

CENTRAL VALLEY FLOOD PROTECTION BOARD

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October 23, 2012

Subject: How the Expiration of California's Central Valley Flood System Improvement Framework Affects Eligibility in the Federal Rehabilitation and Inspection Program

Dear Local Maintaining Agency Partners,

As of June 30, 2012, California's Central Valley Flood System Improvement Framework (Framework) has expired (see *Attachment A*). As a result of the Framework expiring, Periodic Inspections (PI) and Continuing Eligibility Inspections (CEI) performed by the United States Army Corps of Engineers (USACE) will no longer allow levee systems to remain eligible for federal rehabilitation assistance due to serious deficiencies in channel capacity, seepage, erosion, encroachments, or vegetation. USACE has informed us that any single serious deficiency noted in these five categories, which the USACE identifies as "unacceptable – likely prevents performance in next flood event" in the FINAL PI Report or CEI Report will now cause a levee system to be rated "inactive" and therefore ineligible for federal assistance in the Public Law 84-99 Rehabilitation and Inspection Program (RIP).

Currently there are three categories of PI Reports:

1. Final Periodic Inspection Reports
2. Draft Periodic Inspection Reports
3. Future Periodic Inspection Reports

Only final CEI Reports are distributed.

Final PI's and CEI's: The Final PI Reports and CEI Reports that have been published and distributed had been covered under the Framework. The Framework allowed the levee systems included in those Final PI Reports and CEI Reports to remain active for RIP assistance if the levee system had deficiencies due to channel capacity, seepage, erosion, encroachments, or vegetation.

According to USACE, the expiration of the Framework will cause levee systems covered in a Final PI Report or CEI Report, and rated as "active" to be changed to "inactive" for RIP assistance, if those levee systems were rated unacceptable due to channel capacity, seepage, erosion, encroachments, or vegetation deficiencies.

Draft Periodic Inspections: The Draft PI Reports that have been distributed will have all "Orange" items changed to "Red" when the Final PI Reports are issued. This means that if the Draft PI Report contained any "Orange" items, they will now be "Red," causing the levee system to become immediately "inactive" for RIP assistance upon issuance of the Final PI Report.

Future PI's and CEI's: Future PI Reports and CEI Reports will not be covered under the Framework. If the levee system contains any deficiencies that are described as "*Likely*

Prevents Performance in Next Flood Event’, then the levee system will become immediately “inactive” for RIP assistance upon issuance of the Final Report if the deficiencies have not been addressed. To replace the expired Framework, the USACE is suggesting that the non-federal sponsor submit a Letter of Intent (LOI) that states intention to develop a System Wide Improvement Framework (SWIF) plan (see *Attachments B & C*). If accepted by the USACE, the LOI will extend RIP assistance for two years while the non-federal sponsor develops a SWIF. The SWIF will explain how the deficiencies are to be resolved and provide a schedule to complete all of the repairs. Once a SWIF is submitted, and accepted by the USACE, the non-federal sponsor will be required to implement the proposed plan. The non-federal sponsor will also be required to report positive progress repairing levee deficiencies to the USACE yearly to remain eligible for RIP assistance while operating under a SWIF.

While the CVFPB is the non-federal sponsor to the USACE for all federal project levees within the Sacramento and San Joaquin Drainage District’s (SSJDD) area of jurisdiction, the Local Maintaining Agencies (LMA’s) responsible for operation and maintenance for each system of levees (as defined by USACE) are responsible for initiating a Letter of Intent (LOI) and following up with a SWIF within two years of submittal of the LOI, as well as for completing the work ascribed to the LMA’s in the SWIF.

The CVFPB does not intend to initiate any LOI’s or SWIF’s, but will, upon review and approval, submit such requests to the USACE on behalf of those LMA’s that choose to pursue LOI’s and subsequent SWIF’s for their systems.

Should an LMA wish to prepare a Letter of Intent for a SWIF, the LOI will be a joint application of all local agencies responsible for the operation and maintenance of the levees for the entire hydraulically connected basin (system). The LMA (or LMA’s) would submit the LOI to the CVFPB for review and approval. Upon CVFPB endorsement, the LOI’s would be submitted to USACE on behalf of the LMA’s. (See *Attachment D* for example LOI)

Upon approval of the LOI’s by USACE, this process would be repeated for LMA submittal of SWIF’s to the CVFPB for review and approval. Upon CVFPB endorsement, the SWIF’s would be submitted to USACE on behalf of the LMA’s.

It is important to note that although a levee system may not be eligible for levee rehabilitation assistance under RIP, federal emergency response will still be available for flood fighting assistance.

If you have any questions or comments, please contact Michael C. Wright at (916) 574-0698, or by e-mail at mcwright@water.ca.gov.

Sincerely,

Jay Punia, P.E.
Executive Officer

Attachments:

- A. Letter from USACE to CVFPB dated August 21, 2012 addressing 17 levee systems documented in final PI reports or CEI reports
- B. USACE – System Wide Improvement Framework Fact Sheet
- C. USACE – Policy for Development and Implementation of System-Wide Improvement Frameworks (SWIFs) memo
- D. Sample LOI – Kings River Conservation District

DRAFT



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

REPLY TO
ATTENTION OF

Operations and Readiness Branch

AUG 21 2012

Mr. William Edgar
President, Central Valley Flood Protection Board
3310 El Camino Avenue, Room 151
Sacramento, California 95821

Dear Mr. Edgar:

The U.S. Army Corps of Engineers (USACE) recognizes the Central Valley Flood Protection Board's (CVFPB) significant achievement in adopting the Central Valley Flood Protection Plan (CVFPP). We look forward to working with the CVFPB and the State of California to achieve the plan's public safety goals.

It remains a high priority for USACE to ensure that thorough maintenance of the existing levee systems in the Central Valley continues in order to consistently reduce risks to public safety. Levee safety is a shared responsibility at all levels of government. For levees within USACE's authorities, USACE's role includes setting standards for levee safety and providing rehabilitation assistance to levee maintaining agencies that maintain active status in the USACE Public Law 84-99 Rehabilitation and Inspection Program (RIP). For all levees, USACE can offer flood fighting assistance in cases of emergency.

Recognizing the significant challenge of addressing the many, widespread deficiencies throughout Central Valley levee systems, USACE was pleased to work with the CVFPB, as well as other federal, state and local agencies, through the California Levees Roundtable to develop the Central Valley Flood System Improvement Framework (Framework) in 2009. The Framework, which provided interim guidance for levee maintenance while the CVFPP was developed, temporarily afforded continued RIP eligibility for levee systems sponsored by the CVFPB with five categories of deficiencies: channel capacity, seepage, erosion, encroachments, and vegetation.

