

**Meeting of the Central Valley Flood Protection Board  
March 22, 2013  
Staff Report – Encroachment Permit 18804  
Cindy Lashbrook  
Merced River Riparian Habitat Restoration, Merced County**

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**1.0 – ITEM**

Consider approval of Permit No. 18804 (Attachment B)

**2.0 – APPLICANT**

Cindy Lashbrook

**3.0 – LOCATION**

The project is located on the left (south) bank of the Merced River in Merced County approximately 2.3 miles northeast of the city of Livingston. It is also located just upstream of the McConnell State Recreation Area. (Merced River Designated Floodway, Merced County, See Attachment A)

**4.0 – DESCRIPTION**

To remove approximately 1300 linear feet of invasive *Arundo donax* (false bamboo) plants and replant approximately 3300 linear feet of native riparian vegetation along the riverbank

**5.0 – PROJECT ANALYSIS**

Ducks Unlimited Inc. and Mrs. Cindy Lashbrook are proposing to plant approximately 3300 linear feet (2.9 acres) of riparian vegetation and remove 1300 linear feet (0.9 acres) of *Arundo donax* (false bamboo) plants on the left (south) bank of the Merced River. The proposed vegetation will be planted along the top of the bank and outside of the channel in a portion of an existing orchard. The plantings within the orchard are outside of the designated floodway.

The upper banks of the channel will be planted with smaller shrub species while the more woody species will be planted outside of the channel. All planting in the floodway will occur above the ordinary high water mark and in rows, no less than 16' apart, parallel to the river's flow. A total of 840 native shrubs and trees will be planted within the project limits. The area outside of the channel will also be planted with an herbaceous understory mixture of native grasses and forbs.

Temporary irrigation to allow for vegetation establishment will be supplied by pumped river water through drip lines to individual plants and sprinklers to the ground cover. Upon full establishment (estimated at 2 years), all irrigation systems will be removed. The land owner will be responsible for all maintenance including weed control, mowing and removal of any flood debris.

The project is located within the southern boundary of the Merced River Designated Floodway. This project conforms to all standards in Title 23, Section 107 and 131.

### **5.1 – Hydraulic Analysis**

All proposed plants within the channel were selected to have a minimal effect on flood flows. The change in hydraulic impact from the existing vegetation to proposed vegetation is considered negligible. This area of the project will only be inundated with high river flows, and the proposed plantings would not impede flow. The hydraulic impacts of the proposed project 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 U.S. Army Corps of Engineers comment letter has been received for this application. The District Engineer has no comments or recommendations concerning the project because the proposed work does not affect a federally

construction project. The letter is attached to the permit at Exhibit A in reference to the project

## **7.0 – CEQA ANALYSIS**

Board staff has prepared the following California Environmental Quality Act (CEQA) determination:

The Board determined that the project is categorically exempt from CEQA under a Class 4 Categorical Exemption (CEQA Guidelines Section 15304) covering minor alterations to land.

## **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 proposed plantings will have no adverse effect on facilities of the State Plan of Flood Control and is consistent with the Central Valley Flood Protection Plan

