

**Meeting of the Central Valley Flood Protection Board
September 23, 2011**

Staff Report – Encroachment Permit

Stan Pope

Existing Landside Levee Stairs, Sacramento County

1.0 – ITEM

Consider approval of Permit No. 18471 to authorize existing wood stairs and gate on the landside slope of the left (east) bank levee of the Sacramento River. (Attachment B)

2.0 – APPLICANT

Stan Pope

3.0 – LOCATION

The project is located in the town of Courtland at 11864 Washington Avenue. (Sacramento River, Sacramento County, see Attachment A)

4.0 – DESCRIPTION

To authorize the existing 3- by 52-foot wood stairs and gate on the landside slope on the waterside slope of the left (east) bank levee of the Sacramento River.

5.0 – PROJECT ANALYSIS

In addition to the landside levee stairs the original description for Application No. 18471 included a request to authorize a 6- by 30-foot floating dock supported by two 12-inch-diameter pilings attached to a gangway, wood steps, and landing on the waterside slope; and a 8- by 12-foot wood deck on the waterside slope of the left (east) bank levee of the Sacramento River. On October 15, 2009, prior to being agenized for the next available Board meeting, staff received the Corps' comment letter for Application No. 18471. The Corps' letter recommended denial of all but the wood stairs and gate on the landside levee slope. As a result the application did not move forward in the

permitting process. Mr. Pope has since removed all of the encroachments that were denied by the Corps with the exception of the 6- by 30-foot floating dock supported by two 12-inch-diameter pilings attached to a gangway. During staff review it was discovered that an encroachment permit had been issued on March 24, 1999 (Permit No. 16966) for the existing boat dock, pilings, and gangway. The Corps of Engineers issued a “no objections” recommendation letter for the boat dock, pilings, and gangway on March 25, 1999. The Corps was notified of the error with regard to the description for Permit Application No. 18471 and they have agreed to revise their recommendation letter accordingly.

The 3- by 52-foot wood stairs and gate on the landside levee slope conform to all pertinent standards in Section 137 of Title 23.

5.1 – Hydraulic Analysis

The existing stairs are located on the landside slope of the levee; therefore a hydraulic analysis is not applicable.

5.2 – Geotechnical Analysis

The scope of work for the proper installation of stairs on the landside slope of a levee does not require a geotechnical analysis.

6.0 – AGENCY COMMENTS AND ENDORSEMENTS

The comments and endorsements associated with this project, from all pertinent agencies are shown below:

- Reclamation District No. 551 endorsed this project on February 10, 2009 with conditions. The conditions will be incorporated into the permit as Exhibit A.
- The U.S. Army Corps of Engineers 208.10 comment letter has not yet been received for this application. Upon receipt of a favorable letter and review by Board staff the letter will be incorporated into the permit as Exhibit B.

7.0 – CEQA ANALYSIS

Board staff has prepared the following CEQA determination:

The Board, acting as the CEQA lead agency, has determined the project is categorically exempt in accordance with CEQA under a Class 1 Categorical Exemption (CEQA Guidelines Section 15301) covering existing structures.

8.0 – SECTION 8610.5 CONSIDERATIONS

1. Evidence that the Board admits into its record from any party, State or local public agency, or nongovernmental organization with expertise in flood or flood plain management:

The Board will make its decision based on the evidence in the permit application and attachments, this staff report, and any other evidence presented by any individual or group.

2. The best available science that related to the scientific issues presented by the executive officer, legal counsel, the Department or other parties that raise credible scientific issues.

The accepted industry standards for the work proposed under this permit as regulated by Title 23 have been applied to the review of this permit.

3. Effects of the decision on the entire State Plan of Flood Control:

The landside stairs will have not effects on the State Plan of Flood Control

4. Effects of reasonable projected future events, including, but not limited to, changes in hydrology, climate, and development within the applicable watershed:

Modifications to the levee due to changes in hydrology may require that the landside stairs be removed.

