

**Meeting of the Central Valley Flood Protection Board
July 26, 2013**

Staff Report – Cease and Desist Order for Enforcement Action 2009-33

**Mr. Jesse Castellon, Bear Creek
San Joaquin County**

1.0 – ITEM

Consider adoption of Cease and Desist Order (*Attachment A*) authorizing the Central Valley Flood Protection Board (“CVFPB”) or its contractor to abate encroachments listed in *Attachment A* located on the Bear Creek Project Levee at 4215 Curlew Street in Stockton, California through the removal of the encroachments. The Respondent waived the right to a hearing and has failed to respond to previous requests by CVFPB staff to remove the encroachments.

2.0 – RESPONDENT

Mr. Jesse Castellon
4215 Curlew Street
Stockton, California 95219
Assessor’s Parcel Number (APN) 071-410-89

3.0 – LOCATION

The code violations are located on the left (south) levee of the Bear Creek, Unit 8, west of Interstate 5 in the City of Stockton in San Joaquin County. Figures 1a and 1b show the vicinity map and an aerial view of the property, respectively.

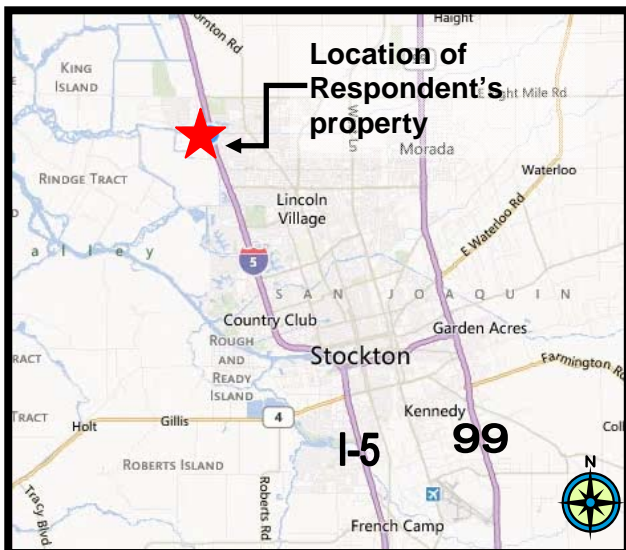


Figure 1a- Vicinity Map of property (Source: Bing maps)

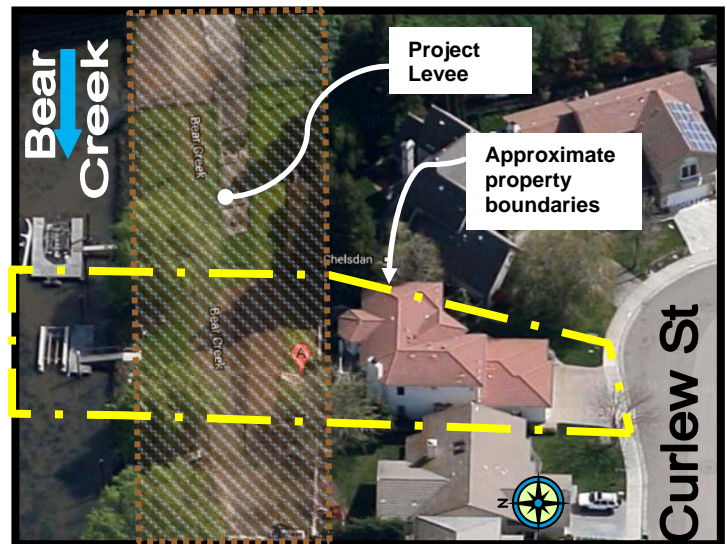


Figure 1b- Aerial view of the property (Source: Bing Maps)

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4.0 – STATUS

On February 28, 2009, the Respondent submitted Encroachment Application No. 18347. On April 17, 2009, the CVFPB held a hearing for Application No. 18347 in Sacramento, California. This hearing was continued and held on May 15, 2009. At this hearing, the CVFPB considered approving issuance of permit for existing encroachments determined to be compliant with CVFPB Regulations (California Code of Regulations Title 23). The CVFPB denied authorization to retain existing encroachments that were determined to be inconsistent with CVFPB Regulations. The CVFPB also directed CVFPB staff to initiate enforcement proceedings to remove the unauthorized encroachments. See *Attachment B* for copy of Resolution No. 09-13 signed on September 25, 2009.

