Meeting of the Central Valley Flood Protection Board June 22, 2012

Staff Report – Encroachment Permit

Richard Nguyen Long Plaza, Sacramento County

1.0 <u>– ITEM</u>

Consider approval of Permit No. 18736 (Attachment B)

<u>2.0 – APPLICANT</u>

Richard Nguyen

3.0 - LOCATION

The project is located at 6451 Stockton Blvd. in Sacramento County directly adjacent to Morrison Creek. (Morrison Creek, Sacramento County, See Attachment A)

4.0 – DESCRIPTION

To install a fence, a retaining wall, and an outfall structure adjacent to Morrison Creek.

5.0 – PROJECT ANALYSIS

Richard Nguyen is proposing the construction of a 25,000+/- square foot commercial complex comprising of retail, medical office, and restaurant uses on 2.56+/- gross acres. After meeting with Board staff it was determined that due to the vicinity of Morrison Creek, a small portion of this development required a CVFPB Encroachment Permit. The portions of the project that require a permit include; a fence, a retaining wall, and an outfall structure. All other portions of this development are setback far enough to have no impact on the flood control system.

The fence and retaining wall are located on the southern end of the project site, running parallel to Morrison Creek. The chain link fence will be above the retaining wall, 9 feet 4 inches high. These are both located outside the channel and offer no potential for

blockage or debris build up. The retaining wall is three feet high with a foundation five feet deep. The alignment of the retaining wall is located on the landside of the non-project levee. A perforated drainage pipe and engineered backfill will be installed to provide appropriate drainage for the retaining wall.

The outfall structure is located at the southeast portion of the site, just adjacent to the Stockton Blvd. bridge over Morrison Creek. It has been designed to standard specifications for outfall structures used by the City of Sacramento. The concrete outlet structure will tie into the existing concrete lined channel just upstream of the bridge.

The project area is located on the northern bank of Morrison Creek as indicated in the plans (See attachment C). This project conforms to all standards in Title 23 including Sections 125 and 126.

5.1 – Hydraulic Analysis

The fence and retaining wall are outside of the channel and have no hydraulic impact. The hydraulic impacts associated with the outfall structure are considered negligible therefore a hydraulic analysis was not required.

5.2 – Geotechnical Analysis

The scope of work for this project 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:

- The City of Sacramento endorsed this project on March 6, 2012 with no conditions
- The U.S. Army Corps of Engineers 208.10 comment letter <u>has been received</u> for this application. The USACE District Engineer has no comments or recommendations with regard to the proposed work as it does not affect a federally constructed project. The letter is incorporated into the permit by reference as Exhibit A.

7.0 – CEQA ANALYSIS

Board staff has prepared the following CEQA determination:

The Board has determined that the project is categorically exempt from CEQA under a Class 3 Categorical Exemption (CEQA Guidelines Section 15303) covering new construction of small 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 purposed fence, retaining wall and outfall structure will have no effect 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:

There will be no effects to the proposed project from reasonable projected future events.

9.0 – STAFF RECOMMENDATION

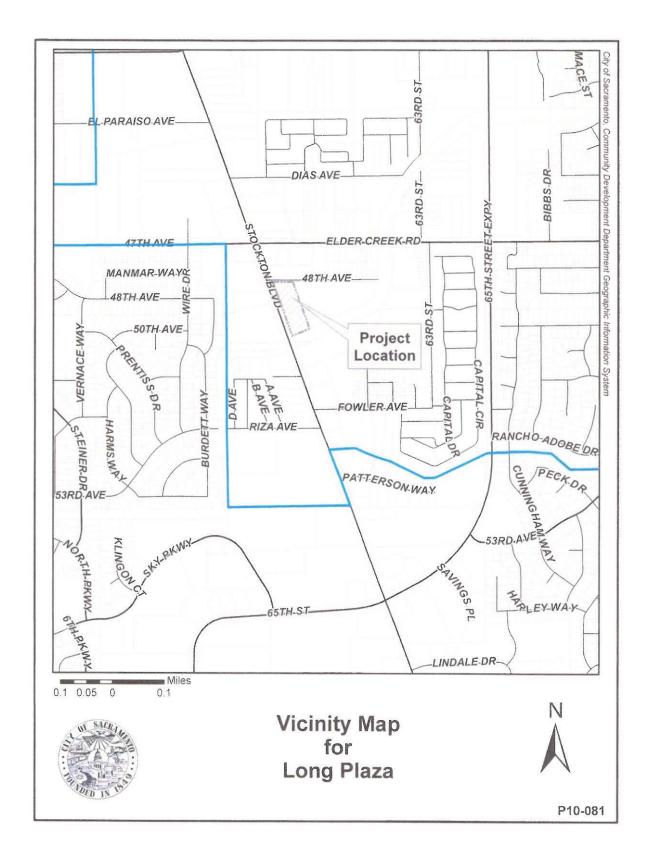
Staff recommends that the Board adopt the CEQA findings, approve the permit, and direct staff to file a Notice of Exemption with the State Clearinghouse.