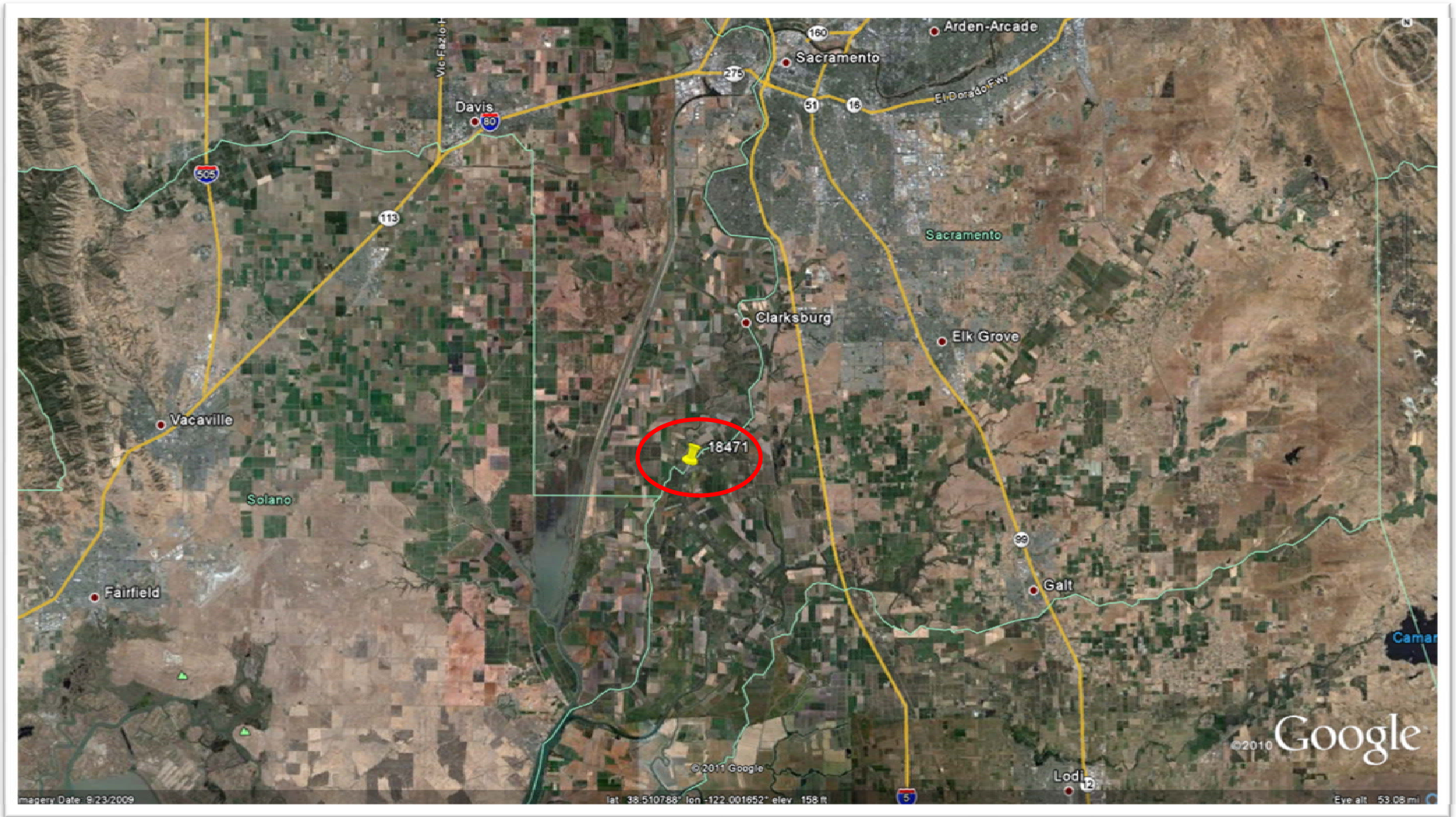
9.0 – STAFF RECOMMENDATION

Staff recommends that the Board determine the project to be exempt from CEQA, approve Permit No. 18471 and direct the Executive Officer to take necessary actions to execute the permit and to file a Notice of Exemption with the State Clearinghouse.

10.0 – LIST OF ATTACHMENTS

- A. Location Maps and Photos
- B. Draft Permit No. 18471
- C. Permit No 16966 that authorizes the boat dock, pilings, and gangway.