On March 24, 2010, the Executive Director issued Enforcement Notice and Order for Enforcement Action 2009-33 to the Respondent ordering removal of existing non-compliant encroachments (See *Attachment C*). The Respondent did not submit a request for a hearing within the 30-days noted on the Enforcement Order and therefore waived his right to a hearing. To date, none of the existing encroachments noted on the Enforcement Notice and Order have been removed.

Staff initiated discussions with the Respondent seeking a mutual agreement to address the violations. Initially, the Respondent seemed receptive to a settlement proposal; however, to date, staff has been unable to reach an agreement with the Respondent. The Respondent has been given sufficient time to comply with issued Enforcement Notice and Order or enter into a settlement agreement with CVFPB. However, the Respondent has chosen neither of these options. Therefore, staff recommends that the CVFPB approve the Cease and Desist Order for Enforcement Action 2009-33 (*Attachment A*) authorizing abatement of the code violations through removal of the encroachments on the Respondent's property.

6.0 – STAFF RECOMMENDATION

Staff recommends the CVFPB approve the proposed Cease and Desist Order for Enforcement Action 2009-33 (*Attachment A*) authorizing abatement of code violations on the Respondent's property.

7.0 – LIST OF ATTACHMENTS

- A. Proposed Cease and Desist Order for Enforcement Action 2009-33
- B. Resolution No. 09-13 signed September 25, 2009
- C. Enforcement Notice and Order 2009-33 dated March 24, 2010

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CENTRAL VALLEY FLOOD PROTECTION BOARD

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



CEASE AND DESIST ORDER

Property Owner: Mr. Jesse Castellon
Mailing Address: 4215 Curlew Street
Stockton, CA 95219

Date: July 26, 2013
Enforcement Action: 2009-33

Encroachment Location: Bear Creek, Project Levee (South Bank), Unit 8, Levee Mile 0.81
Local Maintaining Agency: San Joaquin County Flood Control and Water Conservation District
Assessor Parcel Number: 071-410-89

Description: The State of California - Central Valley Flood Protection Board (CVFPB) staff has documentation that encroachment violations of the State Plan of Flood Control exist within its jurisdiction at this location consisting of the following:

1. Concrete steps on the landside slope
2. Concrete retaining wall at the landside toe
3. Perpendicular wood property fence and posts on the landside slope within SSJDD easement
4. Vegetation taller than 12-inches on the land and waterside slopes

Regulations: These encroachments are in violation of provisions in the California Water Code and the California Code of Regulations (CCR) Title 23 Waters, Division 1 and United States Army Corps of Engineers (USACE) Code of Federal Regulations Title 33, Part 208 – Flood Control Regulations. These provisions are as follows:

1. 33 CFR 208.10 Local flood protection works; maintenance and operation of structures and facilities.
2. California Water Code Section 8707 Flood Control – Removal and Alteration of Existing Structures.
3. California Water Code Section 8708 Flood Control - Interference with maintenance & operation of works.
4. California Water Code Section 8709 Flood Control - Public Nuisance; Abatement.

Conditions: You are ordered to remove the listed unauthorized encroachments within thirty (30) days of receipt of this cease and desist order in accordance with the conditions provided herein. To comply with this cease and desist order, please schedule a compliance inspection 10 days prior to starting the removal work.

Past Notices: You were previously issued an Encroachment Removal Enforcement Notice dated March 24, 2010 requiring removal of listed violations. This notice is attached to this package as Exhibit A.

Failure to Comply: If you do not comply with this cease and desist order within thirty (30) days of receiving the order, the CVFPB, or a contractor hired by the CVFPB shall abate the violations through physical removal of the encroachments, and the CVFPB may recover any costs incurred from the property owner.