<u>10.0 – LIST OF ATTACHMENTS</u>

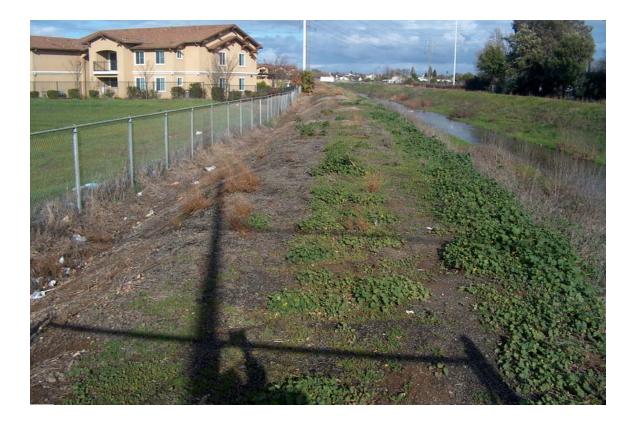
- A. Location Maps and Photos
- B. Draft Permit No. 18736
- C. Design Drawings

Design Review: Environmental Review: Document Review: Ashley Cousin James Herota / Andrea Mauro Mitra Emami P.E., Len Marino P.E.

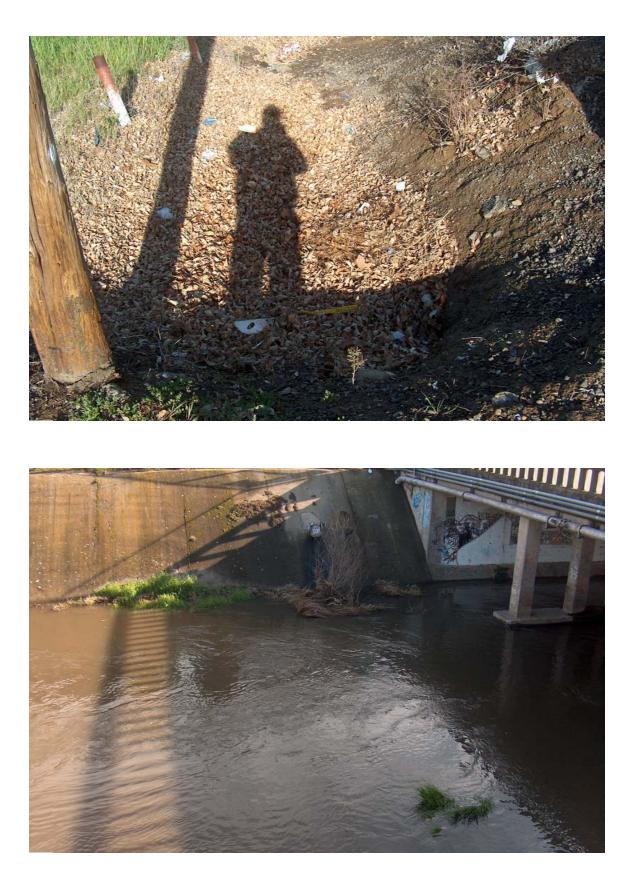
March 10, 2011















This page intentionally left blank.

DRAFT

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

PERMIT NO. 18736 BD

This Permit is issued to:

Richard Nguyen 9946 Mango Lane Elk Grove, California 95624

To install a fence, a retaining wall, and an outfall structure adjacent to Morrison Creek. The project is located at 6451 Stockton Blvd. in Sacramento County directly adjacent to Morrison Creek. (Section 33, T8N, R5E, MDB&M, Morrison Creek, 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. 18736 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 City of Sacramento shall not be held liable for any damages to the permitted encroachment(s) resulting from flood fight, operation, maintenance, inspection, or emergency repair.

SEVENTEEN: No construction work of any kind shall be done during the flood season from November 1 to April 15 without prior approval of the Central Valley Flood Protection Board.

EIGHTEEN: Upon receipt of a signed copy of the issued (not approved only) permit the permittee

shall contact the Department of Water Resources by telephone, (916) 574-0609, and submit the enclosed postcard to schedule a preconstruction conference. Failure to do so at least 10 working days prior to start of work may result in delay of the project.

NINETEEN: 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.

TWENTY: 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.

TWENTY-ONE: 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-TWO: 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-THREE: The letter from the Department of the Army dated March 28, 2012 is attached to this permit as Exhibit A in reference to this project.

TWENTY-FOUR: If, in the opinion of the Central Valley Flood Protection Board, the fence and gate become unnecessary due to changes in location of public access points or construction of other gated fences, the permittee agrees to remove the fence and gate at the request of the Central Valley Flood Protection Board and at permittee's cost and expense.

TWENTY-FIVE: No excavation shall be made or remain in the levee section during the flood season from November 1 to April 15 without prior approval of the Central Valley Flood Protection Board.

TWENTY-SIX: 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-SEVEN: Upon completion of the project, the permittee shall submit As-Built Drawings to: Department of Water Resources, Flood Project Inspection Section, 3310 El Camino Avenue, Suite 256, Sacramento, California 95821.

This page intentionally left blank.



DEPARTMENT OF THE ARMY U.S. Army Engineer District, Sacramento Corps of Engineers 1325 J Street Sacramento, California 95814-2922

REPLY TO ATTENTION OF

Flood Protection and Navigation Section (18736)

MAR 2 8 2012

Mr. Jay Punia, Executive Officer Central Valley Flood Protection Board 3310 El Camino Avenue, Room 151 Sacramento, California 95821

Dear Mr. Punia:

We have reviewed a permit application by Richard Nguyen (application number 18736). This project includes installing a fence, retaining wall and outfall structure adjacent to the right bank of Morrison Creek. The project is located just upstream of Stockton Boulevard, at 38.5079°N 121.4342°W NAD83, Sacramento County, California.

The District Engineer has no comments or recommendations regarding flood control because the proposed work does not affect a federally constructed project.

There is not enough information provided to determine if there is a permit action under Section 10 and/or Section 404. Please advise the applicant to contact the U.S. Army Corps of Engineers, Sacramento District, Regulatory Division, Room 1350, 1325 J Street, Sacramento, California 95814, telephone (916) 557-5250.

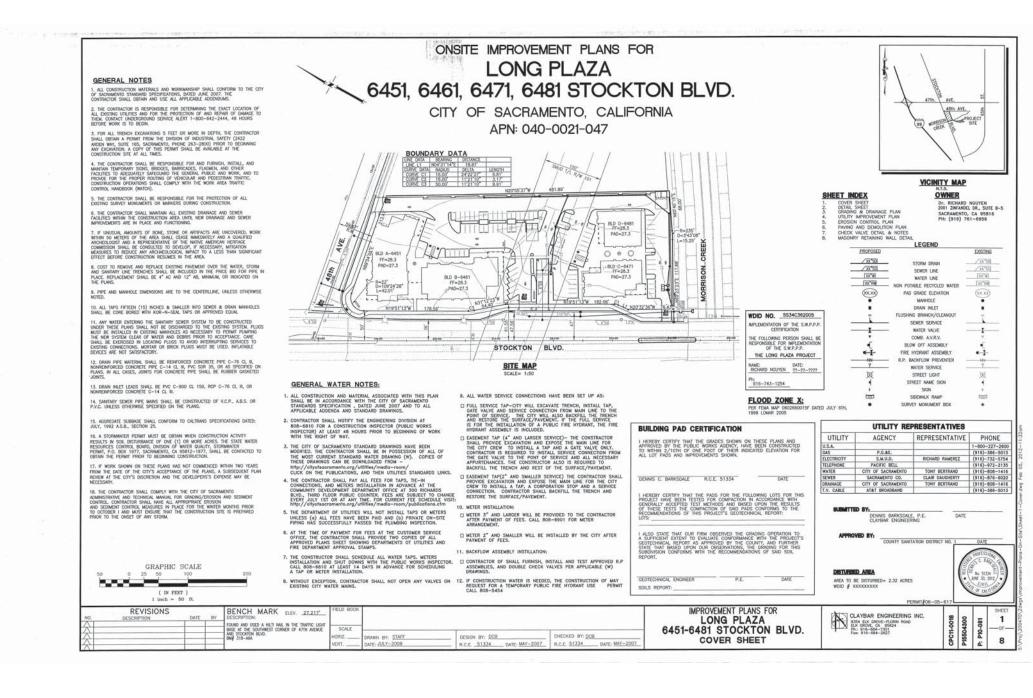
A copy of this letter is being furnished to Mr. Don Rasmussen, Chief, Flood Project Integrity and Inspection Branch, 3310 El Camino Avenue, Suite LL30, Sacramento, CA 95821.

Sincerely.

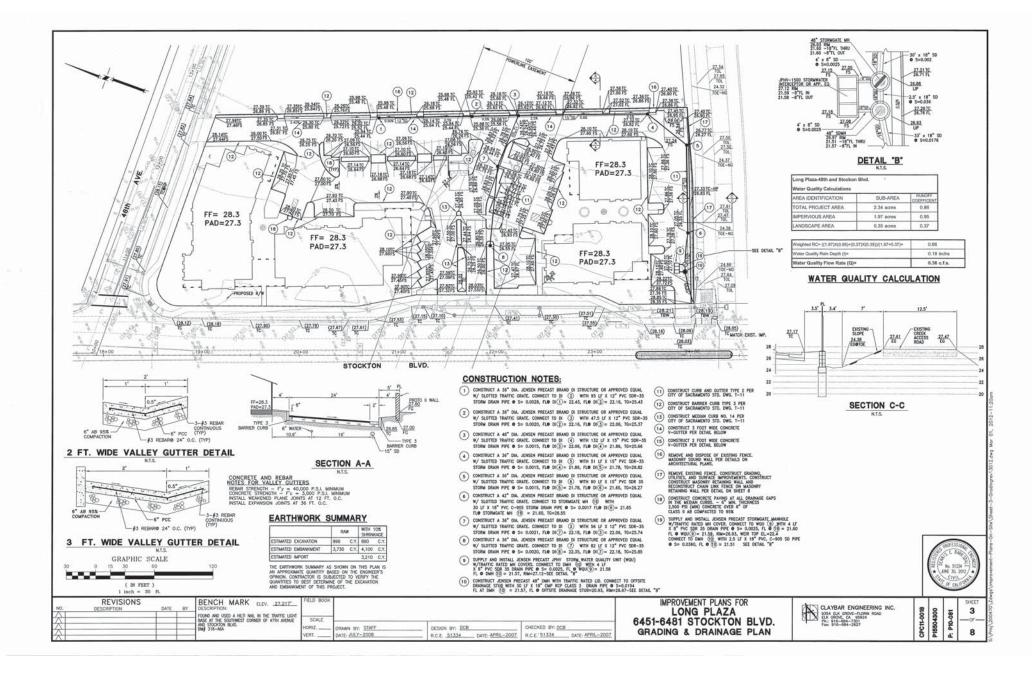
Meegan G. Nagy, P.E. Chief, Flood Protection and Navigation Section

This page intentionally left blank.

Attachment C



Attachment C



Attachment C