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**

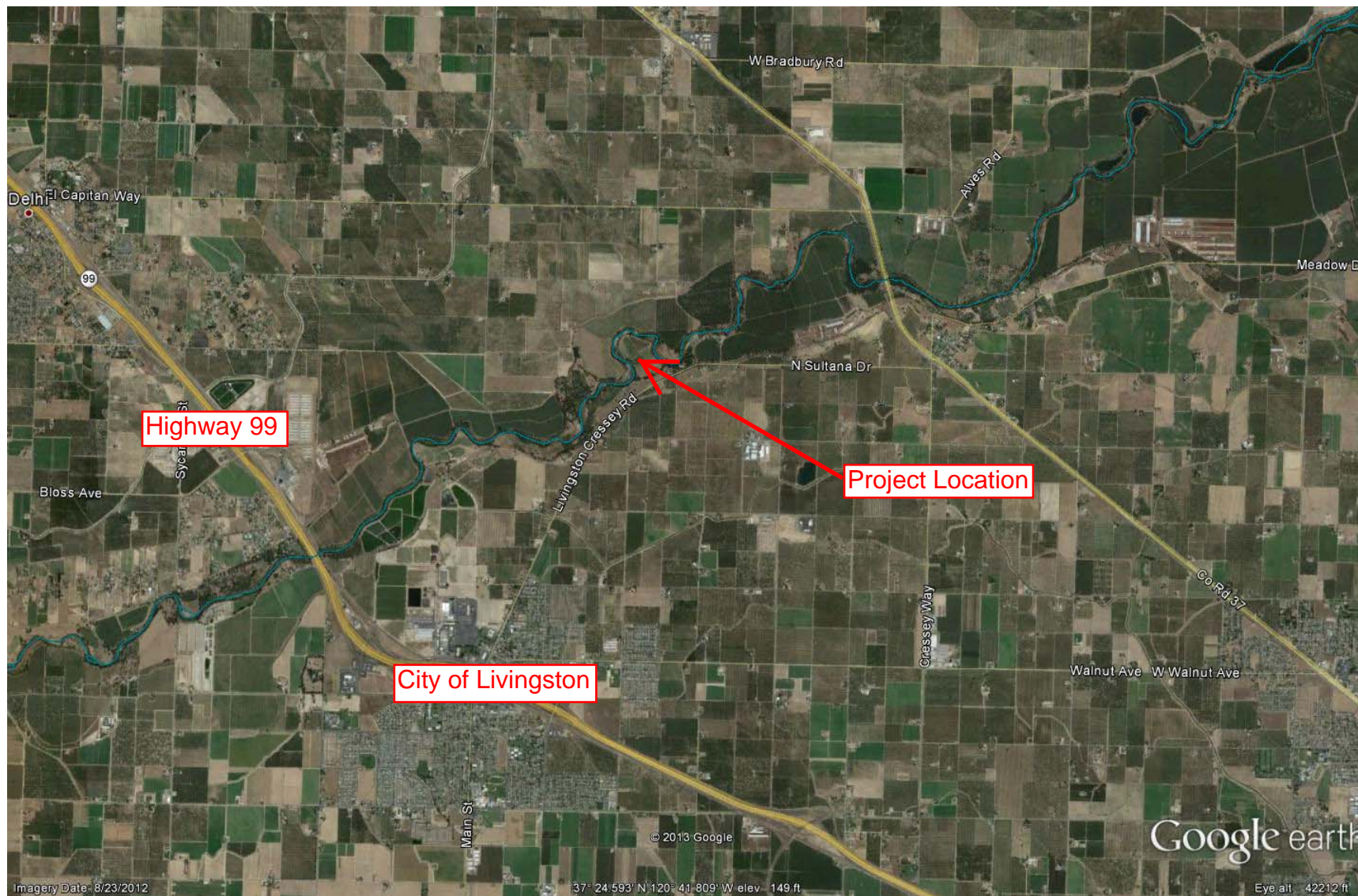
Staff recommends that the Board find the project exempt from CEQA, approve the permit, and direct staff to file a Notice of Exemption with the State Clearinghouse.