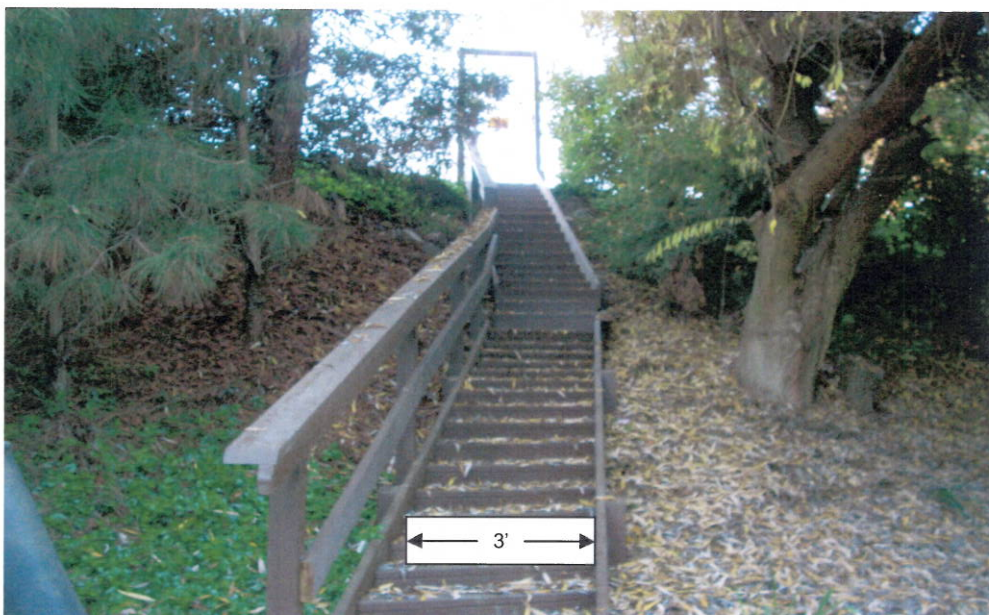
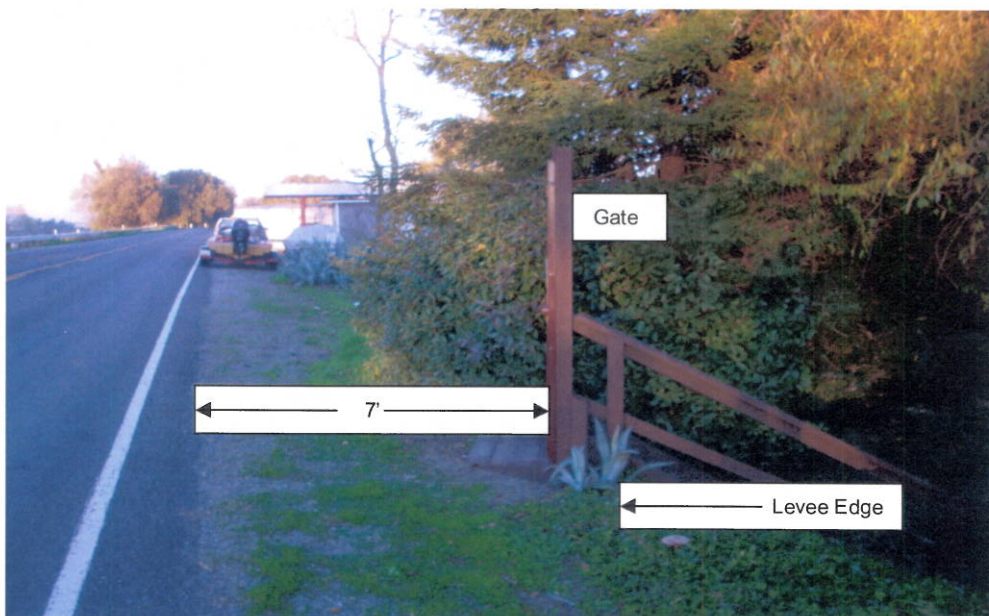
Design Review:	Gary W. Lemon P.E.
Environmental Review:	James Herota, Andrea Mauro
Document Review:	Mitra Emami P.E., Len Marino P.E.



