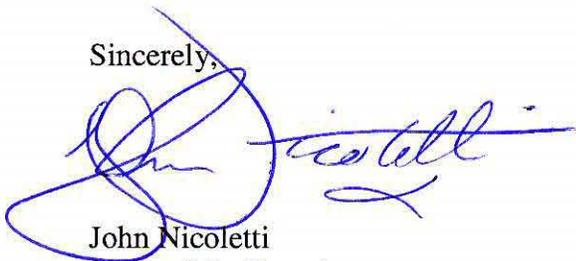
As detailed in the attached project update paper, and despite the loss of potential credit, YCWA supports the NED plan to achieve our objective of securing credit as quickly as possible for the non-Federal share of construction in the Marysville Ring Levee, a separable element of the project. This support is the result of careful consideration of the following points:

- The Corps NED recommendation provides the quickest path for the GRR's completion.. Following the LPP path would delay the GRR's completion because of its increased complexity, uncertainty over whether the ASA(CW) would recommend the LPP, and also grant the necessary waivers for it. Finally, there is additional uncertainty over future federal funding that could further complicate the GRR's completion.
- A delayed GRR would mean that any non-Federal construction costs on the Marysville repairs would have to be borne by the non-Federal sponsors with little likelihood of reimbursement. The other option would be to delay the project until credit is available which is very undesirable from a public safety perspective.

- To realize any amount of credit above the non-Federal share for Marysville or future work on the RD 784 or Marysville levees would require legislation. Obtaining this legislation is very uncertain, especially considering the federal budget situation.
- There is the option of moving forward with completing the GRR with the NED plan to obtain credit for the non-Federal share of Marysville and then seeking legislation to make the amount of credit available under the LPP available for other uses for the state and locals. This path makes some sense since legislation is required anyway to make credit available for work beyond RD 784 and Marysville. However it is unknown how successful this approach would be.

If you have any questions in this regard, please contact Curt Aikens at 530.741.6278 x 115.

Sincerely,



John Nicoletti  
Chair of the Board  
Yuba County Water Agency

Attachment

Cc: Noel Lerner, Department of Water Resources  
Michael Sabbaghian, Department of Water Resources  
Brandon Muncy, USACE Sacramento District  
Mark Ellis, USACE Sacramento District

# Yuba River Basin Project Update

December 8, 2011

## Summary:

The U.S. Army Corps of Engineers is prepared to make several significant decisions on the General Reevaluation Report (GRR) for the Yuba River Basin Project, including whether the State and local interests are eligible for advanced credit to cover their share of costs for repairs to the Marysville Ring Levee. The issues underlying these decisions are complicated and made more difficult by the fact that the Corps rarely has to consider similar issues. This memorandum summarizes the implications of these decisions by the Corps.

## Non-Federal Interests:

The State, Marysville Levee District and YCWA all share interests with the Yuba River Basin Project, although there are subtle differences. The State for example, has established a goal for the FloodSAFE program to maximize investment in the flood control system by leveraging as much of the advanced construction funding as possible toward the non-Federal share of future Federal investments. This has resulted in the State being more aggressive on this project because of the precedent it will set for achieving their goal. For Marysville and YCWA, our interests are more immediate in terms of completion of repairs to the Marysville Ring Levee (MRL) and securing the credit needed to minimize our expenditures on this project. For the longer term, YCWA's interests include the following:

1. Complete RD 784 and Marysville levee improvements as-quickly-as possible for public safety with the first priority of meeting the 100-year level of protection and the second priority of meeting the 200-year LOP.
2. Obtain enough credit as-quickly-as possible to minimize local expenditures on the project.
3. Secure a Congressional authorization for all of RD 784 so the authorized level of protection increases from the 1957 design profile to the 200 year. This will ensure the upgraded flood protection system is part of the Corps authorized project so that future flood damage repairs (or repairs due to new standards) are federally cost-shared.
4. Obtain enough credit to cover additional repairs that may be needed for future flood damage repairs and/or changes in levee standards so that local funds are minimized.
5. If the State is successful in obtaining legislation that makes credit transferrable, retain enough credit for additional projects in Yuba County. This could include credit for levee improvements in the rural areas and Wheatland, and other projects that may have a relationship to YCWA's facilities