Staff Contact: The staff member assigned to this enforcement action is: Angeles Caliso, Staff Engineer, Enforcement Section; E-mail: acaliso@water.ca.gov; Desk: (916) 574-2389.

Signed,

Jay S. Punia
Executive Officer

Attachments:

1. Cease and Desist Order Conditions
- Exhibit A: Encroachment Removal Enforcement Notice dated March 24, 2010

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CENTRAL VALLEY FLOOD PROTECTION BOARD

3310 El Camino Ave., Rm. LL40
SACRAMENTO, CA 95821
(916) 574-0609 FAX: (916) 574-0682
PERMITS: (916) 574-2380 FAX: (916) 574-0682



CEASE AND DESIST ORDER CONDITIONS

GENERAL CONDITIONS:

1. These enforcement conditions are issued under the provisions of Sections 8700-8723 of the California Water Code and the provisions of the California Code of Regulations, Title 23 Waters, Division 1, Article 8 Standards.
2. The property owner is responsible for all personal liability and property damage which may arise out of failure on the property owner's part to perform the obligations under this enforcement order. 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 property owner shall hold each of them harmless from each claim.
3. Should any of the work not conform to the conditions of this order, the Central Valley Flood Protection Board or its contractor, shall remove all or any part of the work herein described and may recover the costs and expense of such removal from the property owner.

REMOVAL CONDITIONS:

4. The Property Owner shall contact the Enforcement Section by telephone at (916) 574-0609, to schedule an inspection conference at least 10 working days prior to start of work.
5. Encroachment removal work defined by this order can be completed during the flood season from November 1st through April 15th provided that the proposed work schedule and forecast for weather and river conditions are approved by the inspector.
6. The code violations noted on the Cease and Desist Order shall be removed and disposed of outside the floodway and Sacramento-San Joaquin Drainage District's easement.
7. Backfill all voids following the removal of the unauthorized encroachments within the levee section and easement area.
8. Fill material shall be placed in 4-inch to 6-inch layers, moisture conditioned with water or by drying to +/- 2 percent of optimum moisture content, and compacted with a vibratory plate compactor or hand operated hammer to a minimum of 97 percent relative compaction as measured by ASTM Method D698.
9. Levee fill material must be free of stones or lumps exceeding three (3) inches in greatest dimension, and must be free of vegetative matter or other unsatisfactory materials.
10. Fill on levee section shall be keyed into the existing levee section whenever there is substantial fill, as determined by the inspector.
11. The finished slope of the levee must be 3:1 (Horizontal: Vertical) on the waterside and 2:1, on the landside of the levee.
12. Levee surfaces left barren due to encroachment removal shall be re-vegetated with sod or seeded grass.

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STATE OF CALIFORNIA
THE RESOURCES AGENCY
CENTRAL VALLEY FLOOD PROTECTION BOARD

RESOLUTION NO. 09-13

FINDINGS AND DECISION AUTHORIZING ISSUANCE OF
ENCROACHMENT PERMIT NO. 18347
MR. JESSE CASTELLON, 4215 CURLEW STREET, STOCKTON, CA 95219
BEAR CREEK, SAN JOAQUIN COUNTY

WHEREAS, Mr. Jesse Castellon SR. (applicant) is owner of a residential property known as San Joaquin County Assessor's Parcel No. 071-410-89, also known by the address of 4215 Curlew Street, Stockton, California 95219 in Section 7, Township 2 North, Range 6 East, Mount Diablo Base and Meridian; and

WHEREAS, the property is one of eight on lower Bear Creek, west of Interstate 5 located within the federal Bear Creek Flood Control Project completed July 1964; and

WHEREAS, the former Reclamation Board signed assurances to the United States Army Corps of Engineers (Corps) on January 16, 1962 and February 3, 1965 to hold the Corps harmless and to maintain and operate all Project works in accordance with regulations prescribed by the Secretary of the Army; and

WHEREAS, the Reclamation Board signed a similar assurance agreement with the San Joaquin County Flood Control and Water Conservation District (County) for Operation and Maintenance of the project on December 12, 1960; and