As discussed at the California Levees Roundtable meetings, and as stated in the Framework, the purpose of the Framework was to allow time for developing a long-term strategy for bringing CVFPB-sponsored levees into compliance with USACE operation and maintenance standards, a strategy that was intended to be described in the CVFPP. It was further understood that with the adoption of the CVFPP, the Framework would expire. As the CVFPP was being developed, USACE notified the CVFPB and California Department of Water Resources (DWR) in phone calls, CVFPB meetings, comments on the draft plan, and in formal letters that the draft CVFPP did not adequately describe how the CVFPB intends to comply with USACE operation and maintenance standards; therefore, that the CVFPP would not serve as a replacement of the

Framework agreement, nor provide the support to justify continued RIP eligibility for unacceptable systems. The final CVFPP does not address USACE concerns.

During the past four years, USACE has completed inspections of 32 of the 118 levee systems sponsored by the CVFPP, while the Framework was in effect. Because of the Framework agreement, USACE allowed 17 of these levee systems to remain active in the RIP, despite unacceptable ratings according to USACE inspection standards. A list of the 17 systems along with the primary deficiencies that resulted in the overall levee system rating of unacceptable is enclosed. USACE previously sent inspection letters to the CVFPP providing the details of the deficiencies for these 17 levee systems. It is important to note that for all 17 systems, the unacceptable rating was due to encroachments, erosion and/or bank caving – the most prevalent and potentially hazardous deficiencies. While non-compliant vegetation and other items were also found to be an unacceptable deficiency in most of these systems, it was determined that these alone would not have resulted in an overall unacceptable system rating, with or without the Framework.

With the adoption of the final CVFPP and expiration of the Framework, these 17 systems described above are now inactive in the RIP as a result of the overall unacceptable rating due to encroachments, erosion and/or bank caving as set forth in the inspection letters and consistent with 33 C.F.R. Part 203 and Engineer Regulation 500-1-1. If the CVFPP believes sufficient improvements have been made to change the inspection rating, please notify us to request a re-inspection to determine continuing eligibility. Alternatively, if the CVFPP disagrees with the unacceptable rating, it can pursue its appeal rights as set forth in Engineer Regulation 500-1-1 Paragraph 5-5.d.

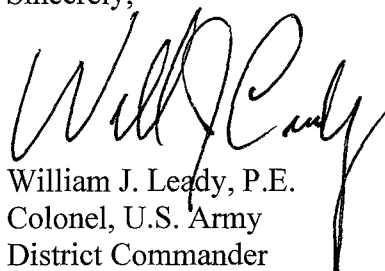
All future levee system inspections conducted by USACE will use standard inspection procedures using the inspection checklist and the project Operation and Maintenance Manuals. Regardless of RIP status, the CVFPP is still obligated to ensure that levee systems it sponsors are maintained in accordance with their USACE Operation and Maintenance Manuals. USACE will not grant extensions for RIP eligibility for unacceptable deficiencies in channel capacity, seepage, erosion, encroachments, and vegetation as was previously done under the Framework agreement. Any system with a serious deficiency in any of the rated items on the inspection checklist will receive an overall unacceptable rating and become immediately inactive in the RIP. This approach will also apply to inspections conducted prior to June 29, 2012 for which inspection result letters have not yet been sent to the CVFPP. A system's RIP status does not affect the USACE's ability to assist the state with flood fight activities.

USACE strongly encourages the CVFPP to develop System-Wide Improvement Frameworks (SWIFs) to allow Central Valley levee systems to retain RIP eligibility while system-wide improvements are made in a "worst-first" approach to transition them to USACE standards over time. Where it would not be practical or feasible for the CVFPP to complete a SWIF, USACE encourages levee maintaining agencies to generate SWIFs and submit them through the CVFPP.

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If you have any questions regarding this matter, please contact the Levee Safety Officer, Mr. Rick Poepelman, at (916) 557-7301. For more information about the process for submitting a SWIF, please contact Ryan Larson, acting Levee Safety Program manager, at (916) 557-7568. A copy of this letter is being furnished to the Department of Water Resources Flood Operations Center, the county office of emergency services of the affected systems, FEMA Region IX and the associated Congressional representatives.

Sincerely,

A handwritten signature in black ink, appearing to read "William J. Leady". The signature is written in a cursive style with a large initial "W" and a long, sweeping tail.

William J. Leady, P.E.
Colonel, U.S. Army
District Commander

Enclosure

USACE-Sacramento District
Listing of Systems Rated Unacceptable-Active During the Framework

	System Name	Deficiencies leading to Unacceptable Rating	Type of Inspection	Location/Nearest Populated Area
1	RD 1000 - Natomas	Encroachments and Erosion/Bank Caving	PI	Sacramento
2	MA 09 - City of Sacramento - American R left bank	Encroachments	PI	Sacramento
3	RD 0404 and Duck Creek right bank - Boggs Tract	Encroachments and Erosion/Bank Caving	PI	Stockton
4	Bear Creek - Units 7 west and 21	Encroachments and Erosion/Bank Caving	PI	Stockton
5	Bear Creek - Units 7, 22, and 23	Encroachments and Erosion/Bank Caving	PI	Stockton
6	Bear Creek - Units 7 east	Encroachments	PI	Stockton
7	Bear Creek - Units 8, 25, and 27	Encroachments and Erosion/Bank Caving	PI	Stockton
8	Bear Creek - Units 8, 24, 26, and 9	Encroachments	PI	Stockton
9	Bear Creek - Units 8, 10, and 11	Encroachments	PI	Stockton
10	Bear Creek - Units 12 south, 10, and 13	Encroachments	PI	Stockton
11	Mormon Slough - Calaveras R right bank - RD 2074	Encroachments and Erosion/Bank Caving	PI	Stockton
12	Mormon Slough - Diverting Canal right bank	Encroachments	PI	Stockton
13	Mormon Slough left bank along RR tracks - Unit 16	Encroachments	PI	Stockton
14	Mormon Slough right bank - Unit 15 east	Encroachments	PI	Stockton
15	North Fork Feather River at Chester - east levee	Encroachments	CEI	Chester
16	Knights Landing U2 - Yolo Bypass - Service Area 6	Encroachments and Erosion/Bank Caving	CEI	Knights Landing
17	LSJLD Units 2,25	Erosion/Bank Caving	CEI	Gustine