## **10.0 – LIST OF ATTACHMENTS**

- A. Location Maps and Photos
- B. Draft Permit No. 18804
- C. Project Plans

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

## Project Vicinity Map





## Project Location Map

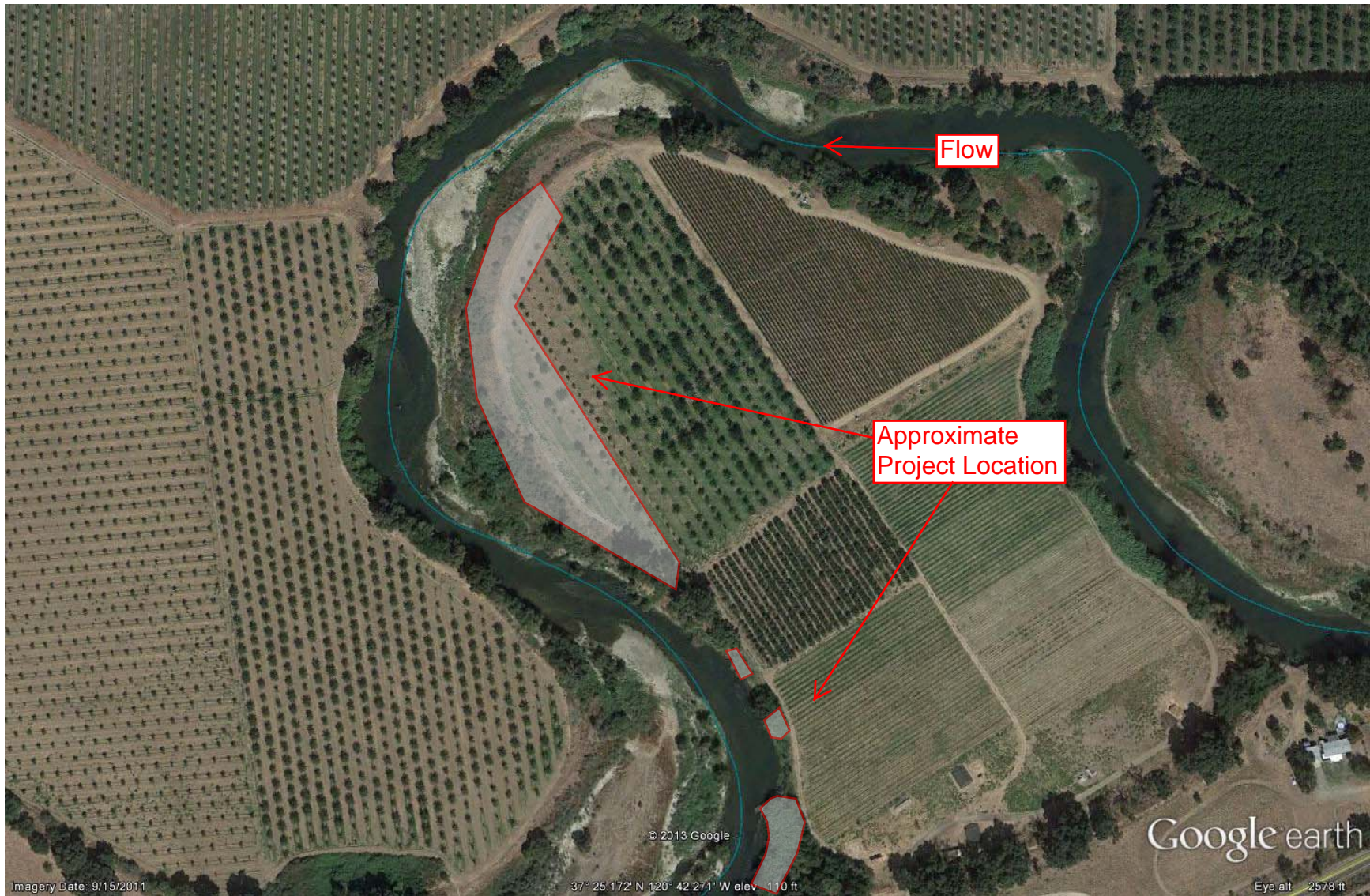






Photo 1: Looking down from top of East bank at actively eroding bank edge (April 2011)



Photo 2: Facing northeast toward eroding proposed bank stabilization area (April 2011).





Photo 3: Looking downstream from top of East bank at actively eroding bank edge (November 2010).



Photo 4: Looking upstream from top of East bank at actively eroding bank edge (November 2010).



**DRAFT**

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

**PERMIT NO. 18804 BD**

**This Permit is issued to:**

Cindy Lashbrook  
12230 Livingston Cressey Road  
Livingston, California 95334

To remove approximately 1300 linear feet of invasive *Arundo donax* (false bamboo) plants and replant approximately 3300 linear feet of native riparian vegetation along the riverbank. The project is located on the left (south) bank of the Merced River in Merced County approximately 2.3 miles northeast of the city of Livingston. It is also located just upstream of the McConnell State Recreation Area. (Section 7,12,13,18, T6S, R11E, MDB&M, Merced River, Merced 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. 18804 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 and Department of Water Resources 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 July 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 landscaping, appurtenances, and maintenance practices shall conform to standards contained in Section 131 of the Central Valley Flood Protection Board's Regulations.

TWENTY-FOUR: The State of California shall not be held liable for damage to the encroachment(s) caused by the operation of the flood control project or by releases of water from storage reservoirs.

TWENTY-FIVE: Cleared trees and brush (or prunings therefrom) shall be completely burned or removed from the floodway, and downed trees or brush shall not remain in the floodway during the flood season from November 1 to July 15.

TWENTY-SIX: After each period of high water, debris that accumulates at the site shall be completely removed from the floodway.

TWENTY-SEVEN: Areas where plantings are lost to erosion shall not be replanted.

TWENTY-EIGHT: No further planting or work, other than that covered by this application, shall be performed in the area without prior approval of the Central Valley Flood Protection Board.

TWENTY-NINE: In the event that levee or bank erosion injurious to the adopted plan of flood control

occurs at or adjacent to the permitted encroachment(s), the permittee shall repair the eroded area and propose measures, to be approved by the Central Valley Flood Protection Board, to prevent further erosion.

THIRTY: If the plantings result in an adverse hydraulic impact, the permittee will provide appropriate mitigation.

THIRTY-ONE: The letter from the Department of the Army dated February, 13, 2013 is attached to this permit as Exhibit A in reference to this project.