WHEREAS, by letter dated March 30, 2007, the Corps found the Bear Creek Project levee system to be "unacceptable" due to "maintenance deficiencies" primarily due to unauthorized urban homeowner encroachments; and

WHEREAS, an itemized list of the unauthorized encroachments was compiled on April 12, 2007 during a levee inspection that included staff from the Central Valley Flood Protection Board (Board), County, and California Department of Water Resources (DWR); and

WHEREAS, on January 1, 2008, the new Central Valley Flood Protection Board (Board) came into being, and assumed all of the responsibilities of the former Reclamation Board; and

WHEREAS, the lack of progress to remove the unauthorized encroachments resulted in the Corps on February 27, 2009 officially removing this portion of the Bear Creek project (Unit 8, levee mile 0.0 to Interstate 5) PL 84-99 rehabilitation and inspection program – a funding mechanism by which the Corps repairs levees if damaged during a flood event; and

WHEREAS, the Corps also on February 27, 2009 rescinded the previous levee certification for this portion of the Bear Creek Project; and

ATTACHMENT B
JULY 26, 2013 AGENDA ITEM 8A

WHEREAS the County is now required to substantiate to the Corps and the Federal Emergency Management Agency (FEMA) that the Bear Creek Project provides 100-year flood protection as per the Provisionally Accredited Levee agreement signed by the County in 2008; and

WHEREAS, failure to restore the Bear Creek Project up to at least a “minimally acceptable” inspection rating by April 1, 2010 is likely to result in FEMA remapping the area into the 100-year floodplain, potentially forcing up to 383 local homeowners to purchase flood insurance; and

WHEREAS, the applicant prepared and submitted an application for a Board encroachment permit on February 28, 2008 which was accepted by the Board on March 10, 2008 and assigned application No. 18347; and

WHEREAS, the applicant is requesting to authorize the following existing encroachments previously installed or constructed on the flood control right of way for a federal project without prior determination by the Corps that the encroachments would not adversely affect the flood control project as required by Title 33, Code of Federal Regulations (CFR) section 208.10 (Section 208.10):

1. A boat dock supported by steel pilings and attached to a gangway and landing,
2. A willow tree on the waterside berm,
3. Perpendicular wooden fences on the landside slope,
4. Concrete steps on the landside slope,
5. A concrete retaining wall (and waterfall basin) at the landside toe,
6. A landside concrete patio within 10 feet of the levee toe,
7. Landscape plants on the landside slope (fed by an existing irrigation system); and

WHEREAS, the applicant is requesting to install or construct the following new encroachments:

- A. Concrete steps on the waterside slope,
- B. A parallel 6-foot high wrought iron fence at landside crown hinge point,
- C. A lawn and light pole with electrical outlet on the waterside berm,
- D. Electrical conduit to the waterside berm,
- E. A waterfall on the landside slope (spills into existing retaining basin),
- F. A sprinkler system on the landside and waterside,
- G. Additional Landscape plants on the landside slope; and

WHEREAS, in accordance with provisions of CFR Section 208.10 by March 16, 2009 letter the Corps' District Engineer stated no objections to approval of the following encroachments:

Existing Item 1 – existing boat dock, pilings, gangway and landing,
Existing Item 2 – existing willow tree on the waterside berm,
Existing Item 6 – existing concrete patio within 10-feet of the landside levee toe,
Proposed Item A – proposed concrete steps on the waterside slope,
Proposed Item C – proposed lawn and light pole with electrical outlet on the waterside berm,
Proposed Item D – proposed electrical conduit to the waterside berm,
Proposed Item F – proposed sprinkler system on landside and waterside,

WHEREAS, also by March 16, 2009 letter the Corps' District Engineer recommended denial of the following encroachments pursuant to CFR Section 208.10:

Existing Item 3 – perpendicular wooden fences on the landside levee slope,
Existing Item 4 – concrete steps on the landside levee slope,
Existing Item 5 – concrete retaining wall (and waterfall basin) at the landside levee toe,
Existing Item 7 – plants on the landside levee slope,
Proposed Item B – parallel wrought iron fence at the landside crown hinge point,
Proposed Item E – waterfall on the landside slope,
Proposed Item G – additional landscape plants on the landside slope; and