PI= Periodic Inspection

CEI= Continuing Eligibility Inspection

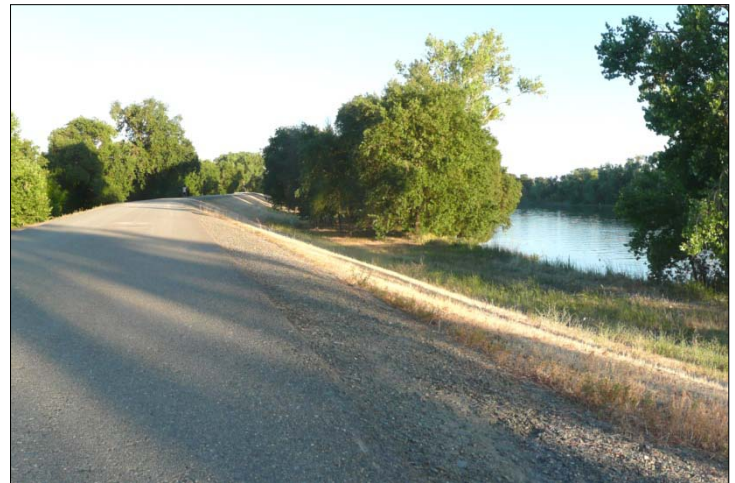
As of June 29, 2012

System Wide Improvement Framework

System Wide Improvement Framework

USACE levee systems that are eligible for rehabilitation assistance under Public Law (P.L.) 84-99 following flood or storm damage include those federally-authorized, operated and maintained by a non-federal sponsor or non-federally built, operated and maintained by a non-federal sponsor. These levees remain eligible if they are operated and maintained to acceptable or minimally acceptable standards.

USACE now offers non-federal sponsors a process through the system-wide improvement framework (SWIF) to remain temporarily eligible for P.L. 84-99 assistance while they correct unacceptable operation and maintenance deficiencies as part of a broader, system-wide improvement to their levee systems. Submitting a system-wide improvement framework plan is a two step process. A Letter of Intent is submitted followed by submission of a SWIF plan. The applicant has up to two years to develop the plan.



A SWIF provides committed sponsors the opportunity to transition their levees over time to USACE standards. By using a SWIF, sponsors can prioritize deficiencies to address the highest risk first to achieve system-wide risk reduction.

In preparing the requirements for a SWIF, USACE recognized that sponsors may engage at the federal, state, and local levels to address complex levee system issues in a more long-term, comprehensive approach to identify solutions that optimize resources; prioritize improvements and corrective actions based on risk; and coordinate overlapping or competing programs and requirements.

Examples of situations where a SWIF is appropriate are when a longer-term, holistic approach may be necessary to address multiple engineering deficiencies AND operation and maintenance deficiencies; when broader improvements involve multiple levee segments/systems; or when additional time and coordination are needed to consider complex, endangered species habitat or Native American concerns while meeting requirements for levee safety.

The following should be considered prior to submitting a SWIF:

- A SWIF may include corrective action for overarching operation and maintenance deficiencies, for example, a system-wide culvert replacement.
- A SWIF is not intended for correction only of individual operation and maintenance deficiencies, for example, a single culvert replacement.
- A SWIF is not a process for acceptance into the P.L. 84-99 program.
- A SWIF may include a vegetation variance request.
- A SWIF recognizes regional differences.
- A SWIF must be closely synchronized to align with other USACE levee policies.

For further information, contact your local USACE representative.



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
441 G STREET, NW
WASHINGTON, DC 20314-1000

CECW-HS

NOV 29 2011

MEMORANDUM FOR COMMANDERS, MAJOR SUBORDINATE COMMANDS AND DISTRICTS

SUBJECT: Policy for Development and Implementation of System-Wide Improvement Frameworks (SWIFs)

1. References.

- a. Engineer Regulation (ER) 500-1-1, Emergency Employment of Army and Other Resources - Civil Emergency Management Program, 30 Sep 2001.
- b. Memorandum, HQ USACE (CECW-HS), 16 Nov 2007, subject: Levee Safety Program Implementation.
- c. Memorandum, HQ USACE (CECW-HS), 9 Jan 2009, subject: Temporary extension of P.L. 84-99 Rehabilitation Eligibility for Non-Federal Sponsors Implementing System-wide Improvements.
- d. Memorandum, HQ USACE (CECW-CE), not yet released, subject: Policy Guidance Letter (PGL) - Process for Requesting a Variance from Vegetation Standards for Levees and Floodwalls.

2. Definitions.

- a. A "levee system" consists of one or more segments of earthen embankment or floodwall, and all appurtenant structures (such as closures, berms, pumping stations, culverts, and interior drainage), which are interconnected and necessary to reasonably reduce the potential of floodwater entering a defined area.
- b. An "unacceptable inspection item" is an inspected item on the U.S. Army Corps of Engineers (USACE) levee inspection checklist. An unacceptable item or a combination of unacceptable items may lead to an overall levee-system rating of unacceptable.
- c. A SWIF is a plan developed by the levee sponsor(s) and accepted by the USACE to implement system-wide improvements to a levee system (or multiple levee systems within a watershed) to address system-wide issues, including correction of unacceptable inspection items, in a prioritized way to optimize flood risk reduction.

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d. An Interim Risk Reduction Measures (IRRM) plan contains actions to reduce life safety risks posed by a levee system while long-term solutions are being pursued. Example actions may include Emergency Action Plans, special modifications to evacuation plans that account for additional risk and potentially reduced response times, heightened public communication campaigns to inform citizens of the increased flood risk, and/or increased levee monitoring during flood events.