Regional Map



Vicinity Map



Existing stairs on the land side levee slope

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

PERMIT NO. 18471 BD

This Permit is issued to:

Stan Pope
PO Box 78
Courtland, California 95615

To authorize the existing 3- by 52-foot wood stairs and gate on the landside slope of the left (east) bank levee of the Sacramento River. The project is located in Courtland at 11864 Washington Avenue (Section 32, T6N, R4E, MDB&M, Reclamation District 551, Sacramento River, Sacramento County).

NOTE: Special Conditions have been incorporated herein which may place limitations on and/or require modification of your proposed project as described above.

(SEAL)

Dated: _____

Executive Officer

GENERAL CONDITIONS:

ONE: This permit is issued under the provisions of Sections 8700 – 8723 of the Water Code.

TWO: Only work described in the subject application is authorized hereby.

THREE: This permit does not grant a right to use or construct works on land owned by the Sacramento and San Joaquin Drainage District or on any other land.

FOUR: The approved work shall be accomplished under the direction and supervision of the State Department of Water Resources, and the permittee shall conform to all requirements of the Department and The Central Valley Flood Protection Board.

FIVE: Unless the work herein contemplated shall have been commenced within one year after issuance of this permit, the Board reserves the right to change any conditions in this permit as may be consistent with current flood control standards and policies of The Central Valley Flood Protection Board.

SIX: This permit shall remain in effect until revoked. In the event any conditions in this permit are not complied with, it may be revoked on 15 days' notice.

SEVEN: It is understood and agreed to by the permittee that the start of any work under this permit shall constitute an acceptance of the conditions in this permit and an agreement to perform work in accordance therewith.

EIGHT: This permit does not establish any precedent with respect to any other application received by The Central Valley Flood Protection Board.

NINE: The permittee shall, when required by law, secure the written order or consent from all other public agencies having jurisdiction.

TEN: The permittee is responsible for all personal liability and property damage which may arise out of failure on the permittee's part to perform the obligations under this permit. If any claim of liability is made against the State of California, or any departments thereof, the United States of America, a local district or other maintaining agencies and the officers, agents or employees thereof, the permittee shall defend and shall hold each of them harmless from each claim.

ELEVEN: The permittee shall exercise reasonable care to operate and maintain any work authorized herein to preclude injury to or damage to any works necessary to any plan of flood control adopted by the Board or the Legislature, or interfere with the successful execution, functioning or operation of any plan of flood control adopted by the Board or the Legislature.

TWELVE: Should any of the work not conform to the conditions of this permit, the permittee, upon order of The Central Valley Flood Protection Board, shall in the manner prescribed by the Board be responsible for the cost and expense to remove, alter, relocate, or reconstruct all or any part of the work herein approved.

SPECIAL CONDITIONS FOR PERMIT NO. 18471 BD

THIRTEEN: All work approved by this permit shall be in accordance with the submitted drawings and specifications except as modified by special permit conditions herein. No further work, other than that approved by this permit, shall be done in the area without prior approval of the Central Valley Flood Protection Board.

FOURTEEN: The permittee is responsible for all liability associated with construction, operation, and maintenance of the permitted facilities and shall defend, indemnify, and hold the Central Valley Flood Protection Board and the State of California; including its agencies, departments, boards, commissions, and their respective officers, agents, employees, successors and assigns (collectively, the "State"), safe and harmless, of and from all claims and damages arising from the project undertaken pursuant to this permit, all to the extent allowed by law. The State expressly reserves the right to supplement or take over its defense, in its sole discretion.

FIFTEEN: The permittee shall defend, indemnify, and hold the Central Valley Flood Protection Board and the State of California, including its agencies, departments, boards, commissions, and their respective officers, agents, employees, successors and assigns (collectively, the "State"), safe and harmless, of and from all claims and damages related to the Central Valley Flood Protection Board's approval of this permit, including but not limited to claims filed pursuant to the California Environmental Quality Act. The State expressly reserves the right to supplement or take over its defense, in its sole discretion.

SIXTEEN: The Central Valley Flood Protection Board, Department of Water Resources, and Reclamation District No. 551 shall not be held liable for any damages to the permitted encroachment(s) resulting from flood fight, operation, maintenance, inspection, or emergency repair.

SEVENTEEN: The permittee shall maintain the permitted encroachment(s) and the project works within the utilized area in the manner required and as requested by the authorized representative of the Department of Water Resources or any other agency responsible for maintenance.

EIGHTEEN: The permitted encroachment(s) shall not interfere with operation and maintenance of the flood control project. If the permitted encroachment(s) are determined by any agency responsible for operation or maintenance of the flood control project to interfere, the permittee shall be required, at permittee's cost and expense, to modify or remove the permitted encroachment(s) under direction of the Central Valley Flood Protection Board or Department of Water Resources. If the permittee does not comply, the Central Valley Flood Protection Board may modify or remove the encroachment(s) at the permittee's expense.

NINETEEN: The permittee may be required, at permittee's cost and expense, to remove, alter, relocate, or reconstruct all or any part of the permitted encroachment(s) if removal, alteration, relocation, or reconstruction is necessary as part of or in conjunction with any present or future flood control plan or project or if damaged by any cause. If the permittee does not comply, the Central Valley Flood Protection Board may remove the encroachment(s) at the permittee's expense.


TWENTY: If the project, or any portion thereof, is to be abandoned in the future, the permittee or successor shall abandon the project under direction of the Central Valley Flood Protection Board and Department of Water Resources, at the permittee's or successor's cost and expense.

TWENTY-ONE: The permittee shall comply with all conditions set forth by Reclamation District No. 551 which are attached to this permit as Exhibit A.

TWENTY-TWO: The permittee shall comply with all conditions set forth in the letter from the Department of the Army dated August xx, 2011, which is attached to this permit as Exhibit B and is incorporated by reference.

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RECLAMATION DISTRICT NO. 551
Standard Conditions of Encroachment

1. That the project described in the Plans presented to the Trustees on behalf of the Owner receive all necessary environmental clearances and approval of all governmental agencies having jurisdiction.
2. That if rock revetment on the levee is disturbed by the construction or maintenance of the Project, it shall be restored to the same condition that existed prior to the commencement of construction or maintenance.
3. That completion, repair and maintenance of the Project shall be accomplished by the Owner and no cost thereof shall be borne by the District.
4. That in the event levee or bank protection work is required in this are in the future, and the existence of the Project is an impediment thereto, the improvements shall be removed to the extent necessary to allow such work and the cost of removal and replacement shall be the responsibility of the Owner. Should the encroachment not be promptly removed by the Owner at the direction of the District to accommodate levee or bank protection work or emergency work which the District may require, then District reserves the right to remove the encroachment to the extent deemed necessary by the District and the Owner shall reimburse the District for the cost of such removal and bear the cost of replacement of the encroachment.
5. That the Owner maintain all elements of the Project in good condition. Failure to do so, at the discretion of the District would be cause for removal of the Project as described in Item 4 above.
6.  If the Project causes any adverse problem or hazard to the levee of the District, such problem or hazard shall be immediately eliminated at the cost of the Owner and not at the cost of the District.
7. The Owner shall defend, protect and keep the District (including its agents and employees) harmless and free from all claims, losses, or damages (including attorney fees and costs) resulting from injury or harm to any person or property directly or indirectly arising out of or in any way connected with the construction or use of the property or facilities which constitute the Project.
8. In the event that the Project is ever abandoned, at the request of the District all remains of the Project shall be removed by the Owner at Owner's sole expense and without damage to the District levee.

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STATE OF CALIFORNIA
THE RESOURCES AGENCY
THE RECLAMATION BOARD

PERMIT NO. 16966 GM

This Permit is issued to:

Stan Pope
11864 Washington Avenue
Courtland, California 95615

To construct a 6-by-30-foot floating boat dock supported by two piles and a 66-by-3-foot gangway on the left bank waterside levee (State Highway 160) slope of the Sacramento River. The project is located downstream of Courtland at the westerly extension of Washington Avenue. Section 32, T6N, R4E, M.D.B.&M. (Reclamation District No. 551), Sacramento River, Sacramento County.

NOTE: Special Conditions have been incorporated herein which may place limitations on and/or require modification of your proposed project described above.

The Reclamation Board, on the _____ day of _____, 19____, approved this application and the plans attached thereto. Permission is granted to proceed with the work described in this application, which is incorporated herein by reference, subject to the following General and Special Conditions.

(SEAL)

Dated: MAR 24 1999


General Manager

GENERAL CONDITIONS:

ONE: This permit is issued under the provisions of Sections 8700 - 8723 of the Water Code.

TWO: Only work described in the subject application is authorized hereby.

THREE: This permit does not grant a right to use or construct works on land owned by the Sacramento and San Joaquin Drainage District or on any other land.

FOUR: The approved work shall be accomplished under the direction and supervision of the State Department of Water Resources, and the permittee shall conform to all requirements of the Department and The Reclamation Board.

FIVE: Unless the work herein contemplated shall have been commenced within one year after issuance of this permit, the Board reserves the right to change any conditions in this permit as may be consistent with current flood control standards and policies of The Reclamation Board.

SIX: This permit shall remain in effect until revoked. In the event any conditions in this permit are not complied with, it may be revoked on 15 days' notice.

SEVEN: It is understood and agreed to by the permittee that the start of any work under this permit shall constitute an acceptance of the conditions in this permit and an agreement to perform work in accordance therewith.

EIGHT: This permit does not establish any precedent with respect to any other application received by The Reclamation Board.

NINE: The permittee shall, when required by law, secure the written order or consent from all other public agencies having jurisdiction.

TEN: The permittee is responsible for all personal liability and property damage which may arise out of failure on the permittee's part to perform the obligations under this permit. If any claim of liability is made against the State of California, or any departments thereof, the United States of America, a local district or other maintaining agencies and the officers, agents or employees thereof, the permittee shall defend and shall hold each of them harmless from each claim.

ELEVEN: The permittee shall exercise reasonable care to operate and maintain any work authorized herein to preclude injury to or damage to any works necessary to any plan of flood control adopted by the Board or the Legislature, or interfere with the successful execution, functioning or operation of any plan of flood control adopted by the Board or the Legislature.

TWELVE: Should any of the work not conform to the conditions of this permit, the permittee, upon order of The Reclamation Board, shall in the manner prescribed by the Board be responsible for the cost and expense to remove, alter, relocate, or reconstruct all or any part of the work herein approved.

SPECIAL CONDITIONS:

THIRTEEN: All work approved by this permit shall be in accordance with the submitted drawings and specifications except as modified by special permit conditions herein. No further work, other than that approved by this permit, shall be done in the area without the prior approval of The Reclamation Board.

FOURTEEN: The permittee shall maintain the permitted encroachment(s) and the project works within the utilized area in the manner required and as requested by the authorized representative of the Reclamation District No. 551 or any other agency responsible for maintenance.

FIFTEEN: The permittee shall notify the Department of Water Resources by telephone, (916) 445-6386, at least ten working days prior to start of work. Failure to do so may result in delays for your project.

SIXTEEN: The Reclamation Board, Department of Water Resources, and Reclamation District No. 551 shall not be held liable for any damages to the permitted encroachment(s) within the floodway, levee section, or within 10 feet of the levee toes resulting from flood fight, operations, maintenance, inspection, or emergency repair.

SEVENTEEN: The permittee may be required, at permittee's cost and expense, to remove, alter, relocate, or reconstruct all or any part of the permitted encroachment(s) if removal, alteration, relocation, or reconstruction is necessary as part of or in conjunction with any present or future flood control plan or project or if damaged by any cause.

EIGHTEEN: The project proponent shall be responsible for repair of any damages to the project levee and other flood control facilities due to the construction, or maintenance of the proposed project.

NINETEEN: No excavation shall be made or remain in the levee section during the flood season from November 1 to April 15.

TWENTY: The work area shall be restored to at least the condition that existed prior to commencement of work.

TWENTY-ONE: The top of driven piles shall be a minimum distance of 2 feet above the design flood plane elevation of 19.0 feet, NGV Datum.

SPECIAL CONDITIONS FOR PERMIT NO. 16966 GM (Continued)

TWENTY-TWO: The gangway shall be a maximum of 4 feet wide and the hinge point on the levee section shall be at least 2 feet above the design flood plane elevation of 19.0 feet, NGV Datum.

TWENTY-THREE: The proposed floating facilities shall be properly anchored to prevent detachment from the anchoring system during periods of high water.

TWENTY-FOUR: Debris that may accumulate on the permitted encroachment(s) and related facilities shall be cleared off and disposed of outside the floodway after each period of high water.

TWENTY-FIVE: In the event existing revetment on the levee slope is disturbed or displaced, it shall be restored to its original condition upon completion of the proposed installation.

TWENTY-SIX: Timber piles shall be pressure treated and a minimum of 12 inches in diameter.

TWENTY-SEVEN: The permittee should contact the U.S. Army Corps of Engineers, Sacramento District, Regulatory Branch, 1325 J Street, Sacramento, California 95814, telephone (916) 557-5250, as a Section 10 of the Rivers and Harbors Act permit and/or a Section 404 of the Clean Water Act permit may be required.

TWENTY EIGHT: The permittee shall comply with the Reclamation District No. 551 conditions attached to this permit.

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RECLAMATION DISTRICT NO. 551

Conditions for Approval

- 1) That the project described in the Application (the "Project") receive all necessary environmental clearances and approval of all governmental agencies having jurisdiction.
- 2) That if rock revetment on the Sacramento River levee is disturbed by the construction or maintenance of the Project, it shall be restored to the same condition that existed prior to the commencement of construction or maintenance.
- 3) That completion, repair and maintenance of the Project shall be accomplished by the land owner and/or dock owner (hereinafter "Applicant") and no cost thereof shall be borne by the District.
- 4) That in the event levee or bank protection work is required in this area in the future, and the existence of the Project is an impediment thereto, the improvements shall be removed to the extent necessary to allow such work and the cost of removal and replacement shall be the responsibility of the Applicant. Should the encroachment not be promptly removed by the Applicant at the direction of the District to accommodate levee or bank protection work or emergency work which the District may require, then District reserves the right to remove the encroachment to the extent deemed necessary by the District and the Applicant shall reimburse the District for the cost of such removal and bear the cost of replacement of the encroachment in accordance with this permit.
- 5) That the Applicant maintain all elements of the Project in good condition. Failure to do so, at the discretion of the District would be cause for revocation of this encroachment permit and removal of the Project as described in item 4 above.
- 6) If the Project causes any adverse problem or hazard to the levee of the District, such problem or hazard shall be immediately eliminated at the cost of the Applicant and not at the cost of the District.
- 7) The Applicant shall defend, protect and keep the District (including its agents and employees) harmless and free from all claims, losses, or damages resulting from injury or harm to any person or property directly or indirectly arising out of or in any way connected with the construction or use of the property or facilities which constitute the Project or which are the subject of the permit.
- 8) In the event that the Project is ever abandoned, at the request of the District all remains of the Project shall be removed by the Applicant at Applicant's sole expense and without damage to the District levee.

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16966

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REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO, CALIFORNIA 95814-2922
March 25, 1999

Navigation and Flood Control Unit (16966)

The Reclamation Board
State of California
1416 - 9th Street 1601
Sacramento, California 95814

Members of the Board:

We have reviewed an application for a permit with plans by Stan Pope (Reclamation Number 16966). These plans cover construction of a 6- by 30-foot floating boat dock supported by two piles and a 66- by 3-foot gangway on the left bank waterside levee slope of the Sacramento River. The location of this proposed work is downstream of Curtland at the westerly extension of Washington Avenue, approximate River Mile 34.0 in Section 32, Township 6 North, Range 4 East, M.D.B. & M., Sacramento County.

The District Engineer has no objection to approval of this application by your Board from a flood control standpoint subject to the following conditions:

- a. That the proposed boat dock shall be properly anchored to prevent floatation into the floodway during periods of high water.
- b. That the proposed walkway shall hinge to at least elevation 23.5 C.O.E. Datum, which is two feet above the design flood plane, to provide floatation of the walkway and also access to the facility during periods of high water.
- c. That in the event trees and brush are cleared, they shall be properly disposed of either by burning or complete removal outside the limits of the project.
- d. That the project levee section, levee roadway and any bank protection shall be restored to at least the same condition as existed prior to commencement of proposed work.

If you have any questions concerning our comments on this permit please contact Mr. Mohsen Tavana at (916) 557-5282 or Mr. W. Craig Gaines at (916) 557-6672.

Sincerely,

Frank W. Winton
Acting Chief, Construction Operations Division

Copy Furnished:

DWR, ATTN: Donald Yeoman