The Corps letter and testimony at the April 17, 2009 Board hearing constitutes substantial evidence that these encroachments may interfere with the maintenance, performance, or functioning of the Bear Creek Project and an adopted plan of flood control pursuant to Water Code sections 8708, 8709, 8712, 8719 and 8723; and

WHEREAS, pursuant to Water Code section 8708, because the State has given assurances to the Corps that the State will maintain and operate federal flood control works in accordance with federal law, the encroachments denied by the Corps are unlawful because the Corps has determined that they now or will interfere with the maintenance or operation of the flood control works; and

WHEREAS, pursuant to Water Code section 8709, because the denied encroachments “may interfere with or obstruct the operation or maintenance” of the flood control works, the encroachments constitute a public nuisance. Therefore, if the permittee fails to remove the existing denied encroachments, the Board may commence and maintain a suit in the name of the people of the State to abate the nuisance; and

WHEREAS, pursuant to Water Code section 8712, no levee shall be cut or altered without permission of the Board, and because items 3, 4, 5, A, B, C, D, E and F cut (including penetrations) or alter the levee Board permission is required; and

WHEREAS, pursuant to Water Code sections 8710 and 8719, the applicant unlawfully constructed encroachments on the levee without Board permission, thus creating a public nuisance; and

WHEREAS, under federal law the Board does not have the discretion to approve encroachments independently of Corps recommendations while the January 16, 1962 and February 3, 1965 assurance agreements between the Corps and Board, as well as sections 3-01 through 3-07 of the Corps Operations and Maintenance manual for the Bear Creek Project require the Board to comply with section 208.10. Therefore, approval of these features for which the Corps has recommended denial would violate these agreements; and

WHEREAS, under Title 23, Code of Regulations section 15(a)(8) and Water Code section 8723, the Board may deny a permit if the proposed work could be injurious to, or interfere with, the successful execution, functioning, or operation of any adopted plan of flood control. As a part of a federal project, the area encompassed by these features is within an adopted plan of flood control, and approval of them therefore could be injurious to, or interfere with the successful execution, functioning, or operation of an adopted plan of flood control because such approval would violate the Board's agreements with the Corps and threaten the status of the project. For all these reasons, staff concurs with the Corps' recommendations and recommends that the Board act in accordance with the Corps' recommendations to deny features of the project application, as listed above; and

WHEREAS, the Board has reviewed the Figures, Attachments, and References listed in the Staff Report; and

WHEREAS, the Board, as lead agency, has determined that the components of the applicant's project are categorically exempt from the California Environmental Quality Act (CEQA) under Classes 1, 3 and 4 Categorical Exemptions (CEQA Guidelines Sections 15301 (c, h), 15303 (d, e) and 15304 (b, f). The Class 1 exemption covers existing private structures involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The Class 3 exemption covers construction and location of limited numbers of new, small facilities or structures. The Class 4 exemption covers minor private alterations in the condition of land, water, and vegetation; and

WHEREAS, the Board has conducted a hearing and has reviewed the application for encroachment permit, the Figures, Attachments, and References Reports listed in the Staff Report, the documents and correspondence in its file, and the environmental findings;

NOW, THEREFORE, BE IT RESOLVED THAT,

Findings of Fact.

1. The Central Valley Flood Protection Board hereby adopts as findings the facts set forth in the Staff Report.
2. The Board has reviewed the Figures, Attachments, and References listed in the Staff Report.

CEQA Findings.

3. The Board, as lead agency, has determined that all project components (both existing and proposed) are exempt from CEQA.
4. The Board, after consideration of the application and Staff Report adopts the project description, analysis and findings which are relevant to activities authorized by issuance of final encroachment permits consistent with Draft Permit No. 18347, Mr. Jesse Castellon, Sr.
5. **Custodian of Record.** The custodian of the CEQA record for the Board is its Executive Officer, Jay Punia, at the Central Valley Flood Protection Board Offices at 3310 El Camino Avenue, Room LL40, Sacramento, California 95821.