3. Background.

a. The USACE Public Law (P.L.) 84-99 program, pursuant to 33 U.S.C. 701n, is a voluntary program that includes the repair and restoration of participating flood risk reduction projects, such as levee systems. All levee systems that participate in P.L. 84-99 are inspected by USACE and rated against nationally consistent standards that USACE determined to be essential for the reliable performance of the levee system. Levee systems that have received an “Acceptable” or “Minimally Acceptable” overall system rating on the last periodic or routine/continuing eligibility inspection are “Active” in P.L. 84-99 and, consequently, are eligible to receive rehabilitation assistance from USACE to repair or restore levee systems to pre-disaster condition if they are damaged by a flood event. Levee systems that receive an “Unacceptable” overall system rating or that choose to no longer participate in the program are placed in “Inactive” status and are not eligible for rehabilitation assistance under P.L. 84-99.

b. In some cases, the items on a levee system found to be “Unacceptable” or “Minimally Acceptable” might be complex to correct. Developing and implementing solutions to address such deficiencies might require a multi-year effort and coordination between multiple entities. This may be especially true when resources protected under the Endangered Species Act or Tribal treaty rights could be impacted by any changes to the levee system. USACE is making the SWIF process available to levee sponsors facing such challenges as a way to facilitate the development of solutions to satisfy the multiple requirements that apply to their levee systems while allowing levee sponsors participating in the SWIF process to remain eligible for P.L. 84-99 rehabilitation assistance funding while addressing deficiencies.

c. Levee sponsors are responsible for operation, maintenance, repair, replacement, and rehabilitation of the levee system. The SWIF does not alter those responsibilities. The SWIF establishes a process using an interagency approach within which levee sponsors engage with federal, state, local and Tribal agencies and organizations in longer-term system-wide improvement efforts to optimize flood risk reduction by identifying solutions that efficiently use resources, prioritize improvements and corrective actions based on risk, and establish frameworks for coordinating overlapping or complementary programs and requirements.

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d. Environmental compliance and consideration of other requirements, such as those imposed by treaties with Tribes, should be integrated into the SWIF process. USACE is responsible for assuring compliance with all applicable environmental requirements before it makes any decisions that would affect the environment or other resources; however, the levee sponsor involved in the SWIF process may be required to provide background information/documentation, mitigation, or other measures necessary to fulfill environmental compliance responsibilities as a condition of their participation in the P.L. 84-99 rehabilitation assistance program.

e. The SWIF can be used to address deficiencies or issues that cannot be accomplished through routine corrective actions, including:

(1) A levee system that has engineering deficiencies (e.g., change in hydraulic conditions that reduces level of authorized protection) in addition to “Unacceptable” inspection items;

(2) Improvements that involve multiple levee systems;

(3) Complex natural resource considerations that require additional time and coordination to ensure that the imperatives of both levee safety and environmental requirements are adequately served;

(4) Additional time and coordination to protect the rights of Tribes pursuant to treaty and statute; and,

f. This memorandum revises and supersedes the policy in Reference 1.c. above and will be incorporated into the revised Engineer Regulation (ER) 500-1-1, in Reference 1.a.

4. Purpose. The purpose of this policy is threefold and includes:

a. To facilitate interagency collaboration to address complex levee system deficiencies and encourage the establishment of interagency teams to jointly identify and implement regionally appropriate, science based solutions and tools to help reduce risk associated with levees or levee systems while ensuring compliance with other Federal laws, such as the Endangered Species Act, as appropriate;

b. To provide requirements and outline the process for the submittal and acceptance of a SWIF that will assist levee sponsors in attaining compliance with USACE standards; and,

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SUBJECT: Policy for Development and Implementation of System-Wide Improvement Frameworks (SWIFs)

c. To provide a mechanism for levee sponsors to maintain or regain eligibility for federal rehabilitation assistance under P.L. 84-99 while they are developing and implementing a system-wide improvement framework.

5. Applicability. This policy applies to all Headquarters USACE (HQ USACE) elements, Major Subordinate Commands (MSCs), USACE districts, and field operating activities that are responsible for Civil Works projects.

6. Eligibility for Rehabilitation Assistance Under P.L. 84-99.

a. Initial Eligibility for Rehabilitation of Flood Risk Reduction Projects. Pursuant to 33 U.S.C. 701n (P.L. 84-99) and ER 500-1-1, USACE administers a program for rehabilitation of flood risk reduction projects, such as levee systems, and for federally-authorized hurricane or shore protection projects. Federally-authorized, locally-operated and maintained levee systems are automatically placed in an “Active” status and are eligible for rehabilitation assistance upon construction completion. Non-federal levee systems constructed, operated and maintained by a local public entity may be placed in an “Active” status following an initial eligibility inspection by USACE that determines the levee system meets the minimum eligibility requirements and technical criteria.

b. Maintaining Eligibility.

(1) Eligible levee systems inspected by USACE are rated against nationally consistent standards that USACE determined are essential for the reliable performance of the levee system. Levee systems that receive an “Acceptable” or “Minimally Acceptable” overall inspection rating maintain an “Active” status and are eligible to receive rehabilitation assistance from USACE to repair flood damages. Levee systems that receive an “Unacceptable” overall inspection rating are immediately placed in “Inactive” status and are not eligible for rehabilitation assistance until the “Unacceptable” inspection items have been corrected and the system receives a rating of “Acceptable” or “Minimally Acceptable” through a re-inspection by the responsible USACE district office. Levee systems engaged in the SWIF process or a variance request will continue to be inspected against the standard applied at the time the request was submitted, either the national standard or a variance or other deviation from that standard.

(2) The concepts for developing a SWIF may be useful in situations where a levee sponsor wants to prevent a future “Unacceptable” rating. For these situations, the approval process outlined in paragraph 8 is not required; however, this process cannot be used to extend “Minimally Acceptable” ratings for levees with “Unacceptable” inspection items beyond the current two-year maximum period as specified in the USACE levee inspection checklist.

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c. Transitioning “Acceptable” or “Minimally Acceptable” Levees. Levees sponsors with levees that are “Active” in the rehabilitation assistance program under an existing vegetation variance or deviation from the standard that want to use the SWIF process to transition to a new vegetation inspection standard through the vegetation variance request process, or that would like to systematically improve the condition of participating levees, may maintain their P.L. 84-99 rehabilitation assistance eligibility as long as they continue to meet the milestones set forth in their applicable SWIF.

d. Reinstating Eligibility While Developing and Implementing a SWIF. Levee sponsors that receive an overall levee system inspection rating of “Unacceptable” or have been “Inactive” in the rehabilitation program may regain eligibility for P.L. 84-99 rehabilitation assistance through the SWIF process. Upon approval by USACE of the letter of intent, requirements described below, the levee sponsor will receive an initial of up to two-year reinstatement of eligibility for P.L. 84-99 rehabilitation assistance. Continued eligibility will be determined annually based on milestones described in the subsequent SWIF. Levee sponsors who have never been eligible for rehabilitation assistance under P.L. 84-99 cannot gain P.L. 84-99 rehabilitation assistance eligibility through the SWIF process.

7. Requirements for Development and Submittal of a SWIF. The development of a SWIF is a two-step process consisting of (1) a Letter of Intent from the sponsor briefly describing levee system deficiencies and justification for how a system-wide approach will optimize flood risk reduction, and (2) development of a SWIF for addressing deficiencies and reducing flood risk. Once a Letter of Intent has been approved by USACE, a levee sponsor has up to two years to develop a SWIF plan. Eligibility after this two-year period will be dependent on the levee sponsor’s progress in achieving the milestones defined in the SWIF. The SWIF plan is intended to be a specific document that guides sponsor activities, including anticipated milestones, but may also be adaptable and should be revised if conditions or needs change during implementation. The requirements for the Letter of Intent and SWIF are described as follows:

a. Requirements for Submitting a Letter of Intent for a SWIF. A Letter of Intent must be signed by all associated levee sponsors for each levee system involved in developing the SWIF and must include the following:

(1) Identification of levee system or systems to be covered by the SWIF, including system name and system identification number as listed in the National Levee Database;

(2) Brief description of deficiencies or issues that will be included in the SWIF and discussion of how a system-wide approach will improve and optimize overall flood risk reduction. This includes identifying any conditions not within the control of the levee sponsor(s) that prevents them from correcting “Unacceptable” inspection items in a timely manner;

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(3) Demonstration that significant non-federal resources have been, or will be, committed for developing and/or implementing the SWIF (e.g., state legislative action, bond financing);

(4) Anticipated interim risk reduction measures that will be implemented throughout the SWIF process, including overall risk communication approach that addresses the risk to life increased by system-wide deficiencies;

(5) Brief description of existing or planned interagency collaborative efforts that will contribute positively to SWIF development, implementation and oversight; and

(6) List of anticipated state and federal permits and consultation requirements, needed to implement the SWIF.

b. Requirements for Submittal of a SWIF. SWIFs are developed and implemented by levee sponsor(s), reviewed and accepted by USACE, and monitored by a USACE district to address system-wide issues in a prioritized way to optimize system-wide risk reduction. As a minimum for acceptance by USACE, the levee sponsor's SWIF must include the following:

(1) Identification of levee system or systems covered by the system-wide improvement framework, including system name and identification number as listed in the National Levee Database;

(2) Description of proposed levee improvement and justification on how the SWIF optimizes flood risk reduction;

(3) A plan and schedule for interagency collaboration, including environmental and/or Tribal consultation if applicable, in the implementation of the SWIF;

(4) Documentation of specific agreements, such as project specific agreements, between levee sponsors and USACE or other agencies/organizations related to implementation of levee modifications, under Section 408 or other overlapping USACE policies and studies, applicable to the levee systems identified in the system-wide improvement framework;

(5) Documentation of any regional considerations, approaches, and tools to be used during implementation of the system-wide improvement framework;

(6) Description of interim maintenance standards that will be implemented during the SWIF to mitigate conditions of uncorrected "Unacceptable" inspection items;

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(7) IRRM plan, including a risk communication plan that addresses the risk to life increased by system-wide deficiencies;

(8) Schedules and milestones that will be used to monitor progress and to determine continued eligibility for P.L. 84-99 rehabilitation assistance while the SWIF is being implemented; and

(9) For those levee systems shown as accredited on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map that are part of the SWIF, demonstration that FEMA has been informed that these levee systems with “Unacceptable” inspection items are being addressed in a system-wide improvement framework. Please note that an extension of eligibility for rehabilitation assistance through the SWIF process by USACE does not constitute an extension of accreditation for FEMA purposes. FEMA determines how a SWIF may or may not impact accreditation.

8. Approval Process. The approval authority for reinstating eligibility for rehabilitation assistance under P.L. 84-99 via a Letter of Intent, and for acceptance of a SWIF is the Director of Contingency Operations and Homeland Security (DCO/HS) under USACE. District Commanders shall evaluate the levee sponsors’ request for an extension, based on the criteria outlined in this memorandum. If the District recommends approval of an eligibility reinstatement, the District Commander shall forward this recommendation to the Division Commander for concurrence. The Division Commander will review the request and, if in concurrence, will endorse the recommendation and submit the request to the DCO/HS through the Regional Integration Team. The District and MSC Commanders shall coordinate these requests with their Levee Safety Officers for technical input. Eligibility reinstatement will not be implemented until the request is approved by DCO/HS. District Commanders are also responsible for monitoring levee sponsor milestones in implementing SWIFs, conducting reviews for eligibility extensions following initial reinstatement, submitting an accepted SWIF to the local FEMA regional office, and providing approval recommendations through the approval process described herein.

9. Progress Reporting and Continued P.L. 84-99 Eligibility. Once a Letter of Intent has been approved through the process in paragraph 8, a levee sponsor(s) has up to two years of reinstated rehabilitation assistance eligibility under P.L. 84-99 to develop a system-wide improvement framework. The District Commander shall review the levee sponsor’s progress for development of the SWIF after the first year and, if deemed not satisfactory, the District Commander may recommend to the DCO/HS that the levee sponsor no longer be eligible for P.L. 84-99 rehabilitation assistance. Eligibility after the two-year period for SWIF development will then be dependent on the levee sponsor’s progress in achieving the milestones defined in the SWIF. Continued P.L. 84-99 rehabilitation assistance eligibility during the implementation of the SWIF

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SUBJECT: Policy for Development and Implementation of System-Wide Improvement Frameworks (SWIFs)

must be approved by the DCO/HS on a two-year basis following the process in paragraph 8. During implementation of the SWIF, continued P.L. 84-99 rehabilitation assistance eligibility requests should include a copy of the SWIF; description of accomplishments and milestones met; and description of any changes since the last SWIF was submitted. At a minimum, levee sponsors shall submit a memorandum to the District Commander annually that demonstrates system-wide improvement accomplishments.

10. Overlap with Vegetation Variance Policy. The SWIF process may complement the vegetation variance request process, currently set forth in ER 500-1-1 and anticipated to be updated shortly in paragraph 1.d., as a means for a levee sponsor to address levee deficiencies. If required, a vegetation variance request can be part of the SWIF process. The SWIF offers an interagency approach to identify regional solutions and tools that may be useful in development of a vegetation variance request. The end result of the SWIF process will be levees that meet the USACE inspection standards, which may also include an approved vegetation variance. See enclosure for timelines for both the SWIF process and situations with existing vegetation variances or deviations from the standard.

11. Levee Inspections. During implementation of the SWIF, levee systems with P.L. 84-99 rehabilitation assistance eligibility will continue to be inspected, rated, and the results communicated in accordance with USACE inspection processes, paragraph 1.b. and other applicable guidance. Any “Unacceptable” inspection items identified during inspections will be recorded as such and be corrected in accordance with existing policy or noted to be corrected under a system-wide improvement framework. At any time that the condition of a deferred “Unacceptable” inspection item worsens to a point of creating an emergency condition, immediate corrective actions must be taken by the levee sponsor in order to retain eligibility for P.L. 84-99 rehabilitation assistance.

12. Post-Flood Repair Responsibilities Associated with “Unacceptable” Inspection Items. Upon approval of the Letter of Intent by the USACE, levee sponsors who meet milestones will remain eligible for post-flood repair throughout the SWIF development and implementation process; however, levee sponsors will continue to be responsible for the portion of that repair cost associated with “Unacceptable” inspection items in accordance with ER 500-1-1, paragraph 5-2, g.

13. Funding for USACE Participation in the SWIF Process. USACE review of requests submitted by levee sponsors for SWIF implementation and participation of USACE representatives in collaborative frameworks for developing SWIFs may be funded with Inspection of Completed Works funds for federally-authorized levee systems and Flood Control and Coastal Emergency funds for non-federal levee systems. USACE participation in

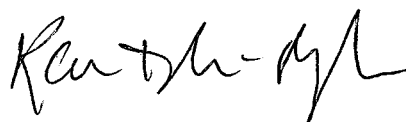
CECW-HS

SUBJECT: Policy for Development and Implementation of System-Wide Improvement Frameworks (SWIFs)

collaborative frameworks to address SWIF issues implemented through Silver Jackets (SJ) intergovernmental teams may use SJ funding.

14. Point of Contact. The point of contact for this action is Ms. Germaine Hofbauer, (202) 761-4970.

FOR THE COMMANDER

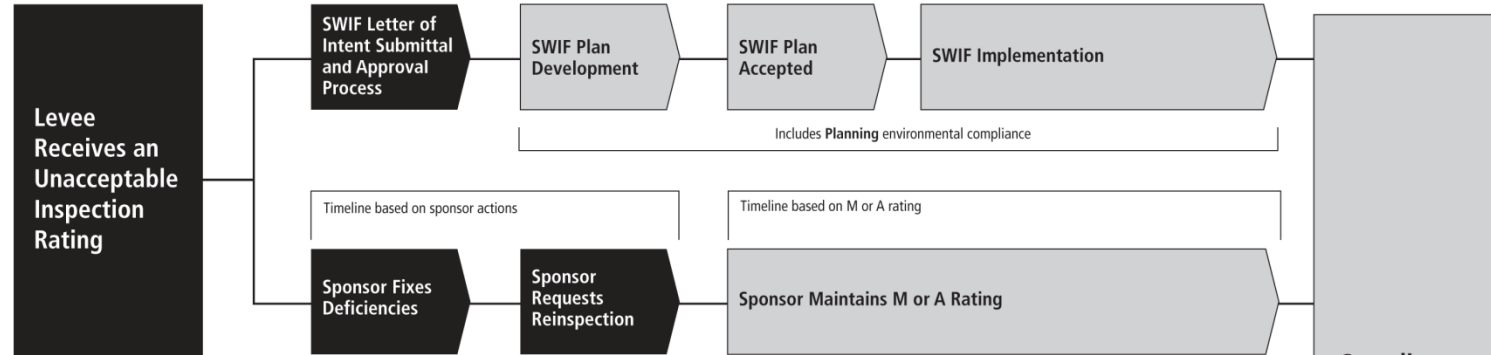


KAREN DURHAM-AGUILERA, P.E., SES
Director of Contingency Operations
and Homeland Security

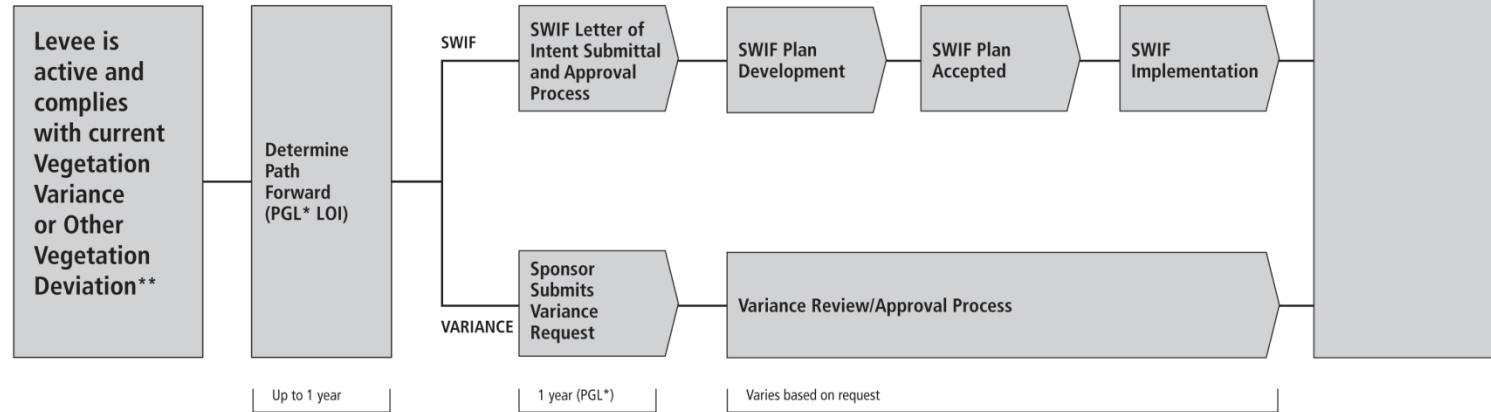
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Scenarios and Timelines for Attaining Compliance with USACE Standards

SCENARIO A

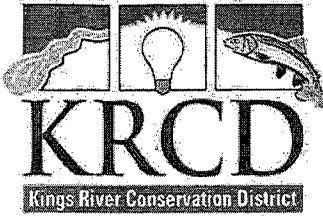


SCENARIO B



P.L. 84-99 Inactive **P.L. 84-99 Active**

*PGL – reference paragraph 1.d. Timelines and policy for vegetation variances will be subject to the release of the final PGL.
 ** For vegetation variance or vegetation deviation that has not gone through the revised PGL referenced in 1.d.
 Note: Levelves never in P.L. 84-99, not eligible for SWIF.