THIRTY-TWO: Upon completion of the project, the permittee shall submit post-construction photos to: Department of Water Resources, Flood Project Inspection Section, 3310 El Camino Avenue, Suite 256, Sacramento, California 95821.





REPLY TO  
ATTENTION OF

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

Flood Protection and Navigation Section (18804)

FEB 13 2013

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 Cindy Lashbrook, Ducks Unlimited, Inc. (application number 18804). This project includes removing approximately 1300 linear feet of invasive *Arundo donax* (false bamboo) plants and replanting approximately 3300 linear feet of native riparian vegetation along the riverbank. The project is located on the left (south) bank of the Merced River approximately 2.3 miles northeast of the city of Livingston, at 37.418069°N 120.704151°W NAD83, Merced 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, 1325 J Street, Room 1350, 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.

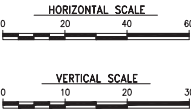
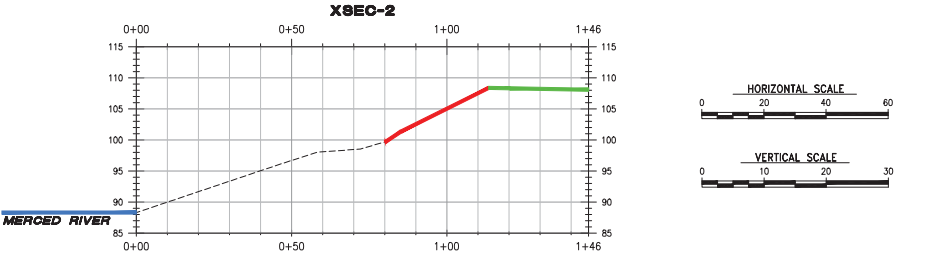
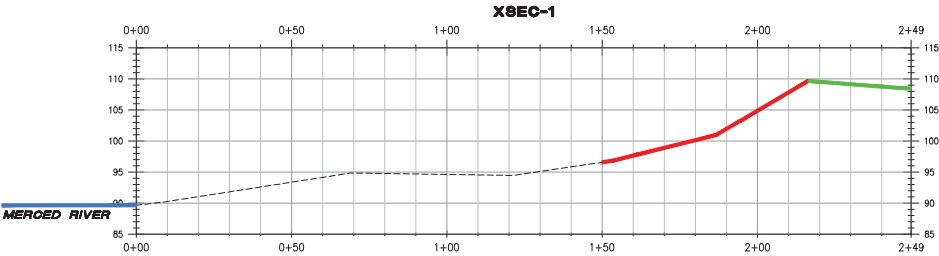
Sincerely,

A handwritten signature in black ink, reading "Meegan G. Nagy", is written over the typed name and title.

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

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- LEGEND**
- APPROX. WATER SURFACE - MERCED RIVER (AT TIME OF SURVEY)
  - PLANTED SHRUBS (LOW DENS.)
  - PLANTED MIXED (HIGH DENS.)
  - APPROX RIPARIAN RESTORATION BOUNDARY

UNAUTHORIZED CHANGES & USES  
THE ENGINEER PREPARING THESE PLANS WILL NOT BE RESPONSIBLE  
FOR, OR LIABLE FOR, UNAUTHORIZED CHANGES TO OR USES OF THESE  
PLANS. ALL CHANGES MUST BE IN WRITING AND MUST BE APPROVED BY  
THE PREPARER OF THESE PLANS.

**SURVEY DATUM**  
The horizontal datum for this survey is the California Coordinate System of 1983, Zone 3 (0403), NAD 83 (CORS96), Epoch  
Date 2002.00 in U.S. Survey Feet. The vertical datum for this survey is the North American Vertical Datum of 1988 (NAV88)  
computed using GEOID08. Both datums were derived from Static GPS observations corrected using the National Geodetic  
Survey (NGS) Online Positioning User Service (OPUS) program. Static GPS observations were collected on November 30, 2011.  
The NGS OPUS Solution Report is on file at the WRO engineering department in Rancho Cordova, California.

REV. NO.		DESCRIPTION		REVISIONS		DATE	APPROVED
1							
2							
3							
4							
5							



PROJECT NO. US-CA-496-1  
**MERCED RIVER  
RIPARIAN PROJECT  
CROSS SECTION**

**EXHIBIT**

DESIGNED BY: JG  
DRAWN BY: JS  
SURVEYED BY: JW  
CHECKED BY:

DATE: 11.21.12 SHEET NO. 1 OF 1 APPROVED BY: