

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

DRAFT RESOLUTION NO. 2013-21

FINDINGS AND DECISION AUTHORIZING
TRANSFER OF OPERATIONS AND MAINTENANCE RESPONSIBILITIES
FOR THE FEATHER RIVER SETBACK LEVEE AT STAR BEND PROJECT
TO LEVEE DISTRICT NUMBER 1, SUTTER COUNTY

WHEREAS, Levee District Number 1 of Sutter County (LD 1) proposed the Feather River Setback Levee at Star Bend, and has operated and maintained (as the local maintaining agency (LMA)) Unit No. 144 of the Sacramento River Flood Control Project in accordance with the *Supplement to Standard Operation and Maintenance Manual, Sacramento River Flood Control Project, Unit No. 144, West Levee of Feather River from North Boundary of Levee District No. 1 to North Boundary of Reclamation District No. 823, Sacramento District, Corps of Engineers, U.S. Army, August 1955*; and

WHEREAS, the project is located along the west (right) bank levee of the Feather River at Star Bend between River Mile 17 and River Mile 18, south of Yuba City, and northeast of the intersection of State Route 99 and Garden Highway, in Sutter County; and

WHEREAS, the project included removal of approximately 4,500 linear feet of existing project levee, construction of 3,400 linear feet of setback levee with slurry cutoff wall, and modification of two existing irrigation facilities; and

WHEREAS, LD 1 as lead agency under the California Environmental Quality Act (CEQA) prepared Draft and Final Environmental Impact Reports (DEIR, FEIR) in February and May 2007 respectively. The LD 1 Board approved the FEIR, a Mitigation Monitoring and Reporting Program (MMRP), findings, and a Statement of Overriding Considerations, and filed a Notice of Determination with Sutter County on May 24, 2007; and

WHEREAS, the Department of Water Resources (DWR) and LD 1 executed an Early Implementation Project (EIP) Funding Agreement on June 16, 2008 to fund the State share of project costs. State funding was provided by the California Disaster Preparedness and Flood Prevention Bond Act of 2006; and the California Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006. The local share of project costs were funded through LD1 and its local cost sharing partners; and

WHEREAS, 33 U.S.C. Section 408 (Section 408) provides authority to the Secretary of the Army to grant permission for alteration or modification of U.S. Army Corps of Engineers (USACE) projects when in the judgment of the Secretary such alteration or modification will not be injurious to the public interest and will not impair the usefulness of the project; and

WHEREAS, on November 14, 2008 the Board requested, pursuant to Section 408 and on behalf of LD 1, permission from the USACE to alter a portion of the Sacramento River Flood Control Project (SRFCP), and gave assurances to the USACE that LD 1 would accomplish this alteration in a manner that would not be injurious to the public interest and would not impair the usefulness of the SRFCP; and

WHEREAS, the Board conducted a public hearing on April 17, 2009, approved Permit No. 18191 via Resolution 2009-09, and issued the permit to LD 1 on May 11, 2009, conditioned on receipt of USACE Section 408 approval; and

WHEREAS, on June 1, 2009 the USACE Director of Civil Works approved the Board's Section 408 request and LD 1's Safety Assurance Review Plan; and

WHEREAS, on June 16, 2009, the USACE Sacramento District granted permission to alter the SRFCP, as it had determined that such alteration would not be injurious to the public interest and would not impair the usefulness of the project works; and

WHEREAS, on June 20, 2009, the USACE Sacramento District transmitted additional conditions for performing a simultaneous degrade of the existing levee while constructing the setback levee; and

WHEREAS, LD 1 substantially completed by fall 2009 all setback levee construction and existing levee degrade and, in cooperation with two local irrigation system operators, constructed necessary modifications to adjoining irrigation facilities to accommodate the new setback levee alignment; and

WHEREAS, the Board conducted a public hearing on September 23, 2010, and approved an Operation, Maintenance, Repair, Replacement, and Rehabilitation Agreement (OMRRR) with LD 1. The OMRRR (Section 1.C.4) required that LD 1 submit a long-term management plan for the vegetation planting area within the enlarged floodplain at Star Bend to the Board for its approval. LD 1 and the Board executed the OMRRR on November, 8, 2010 and December 3, 2010 respectively; and

WHEREAS, in accordance with guidelines of the USACE Engineering Regulation ER 1110-2-401 *Operation, Maintenance, Repair, Replacement, and Rehabilitation Manual for Projects and Separable Elements Managed by Project Sponsors* LD 1 submitted a revised *Supplement to Standard Operation and Maintenance Manual, Sacramento River Flood Control Project, Unit 144, West Levee of Feather River from North Boundary of Levee District No. 1 to North Boundary of Maintenance Area No. 3 (formerly Reclamation District No. 823), U.S. Army Corps of Engineers, Sacramento District, June 2013* (hereafter referred to as SSOMM), along with project as-built drawings, a Construction Completion Report, a Flood Safety and Preparedness Plan, and a Vegetation Maintenance and Monitoring Plan for the completed project to Board staff on July 24, 2012. Board staff subsequently transmitted these documents to the USACE; and

WHEREAS, on October 23, 2012 Board staff notified the USACE Sacramento District and LD 1 by letter that it had determined that the project:

- was constructed in accordance with final (100 percent) plans and specifications,
- met all Board permit conditions (including all USACE conditions incorporated into the Board permit), and
- was compliant with the Board's California Code of Regulations, Title 23; and

WHEREAS, on July 18, 2013 the USACE, Sacramento District informed Board staff by letter (Staff Report Attachment F) that it had:

- completed its review of the LD 1 submittals,
- determined that the local improvements were constructed in accordance with the final (100 percent) plans and specifications,
- accepted the Star Bend Setback Levee project as part of the SRFCP,
- transmitted the revised SSOMM, and project as-built drawings to Board staff,
- accepted the Flood Safety and Preparedness Plan, and
- assigned the Board responsibilities to operate and maintain the setback levee as part of the SRFCP; and

WHEREAS, on August 15, 2013 Board staff received the Vegetation Maintenance and Monitoring Plan for the Enlarged Floodplain at Star Bend submitted by LD 1 to address operation and maintenance requirements for the setback levee improvements in compliance with the February 6, 2009 U.S. Fish and Wildlife Service (USFWS) Biological Opinion; and

WHEREAS, the Board conducted a public hearing regarding transfer of operations and maintenance responsibilities to LD 1; and

WHEREAS, the Board finds that no new environmental effects could occur and no new mitigation measures are required pursuant to CEQA Guidelines section 15162 therefore no new environmental documents are required pursuant to CEQA Guidelines section 15164; and

WHEREAS, the Board reviewed the Report of its staff, documents prepared by LD 1, USACE approvals, and all project-related documents and correspondence in the Board files.

NOW, THEREFORE, BE IT RESOLVED THAT,

Findings of Fact.

1. The Board hereby adopts as findings the facts set forth in the Staff Report.
2. The Board has reviewed all Attachments, Exhibits, Figures, and References listed in the Staff Report. These documents may be viewed or downloaded from the Board website at <http://cvfpb.ca.gov/meetings/2013/12-20-2013.cfm> on the December 20, 2012 Board meeting page. The documents are also available for review in hard copy at the Board office.

CEQA Findings.

3. The Board, as a responsible agency, has previously approved construction of project works under Permit No. 18191; made appropriate CEQA findings, and filed determinations with the State Clearinghouse. The transfer of operations and maintenance responsibilities and corresponding documents for the completed project to LD 1 constitutes a ministerial approval statutorily exempt from CEQA under CEQA Guidelines section 15268.
4. **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 151, Sacramento, California 95821.

Other Findings/Conclusions

- Based on the foregoing and particularly on the evidence documenting completed construction of the Feather River Setback Levee at Star Bend pursuant to all State and federal regulations and standards, the Board finds that the transfer of operations and maintenance responsibilities to LD 1 in accordance with the *Supplement to Standard Operation and Maintenance Manual, Sacramento River Flood Control Project, Unit No. 144, West Levee of Feather River from North Boundary of Levee District No. 1 to North Boundary of Maintenance Area 3 (Previously Reclamation District No. 823), June 2013*, and project as-built drawings, along with the *Vegetation Maintenance and Monitoring Plan for the Enlarged Floodplain at Star Bend, August 2013* prepared by LD 1 in compliance with conditions of Board Permit No. 18191 and the OMRRR agreement between the Board and LD 1, is in the public interest.
- This resolution shall constitute the written decision of the Board in the matter of closing out the Feather River Setback Levee at Star Bend project and transfer of operation and maintenance responsibilities from the Board to LD 1.

Approval of Board Action

- Based on the foregoing, the Central Valley Flood Protection Board hereby adopts Resolution No. 2013-21 which:
 - Accepts responsibilities to operate and maintain the Feather River Setback Levee at Star Bend, a portion of the Sacramento River Flood Control Project as described in the USACE-accepted *Supplement to Standard Operations and Maintenance Manual, Unit No. 144, West Levee of Feather River from North Boundary of Levee District No. 1 to North Boundary of Maintenance Area 3 (previously Reclamation District No. 823), June 2013*.
 - Transfers those same responsibilities (along with copies of the SSOMM and as-built drawings) to Levee District No. 1, Sutter through approval of the draft *Transfer of Operation and Maintenance Responsibilities for the Feather River Setback at Star Bend Project* letter (Staff Report Attachment C).

- Determines that these transfers from the Board to LD 1 are ministerial approvals and statutorily exempt from CEQA, and directs the Executive Officer to file a Notice of Exemption with the State Clearinghouse.
- Authorizes the Board's Executive Officer to execute the Transfer Letter in substantially the form provided.

PASSED AND ADOPTED by vote of the Board on _____, 2013

William H. Edgar
President

Jane Dolan
Secretary