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July 6, 2012

Colonel William J. Leady, District Commander
U.S. Army Corps of Engineers
1325 "J" Street
Sacramento, CA 95814

Re: Kings River Channel Improvement Project
Revised Letter of Intent to Develop and Implement a System-Wide
Improvement Framework

Dear Colonel Leady:

The Kings River Conservation District (KRC D) is the local project sponsor for the Kings River Channel Improvement Project, a federal flood project consisting of 140 miles of flood protection levee in Fresno and Kings Counties. The project works were constructed by the U.S. Army Corps of Engineers (USACE) between 1968 and 1972, after which time the KRC D accepted operational and maintenance responsibility for the project. The project works provide flood protection for many of the residents and landowners within KRC D's one-million acre service area covering portions of Fresno, Kings and Tulare Counties.

The flood project is comprised of levees that were either constructed, improved, setback, or deemed sufficient and accepted by the USACE into the project. The levees constructed by the USACE and by others along the natural waterway of the Kings River pass by and through the extensive riparian habitat of the Kings River. The levees were constructed within existing agricultural uses during a period when encroachment standards were subjective and not strictly enforced. Also, the levees were constructed to standards less rigorous than those employed today. Due to these and other factors, some levee segments and systems received unacceptable ratings in the recent periodic inspections and will become ineligible for rehabilitation assistance authorized under Public Law 84-99.

In order to retain eligibility under the program, KRC D is notifying the USACE by this letter that it intends to develop and implement a System-Wide Improvement Framework (SWIF) plan. The SWIF will allow KRC D to implement improvements that address system-wide issues and correct unacceptable inspection items in a prioritized manner to optimize flood risk reduction. KRC D is requesting a two-year period to develop a SWIF plan. KRC D previously submitted similar notification on June 8, 2012 and has revised the notification based on preliminary USACE inspection findings and feedback from USACE staff. The information following and attached supports this notification.

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Colonel William J. Leady, District Commander
July 6, 2012
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Levee Systems Covered by the SWIF

A listing of all levee systems to be covered by the SWIF is provided in Attachment 1. The listing includes the system name and system identification number as listed in the National Levee Database. The listing contains seven levee systems and 20 levee segments. KRCD is the local sponsor and operates and maintains all the systems and segments listed in the attachment.

Issues to be Addressed in the SWIF

The SWIF will address three issues that cannot be accomplished through routine corrective actions: (1) engineering deficiencies due to the vintage of the project works and lack of project documentation; (2) complex natural resource considerations surrounding riverine levee vegetation that require additional time and coordination to ensure that the imperatives of both levee safety and environmental protection are adequately served; and (3) unacceptable inspection items requiring additional time to resolve.

The flood project works were designed in the 1950's and 1960's and constructed to standards less rigorous than those employed today. The project works also consisted of levees that were accepted into the project as-is with no design or evaluation documentation. This lack of engineering documentation has prompted questions regarding the adequacy of freeboard and levee cross section at certain locations. KRCD has developed an 18-month project, the Kings River Levee Evaluation Project, to evaluate 140 miles of flood protection levee. The project has been awarded \$2,000,000 in grant funding by the state and is scheduled for completion in 2014. Once completed, KRCD will have the hydrologic, hydraulic, and geotechnical studies needed to identify and implement any needed improvements.

The SWIF is also needed to address the vegetation issues faced by other project sponsors in the State of California. KRCD is currently in a position where it cannot comply with USACE inspection standards and maintain the flood project in accordance with state law and regulation intended to protect the environment. Once the USACE vegetation variance policy is finalized, KRCD will be in a position to request a variance, seek corresponding changes to environmental permits from state agencies, and then maintain levee vegetation in accordance with compatible USACE and state requirements.

Lastly, the SWIF will address nine categories of levee deficiencies: unwanted vegetation growth, sod cover, encroachments, slope stability, erosion, settlement, depressions, cracking, and seepage. The SWIF is expected to include a vegetation variance request to protect and maintain riparian vegetation in a manner required by state law and in a manner consistent with the USACE project design intent. The SWIF will also address unauthorized encroachments by cataloging and reviewing all encroachments and implementing appropriate remedial measures including authorization or removal. The SWIF will include a plan to identify and repair sites having structural deficiencies caused by erosion, settlement, depressions, and cracking. Areas having unacceptable seepage will also be identified and

Colonel William J. Leady, District Commander
July 6, 2012
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repaired under the SWIF. The identification process for deficiencies shall include inspection points identified by the USACE, inspection points identified by KRCD, and deficiencies identified by the Kings River Levee Evaluation Project.

Commitment of Significant Non-Federal Resources towards the SWIF

KRCD has a commitment of significant non-federal resources towards the development and implementation of the SWIF. These resources include the revenues that fund KRCD operations and state grant revenues that are directed for special purposes.

KRCD is a special district formed under California law and is supported by ad valorem property taxes and power generation revenues. Flood control has been a purpose of KRCD since its inception in 1951 and the KRCD Board of Directors authorizes significant expenditures for the operation and maintenance of the flood project each year. Last fiscal year, the District budgeted \$1,280,000 for flood project maintenance activities which included \$223,000 in funding for repairs and improvements to levees and channels.

In addition to annual maintenance, repair and improvement efforts, KRCD has funded major project improvements including the North Fork Improvement Project and the North Fork Interceptor Drain Project. Costs for these projects were shared between KRCD, landowners, irrigation districts, and reclamation districts. Both of these efforts have improved the condition and reliability of the flood project since it was accepted by the USACE in 1972.

KRCD is also eligible for state grant funding for flood control efforts through California State Propositions 84 and 1E. KRCD has applied for bond funding through grants administered by the California Department of Water Resources (CDWR). KRCD has applied for over \$10,000,000 in grant funding from the Flood Protection Corridor and Local Levee Assistance Programs and to date has been awarded \$7,000,000 from CDWR. This amount includes the recent award of \$2,000,000 for the Kings River Levee Evaluation Project. The evaluation will be used to identify any needed improvements and inform the development of the SWIF.

KRCD is also eligible for Proposition 84 funds through its membership and participation in the Upper Kings Basin Integrated Regional Water Authority (Authority). A number of flood protection projects have been submitted to the Authority's project list, including projects for levee evaluation and repair. The Authority's support has been instrumental in obtaining funding from CDWR. To date, over \$35 million in funding has been obtained by Authority members to implement \$60 million in water-related projects. Over 20% of this funding has been provided to flood control projects.

The majority of the work to develop the SWIF will be performed by KRCD staff. KRCD employs a staff of engineering, environmental, resource, and GIS personnel experienced in resource management and planning. Development will initially be funded directly from KRCD revenues. Hydrologic, hydraulic and geotechnical studies from the Kings River

Colonel William J. Leady, District Commander
July 6, 2012
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Levee Evaluation Project will inform the development of the SWIF. It is expected that SWIF implementation costs, once known, will be funded from a combination of sources including KRCD revenues, grant revenues, and other sources including landowners, irrigation district and reclamation districts.

Anticipated Interim Risk Reduction Measures

An Interim Risk Reduction Measures (IRRM) Plan will be developed as a part of the SWIF. The IRRM Plan will include a risk communication plan that addresses the increased risk to life caused by system-wide deficiencies. The IRRM Plan will also include measures to identify, monitor, and communicate specific locations where deficiencies exist that have the potential to increase flood risk. Primary communications will occur with appropriate county officials but may include outreach to landowners or the public if warranted.

The certain reaches of the flood project conveys flows at or near design capacity on a periodic basis. Flows at design capacity were conveyed by the Kings River North in the spring of 2011. To prepare for possible emergency situations, KRCD maintains stockpiles of revetment and flood fighting materials at various locations along the flood project works. During flood flows above prescribed stages or flows, KRCD patrols the levees and monitors known erosion sites. These measures will be included in the IRRM Plan and augmented as necessary to manage flood risk caused by deficiencies until implementation of the SWIF is complete.

Existing and Planned Interagency Collaborative Efforts

KRCD has been collaborating with the USACE on system improvement planning for the past two years. In addition to the USACE, KRCD plans to collaborate with a number of other agencies during the development, implementation and oversight of the SWIF. These agencies, listed with their expected areas of contribution, include:

- Federal Emergency Management Agency. (Levee evaluation and future NFIP accreditation)
- U.S. Fish and Wildlife Service. (Vegetation variance consultation)
- California Department of Fish and Game (Environmental permitting and environmental consultation)
- California Department of Water Resources (Funding resources, levee evaluations, and emergency response planning)
- Central Valley Flood Protection Board (Encroachment permitting and floodway technical assistance)
- Upper Kings Basin Integrated Regional Water Management Authority (Regional flood protection issues and funding)
- County of Fresno / County of Kings (Risk management and reduction, emergency response, and land use consultation)

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Anticipated State and Federal Permits and Consultation Requirements

The development of the SWIF plan will require review under the California Environmental Quality Act (CEQA). During the CEQA review process, KRCD will solicit comments from various regulatory agencies, stakeholders and the public.

KRCD has a Streambed Alteration Agreement with California Department of Fish and Game (CDFG) to perform levee and channel maintenance work. The provisions of the agreement allow KRCD to perform vegetation removal and erosion repairs under limited conditions. The agreement will be renewed as a Long-Term Maintenance Agreement with CDFG in 2013. It is anticipated that most physical implementation work under the SWIF will be covered by the agreement. If work is required that is outside of the scope of the agreement or terms of the agreement require modification to comply with a vegetation variance, consultation with CDFG will be sought.

The KRCD expects that floodway encroachment permits will be required from the Central Valley Flood Protection Board (CVFPB) for SWIF implementation pertaining to encroachments. Some erosion repair efforts may also require permits from the CVFPB.

If levee improvements are being considered during the development of the SWIF, KRCD will consult with the USACE. Permitting of the improvements may be required by the USACE under 33 CFR § 208.10 if it is determined that the proposed improvements will not adversely affect the function of the flood project. If the modifications are substantial, the USACE may determine that approval under 33 USC § 408 is warranted. Components of a Section 408 permit submittal include evaluation of hydrologic, hydraulic, environmental, structural, and geotechnical impacts. Elements of the Kings River Levee Evaluation Project will assist in the evaluation of these impacts if necessary.

Erosion repair or levee improvement work may also require a Clean Water Act Section 404 permit from the USACE. If a Section 404 permit is required, the USACE must consult with the U.S. Fish and Wildlife Service (USFWS) to ensure that issuance of the Section 404 permit will not likely jeopardize the continued existence of a threatened or endangered species, or result in the destruction or adverse modification of habitat of such species. A Regional Water Quality Control Board Section 401 Water Quality Certification will also be required as a part of the Section 404 process.

Colonel William J. Leady, District Commander
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KRCD respectfully submits this Letter of Intent in accordance with the USACE's *Policy for Development and Implementation of System-Wide Improvement Frameworks* and requests a two-year extension of eligibility for P.L. 84-99 rehabilitation assistance while it develops and implements a SWIF. Following approval of this Letter of Intent, KRCD will commence efforts to develop a SWIF for USACE approval.

If additional information is needed for this notification, please do not hesitate to contact me at (559) 237-5567, extension 115.

Sincerely,



Steven Stadler, P.E.,
Deputy General Manager of
Flood Control and Environmental Resources/Chief Engineer

SPS/dmr

Enclosures: As Stated

L12-0105
File: 700.01

ATTACHMENT 1

LEVEE SYSTEMS COVERED BY THE SWIF

Kings River Conservation District

July 6, 2012

Fc System ID	Organization	System Name	County	FEMA Region	Segments	Length (Miles)
5205000331	SACRAMENTO	Kings River - Units 6 south, 9, and 11 north	Fresno County, Kings County	Region 9	3	11.1764
5205000332	SACRAMENTO	Kings River - Units 1, 3, 5, 13, and 14	Fresno County, Kings County	Region 9	5	38.9194
5205000333	SACRAMENTO	Kings River - Units 15, 16, and 17	Fresno County, Kings County	Region 9	3	8.3148
5205000334	SACRAMENTO	Kings River - Units 4, 7, and 10	Kings County	Region 9	3	19.159
5205000335	SACRAMENTO	Kings River - Units 2, 8, 18, and 12 north	Fresno County, Kings County	Region 9	4	23.5161
5205000337	SACRAMENTO	Kings River - Unit 11, south of RR	Kings County	Region 9	1	10.6213
5205000338	SACRAMENTO	Kings River - Unit 12, south of RR	Kings County	Region 9	1	9.9581