Findings pursuant to Water Code section 8610.5

6. **Evidence Admitted into the Record.** The Board has considered all the evidence presented in this matter, including the application, Staff Report and addendum, CEQA findings, Corps recommendations, and County survey. The Board has also considered all letters and other correspondence received by the Board and in the Board's files related to this matter.

The custodian of the file is Executive Officer Jay Punia at the Central Valley Flood Protection Board, 3310 El Camino Avenue, Room LL40, Sacramento, California 95821.

7. **Best Available Science.** In making its findings, the Board has used the best available science relating to the issues presented by all parties. 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.
8. **Effects on State Plan of Flood Control.** This project including recommended approval items, recommended denial and removal of existing encroachments and recommended denial of certain additional proposed encroachments will help prevent potential adverse future impacts to the operation and maintenance of the Bear Creek Project portion of the State Plan of Flood Control.
9. **Effects of reasonably projected future events.** Staff has determined no immediately identifiable adverse effects due to reasonably projected future events, such as changes in hydrology, climate, and development within the applicable watershed. Long-term sea level rise impacts on the Delta and its immediate vicinity could result in future determinations that project levees, including those of the Bear Creek Project could require raising to maintain sufficient flood risk reduction levels, but these impacts have not been studied specifically for this project.

Other Findings / Conclusions Regarding Issuance of a Permit.

10. Based on the foregoing the Board finds and concludes that the issuance of Encroachment Permit No. 18347 is interest of the State with the following approvals and denials:

The Board hereby approves:

Authorization of the existing boat dock, pilings, gangway and landing,
Authorization of the existing willow tree on the waterside berm,
Authorization of the existing concrete patio within 10-feet of the landside levee toe,
Construction of the proposed concrete steps on the waterside slope,
Construction of a proposed lawn and light pole with electrical outlet on the waterside berm,
Construction of proposed electrical conduit and additional irrigation piping within the levee right of way.

Board hereby denies:

Authorization of existing perpendicular wooden fences on the landside levee slope,
Authorization of existing concrete steps on the landside levee slope,
Authorization of existing concrete retaining wall (including waterfall retaining basin) at the landside levee toe,
Authorization of existing plants on the landside levee slope,
Construction of a proposed wrought iron fence on the landside crown hinge point,
Construction of a proposed waterfall on the landside slope,

11. This resolution shall constitute the written decision of the Board in the matter of Permit No. 18347.

Approval of Permit.

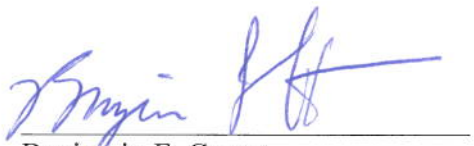
12. Based on the foregoing, the Central Valley Flood Protection Board hereby approves issuance of an Encroachment Permit in substantially the form provided as Attachment B of the Staff Recommendations.

13. The Board directs the Executive Officer to take the necessary actions to prepare and execute the permit and all related documents and to prepare and file a Notice of Exemption under the California Environmental Quality Act.

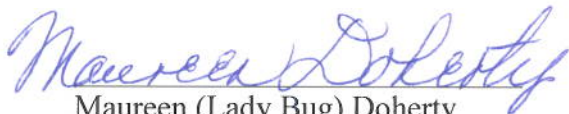
Removal of Unauthorized Encroachments.

14. The Board authorizes the Executive Officer to begin enforcement proceedings to remove unauthorized encroachments listed in paragraph 16 below.
15. The Removal Notice shall state that existing flood project encroachments in violation of Federal and State regulations shall be removed within thirty (30) days after service of the Enforcement Order.
16. The unauthorized existing encroachments to be removed are:
 - Perpendicular wooden fences on the landside levee slope,
 - Concrete steps on the landside levee slope,
 - Concrete retaining wall (including waterfall retaining basin) at the landside levee toe
 - Plants on the landside levee slope

PASSED AND ADOPTED by vote of the Board on 9-25, 2009



Benjamin F. Carter
President



Maureen (Lady Bug) Doherty
Secretary

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CENTRAL VALLEY FLOOD PROTECTION BOARD

3310 El Camino Ave., Rm. 151
 SACRAMENTO, CA 95821
 (916) 574-0609 FAX: (916) 574-0682
 PERMITS: (916) 574-0685 FAX: (916) 574-0682



Sent Via U.S. Certified Mail Return Receipt Requested

ENCROACHMENT REMOVAL ENFORCEMENT NOTICE

Property Owner: Mr. Jesse Castellon
Mailing Address: 4215 Curlew Street
 Stockton, CA 95219

Date: MAR 24 2010
Enforcement Action: 2009-33

Encroachment Location: Bear Creek, Project Levee (South Bank), Due West of Interstate 5 Bridge
Local Maintaining Agency: San Joaquin County Flood Control and Water Conservation District
Assessor Parcel Number: 071-410-89

Description: The State of California - Central Valley Flood Protection Board (Board) staff has documentation that encroachment violations of the State Plan of Flood Control exist within its jurisdiction at this encroachment location consisting of the following:

1. Concrete steps on the landside slope.
2. Concrete retaining wall on the landside toe.
3. Perpendicular wood fences on the landside slope.
4. Vegetation taller than 12 inches on the land and waterside slopes and berm.

Regulations: These encroachments are in violation of provisions in the California Water Code and the California Code of Regulations (CCR) Title 23 Waters, Division 1. The United States Army Corps of Engineers has also determined that these encroachments are in violation of provisions of the Code of Federal Regulations (CFR) Title 33--Navigation and Navigable Water, Part 208 --Flood Control Regulations. The provisions are as follows:

1. 33 CFR 208.10 Local flood protection works; maintenance and operation of structures and facilities.
2. California Water Code Section 8708 Flood Control - Interference with Maintenance & Operation of Works.
3. California Water Code Section 8709 Flood Control - Public Nuisance; Abatement .

Conditions: Removal of the identified encroachments shall be completed in accordance with the attached enforcement conditions within sixty (60) days of receipt of this notice. To comply with this notice please schedule a compliance inspection within 10 days of the start of removal work. The rights of the Respondent and the Board are detailed in the attached enforcement order.

Staff Contact: The staff member assigned this enforcement action is:
 Gary Lemon, P.E., Engineer, Floodway Protection Section
 glemon@water.ca.gov Desk: (916) 574-0649

Signed,

Jay S. Punia
 Executive Officer

Attachments:

1. Enforcement Order
2. Enforcement Conditions

CENTRAL VALLEY FLOOD PROTECTION BOARD

3310 El Camino Ave., Rm. LL40

SACRAMENTO, CA 95821

(916) 574-0609 FAX: (916) 574-0682

PERMITS: (916) 574-0685 FAX: (916) 574-0682

**ENCROACHMENT REMOVAL ENFORCEMENT ORDER**

The State of California - Central Valley Flood Protection Board (Board) has determined that encroachments in violation of the California Water Code or of the more specific California Code of Regulations (CCR) Title 23 Waters, Division 1 are constructed works or activities that threaten the successful execution, functioning, operations, or maintenance of an adopted plan of flood control. California Water Code Section 8709 also states that an encroachment that interferes with or obstructs such operation and maintenance constitutes a public nuisance. You are therefore requested to cease the encroaching activity and remove the encroachments described in the enforcement notice. You may obtain a compliance inspection of the encroachment removal by contacting the inspection section identified in the notice ten (10) days prior to the start of removal work. Restoration of the encroachment removal site shall be completed in accordance with the specifications found in the California Code of Regulations Title 23, Div 1, Article 8, Section 120 Levees which are summarized in the attached enforcement conditions.

Respondents Rights: The landowner or person owning, undertaking, or maintaining the work that is the subject of the attached notice is the respondent. The respondent has the opportunity to an enforcement hearing which must be requested in writing within 30 days of receipt of this notice. All hearings are open to the public and are held by one or more members of the Board or a designated hearing officer. Failure to file a hearing request response within thirty (30) days constitutes a waiver of the respondent's right to a hearing. The respondent and other parties may request the board provide a copy of any document not exempt from disclosure under the Public Records Act that is relevant to the enforcement proceedings. The Board may charge a reasonable fee for each copy.

Board's Rights: If the respondent fails to comply with this notice within the specified timelines, the Board may seek judicial enforcement and commence and maintain a suit in the name of the People of the State of California for the prevention and abatement of the nuisance. A failure to comply with this notice renders the owner or operator of any of the encroaching structures liable to any person for the damages caused by the structure's failure. The Board may also physically remove the violating encroachments using a contractor or the local maintaining agency and recover its costs from the respondent. Further, the Board may abate violations or threats to the adopted plan of flood control by requiring you to take an action, at your cost, that may include, but is not limited to: (1) removal of the work; (2) alteration of the work; (3) performance of additional work; (4) implementation of specified mitigation for effects on the environment; (5) compliance with additional reasonable conditions; (6) filing an application for a permit pursuant to this division; or (7) revocation of a permit.

Jay S. Punia
Executive Officer

CENTRAL VALLEY FLOOD PROTECTION BOARD

3310 El Camino Ave., Rm. 151
SACRAMENTO, CA 95821
(916) 574-0609 FAX: (916) 574-0682
PERMITS: (916) 574-0685 FAX: (916) 574-0682



ENFORCEMENT CONDITIONS

Property Owner: Mr. Jesse Castellon **Date:**
Mailing Address: 4215 Curlew Street **Enforcement Action:** 2009-33
Stockton, CA 95219

Encroachment Location: Bear Creek, Project Levee (South Bank), Due West of Interstate 5 Bridge
Local Maintaining Agency: San Joaquin County Flood Control and Water Conservation District
Assessor Parcel Number: 071-410-89

GENERAL CONDITIONS:

1. These enforcement conditions are issued under the provisions of Sections 8700-8723 of the California Water Code and the provisions of the California Code of Regulations, Title 23 Waters, Division 1, Article 8 Standards.
2. The property owner is responsible for all personal liability and property damage which may arise out of failure on the property owner's part to perform the obligations under this enforcement order. 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 property owner shall hold each of them harmless from each claim.
3. Should any of the work not conform to the conditions of this enforcement notice, the property owner, 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 described.

REMOVAL CONDITIONS:

4. The Property Owner shall contact the Encroachment Control and Land Use Section by telephone at (916) 574-0609, to schedule an inspection conference at least 10 working days prior to start of work.
5. Encroachment removal work defined by this enforcement notice can be completed during the flood season from November 1st through April 15th provided that the proposed work schedule and forecast for weather and river conditions are approved by the inspector.
6. The existing concrete steps on the landside slope shall be removed and disposed of outside of the floodway.
7. The existing concrete retaining wall on the landside toe shall be removed and disposed of outside of the floodway.
8. The existing perpendicular wood property fences, including posts, on the landside slope and within the State's Levee right of way easement shall be removed and disposed of outside of the floodway.
9. The existing vegetation taller than 12-inches on the land and waterside slopes and berm shall be removed and disposed of outside of the floodway.

RESTORATION CONDITIONS:

10. Backfill all voids following the removal of the unauthorized encroachments within the levee section and easement area.
11. Fill material shall be placed in 4-inch to 6-inch layers, moisture conditioned with water or by drying to ± 2 percent of optimum moisture content, and compacted with a vibratory plate compactor or hand operated hammer to a minimum of 97 percent relative compaction as measured by ASTM Method D698.
12. Levee fill material must be free of stones or lumps exceeding three (3) inches in greatest dimension, and must be free of vegetative matter or other unsatisfactory materials.
13. Fill on levee section shall be keyed into the existing levee section whenever there is substantial fill, as determined by the inspector.
14. The finished slope of the levee must be 3:1 (horizontal:vertical) on the waterside and 2:1 on the landside of the levee.
15. Levee surfaces left barren due to encroachment removal shall be re-vegetated with sod or seeded grass.