### **The General Reevaluation Report:**

In the General Reevaluation Report (GRR), the Corps is evaluating “what” the Federal interest would have been if the non-federal interests had not constructed it in advance. The GRR will recommend a plan; the general procedure is to select the alternative that maximizes net incremental benefits achieved as reaches of construction are added and confirms that the project has a benefit to cost ratio of greater than 1. The Corps currently has a Preliminary Draft report that shows the National Economic Development plan would include all of the advance construction except the Bear River and Feather River below the setback levee. This plan shows that the benefits are maximized by constructing the NED reaches and flatten out when the Bear and lower Feather increments are added.

Alternatively, the Locally Preferred Plan (LPP) includes all of the advanced construction and provides a benefit to cost ratio greater than 1; however, the incremental benefits of the Bear and lower Feather reaches do not incrementally increase the benefits of the project. This is the result of the application of Section 308 as described below.

Section 308 of WRDA 1990 sets forth a Congressional policy that when determining the benefit to cost ratio for a flood damage reduction project, the Corps is not authorized to consider the benefits achieved from protecting structures which have been constructed in the 100-year floodplain. For the GRR, the Corps made a determination that any structures built in Plumas Lake after December 2004 could not be considered in the projects’ benefit calculations. As a result, only 1,000 of the new homes built in Plumas Lake could be included in the benefit calculations. Today, there are over 3,000 homes in Plumas Lake.

The State and YCWA worked with the Sacramento District to help justify the LPP over the NED based on factors of residual risk and system completeness. The District recommended the LPP as the Tentatively Selected Plan (TSP) in the January 2011 AFB milestone report. In strict compliance with Section 308, however, the Corps (South Pacific Division, Headquarters, and ASA (CW)) has said they will not support a plan that promotes floodplain development, as they believe this project does.

The GRR is currently undergoing revisions to address recommending the NED plan instead of the LPP and also to develop an integral determination report (see credit discussion below). The schedule currently shows the revised document to go to Division in January 2012 and be approved for public release in March 2012. It would then go through various policy reviews and become a Chief’s Report ready for Congressional approval within 6-9 months after public review (October – December 2012). Congressional authorization could then occur in the next Water Resources Development Act legislation.

**Crediting:**

NED vs. LPP - The non-Federal sponsors have completed over \$400 million of advanced construction in RD 784. To date, over \$203.8 million in Section 104 credit has been applied for and approved (pre-eligibility). These credits however can't be used until the GRR is completed and/or the work is determined to be compatible and/or integral to the authorized plan. Additionally, the Upper Yuba Levee Improvement Project is nearing completion and could result in an additional \$27 million of construction eligible for credit (this work was previously denied due to new Corps policy changes). If the LPP were the authorized plan, all of this credit, \$203.8 million, would be available. However, the NED plan would eliminate \$62.7 million of approved credit for the Bear and lower Feather River reaches<sup>1</sup> resulting in eligible credit of \$141.1 million.

Advancing Credit for Marysville - The Sacramento District has formulated a plan that would allow credit to be released prior to GRR approval to be used for Marysville. This plan includes an Integral Determination Report (IDR) as an appendix to the GRR that could be broken out and approved separately from the GRR. The IDR would provide details showing that work completed on the Yuba River and Upper Feather River is integral to the 1999 authorized project. In other words, these reaches have not changed since the previous authorization and the work completed was previously authorized. This would allow enough credit to cover the total estimated non-Federal share (\$23 million) of Marysville. This report would be included in the GRR and could be broken out prior to submittal of the GRR to Congress. Approval of enough credit to fund the non-Federal share of Marysville under this approach would not require Congressional authorization. However it would require regular appropriations from Congress.

**Conclusion:**

The Corps recommendation for the GRR is now the best available option for the non-Federal sponsors. By resolving all of the controversial issues, it sets the GRR on a relatively clear and final path for approval. There is a tradeoff however for the non-Federal sponsors. Accepting the GRR now, while it will start the process for the release of credits applicable to Marysville, it also recommends the NED, which does not meet all of YCWA's or the State's interest in other areas. For example, approval of the GRR would require the non-Federal interests to seek new law authorizing the LPP or a larger plan than the NED in order to have a complete Federal endorsement of all the advanced construction in RD 784. We would also need to seek Congressional approval for use of the outstanding credits in other areas outside of the Marysville repairs. Right now, only \$24 million in credits would be eligible for application toward the non-Federal share of costs for repairs to the MRL.

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<sup>1</sup> Approved amount and actual expenditures vary. Final amount would be determined through detailed Federal audit of work completed.

The Corps recommendation for the GRR is now the best available option for the non-Federal sponsors for the following reasons.

- The Corps NED recommendation provides the quickest path for completion of the GRR. Following the LPP path delays completion of the GRR because of its increased complexity, uncertainty as to whether the ASA will be willing to recommend the project and grant the necessary waivers and there is uncertainty in future funding that could put completing the GRR at further risk.
- A delayed GRR would mean that any non-Federal construction costs on the Marysville repairs would have to be borne by the non-Federal sponsors with little likelihood of reimbursement. The other option would be to delay the project until credit is available which is very undesirable from a public safety perspective.
- To realize any amount of credit above the non-Federal share for Marysville or future work on the RD 784 or Marysville levees would require legislation. Obtaining this legislation is very uncertain, especially considering the federal budget situation.
- There is the option of moving forward with completing the GRR with the NED plan to obtain credit for the non-Federal share of Marysville and then seeking legislation to make the amount of credit available under the LPP available for other uses for the state and locals. This path makes some sense since legislation is required anyway to make credit available for work beyond RD 784 and Marysville. However it is unknown how successful this approach would be.

#### **Summary of Pros and Cons:**

The proposed action is to support the Corps recommendation to expedite making credits available for completion of the Marysville levee improvements by completing the GRR using the National Economic Development (NED) plan instead of a Locally Preferred (LPP) plan.

#### **Cons:**

- Shifting from the LPP to the NED makes \$63 million of non-Federal credit ineligible that would otherwise be eligible under the LPP. This reduces the eligible credit from \$204 million to \$141 million. Note that the credit is shared 70% federal and 30% nonfederal. For the \$141 million this breaks down into about \$42 million local credit and \$99 million state credit.

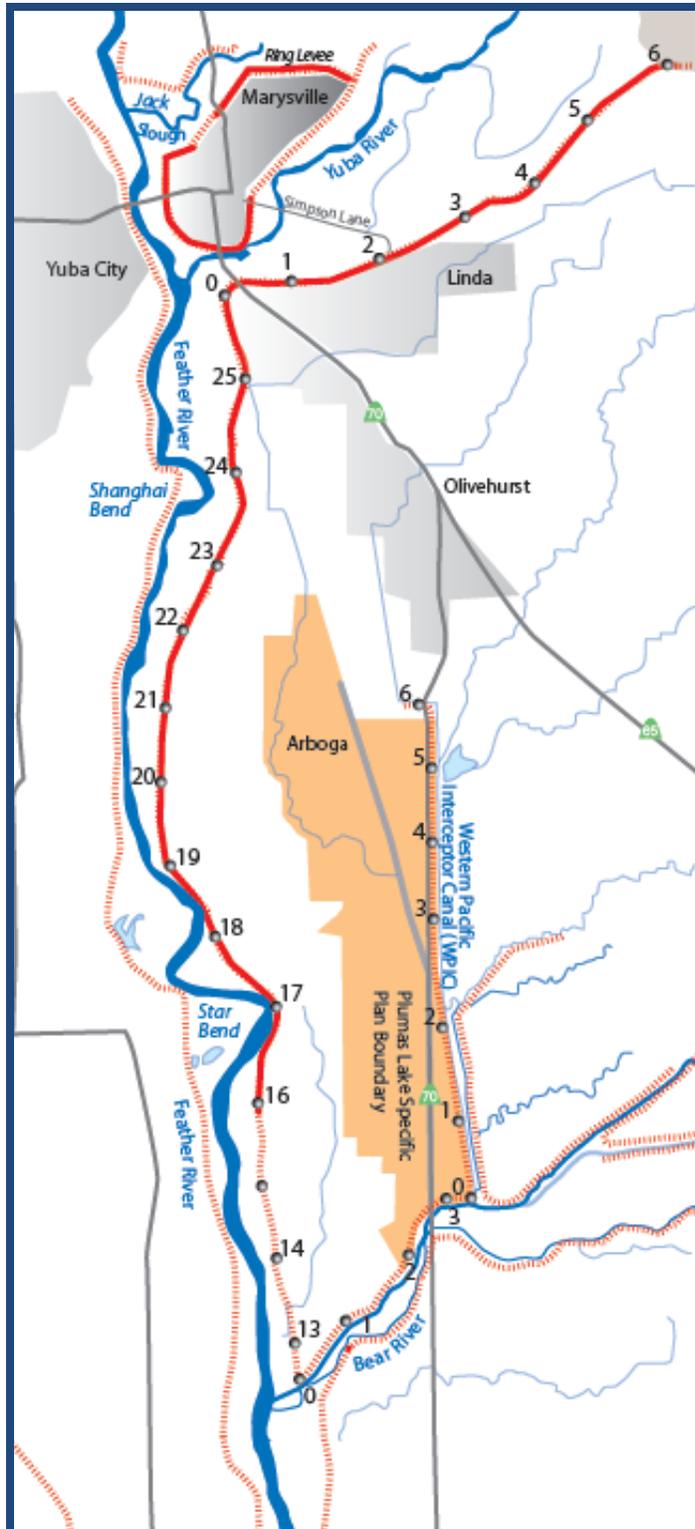
#### **Pros:**

- Supporting the Corps recommendation to move forward with the NED plan will be the quickest and most certain path forward completing the GRR and obtaining credit. Going forward with the LPP could delay the GRR by a year or more and may

result in a GRR that uses the NED instead of the LPP.

- The non-Federal sponsors must pay for any study or construction work going forward until credits are made available to pay the non-Federal share. When the Section 103 payment deferral expired earlier this year the non-Federal sponsors had to pay about \$5 million for work being performed (Marysville Phase 1). Either the non-Federal share is paid or Corps work stops.
- To complete the Marysville levee improvements about \$23 million in credit is needed to pay the non-Federal share (\$6 million local and \$17 million state). Any excess credit can only be used within the scope of the Yuba Basin Study footprint. Any use of credit outside this scope would require congressional authorization. Thus on a local basis there is about \$38 million of excess credit (\$42 minus \$6 million) when going forward with the NED. If the LPP was approved the local credit would be approximately \$18 million higher or \$56 million. Making any of this credit actually useful outside the Yuba Basin project scope however is unlikely given the need for congressional approval (consider the 20 plus years it has taken to Yuba Basin Feasibility Study and GRR to move into construction).

# YUBA RIVER BASIN PROJECT GRR LOCATION MAP



The Yuba River Basin Project General Reevaluation Report's study area is located in the Yuba County along the Yuba, Feather, and Bear Rivers, and Western Pacific Interceptor Canal. The Marysville Ring Levee Project is a separate element of the Three Rivers Levee Improvement Authority Project and is located North-East of the Yuba and Feather River's confluence.





# Central Valley Flood Protection Board

## Yuba River Basin Project GRR

### Select National Development Plan (NED) as the Tentatively Selected Plan (TSP)

**Agenda Item 11-B: Resolution No. 2012-02**  
**February 24, 2012**



**US Army Corps  
of Engineers**





# Item

**Consider approval of Resolution No. 2012-02 to:**

- **Approve submitting a letter to U.S. Army Corps of Engineers (USACE) requesting NED be selected as TSP for the Yuba River Basin Project General Revaluation Report (GRR) in substantially the form attached.**
- **Delegate to the Board Executive Officer the Authority to execute the letter in substantially the form attached.**



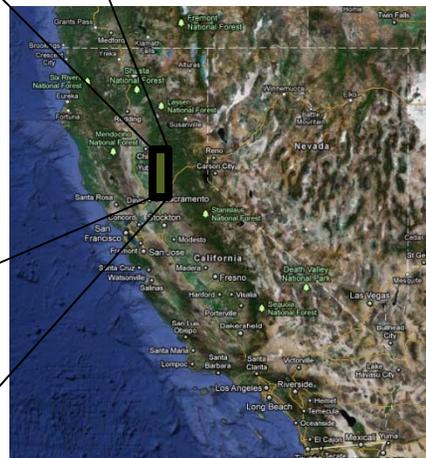
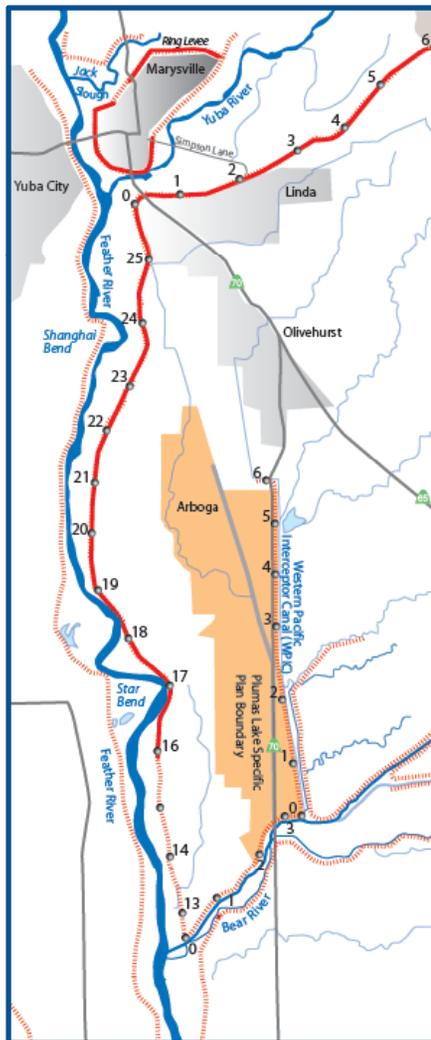
# Project Sponsors

- **U.S. Army Corps of Engineers (USACE)**
- **Central Valley Flood Protection Board (Board)**
- **Yuba County Water Agency (YCWA)**



# Location

**The Yuba River Basin Project GRR's study area is located in the Yuba County along the Yuba, Feather, and Bear Rivers, and Western Pacific Interceptor Canal. The Marysville Ring Levee Project (MRL) is located North-East of the Yuba and Feather River's confluence.**





# Background

- **Non-federal sponsors initially directed USAACE Sacramento District to develop the Locally Preferred (LPP) plan as TSP because it maximized the federal credit from the non-federal sponsor's advanced construction. However, the LPP was not supported by the Assistant Secretary of the Army (Civil Works) (ASA).**
- **By pursuing a NED that reflects ASA's policy recommendations, this action will lead to obtaining prompt ASA approval on securing federal credit for the non-federal's sponsors cost-share for construction of MRL.**
- **GRR will be completed in December 2012.**



# Staff Recommendation

- **Approve submitting a letter to USACE requesting NED be selected as TSP for the Yuba River Basin Project GRR in substantially the form attached.**
- **Delegate to the Board Executive Officer the Authority to execute the letter in substantially the form attached.**



# Questions