

# INFORMATIONAL BRIEFING



## ADVANCE MITIGATION IN THE FLOODWAY

March 28, 2014

# PURPOSE OF BRIEFING

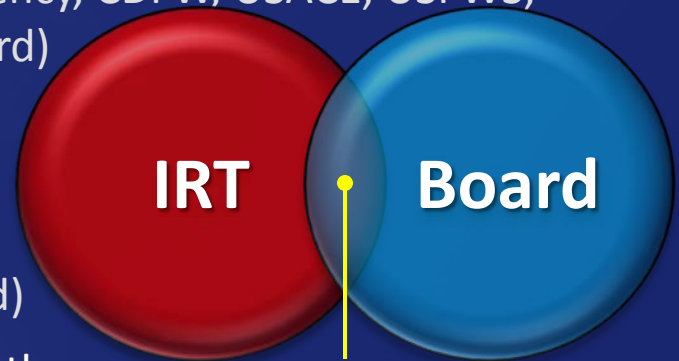


## Board staff has brought this item to the Board to:

- Identify some of the challenges associated with establishing and maintaining advance mitigation in the floodway
- Discuss a possible path to move forward that is agreeable to Board staff, DWR, and the Wildlife Resource Agencies (group)
- Discuss the group's next steps

# BACKGROUND / TERMINOLOGY

- **Floodway:** Board's jurisdiction as outlined in California Code of Regulations, Title 23
- **Interagency Review Team (IRT):** group of agencies that work collaboratively to review and approve mitigation applications (the Resources Agency, CDFW, USACE, USFWS, USEPA, USDA-NRCS, NOAA-NMFS, and State Water Board)
- **Mitigation / Conservation Bank:** land managed, in perpetuity, for wetlands or special status species habitat that may be used to satisfy mitigation for environmental impacts (credits may be transferred/sold)
- **Bank Enabling Instrument (BEI):** documents including the agreement between all parties with vested interest in a mitigation/conservation bank, establish the site as an appropriate bank location, and show the site can feasibly be managed in perpetuity as a bank
- **Project Solicitation Proposal (PSP):** term used for mitigation projects located in the floodway that were approved by this process which allocated Proposition 1E funds for selected projects
- **Advance Mitigation:** mitigation created in advance of potential impacts (the PSP projects are considered advance mitigation for CVFPP projects)

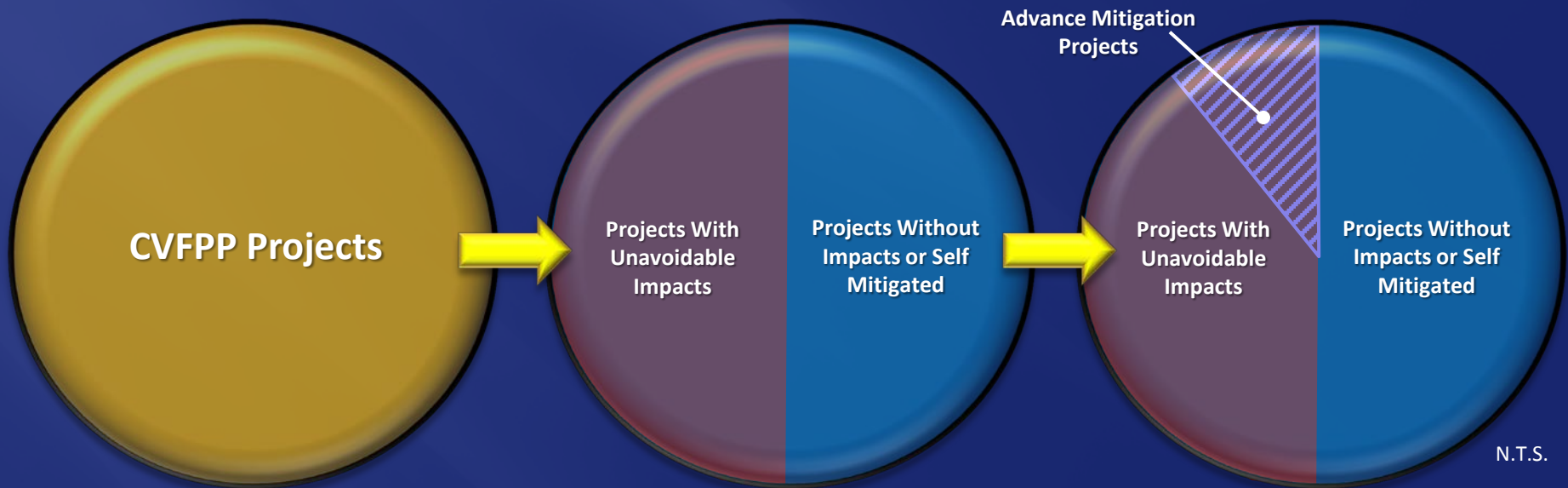


Only a portion of projects in both IRT and Board jurisdiction

# OVERVIEW OF ISSUES (1/2)



- Some flood risk management projects supporting the Central Valley Flood Protection Plan (CVFPP) are expected to have unavoidable impacts that will require mitigation
- Due to specific habitat needs (certain species) mitigation needs to be within the floodway
- DWR approved working towards funding and implementation of several advance mitigation sites in the SPFC (consistent with Conservation Strategy guidelines)



Note: These projects may help expedite permit approval for future CVFPP projects and make mitigation more cost effective

# OVERVIEW OF ISSUES (2/2)



- Some advance mitigation sites will require a Board permit

## Conservation Easement Template

### Prohibited Uses

Any activity on or use of the Bank Property that is inconsistent with the purposes of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following uses and activities by Grantor, Grantor's agents, and third parties are expressly prohibited:

(I) Removing, destroying, or cutting of trees, shrubs or other vegetation, except as required by law for (i) fire breaks, (ii) maintenance of existing foot trails or roads, or (iii) prevention or treatment of disease

**No flood control reference**

### Purposes

The purposes of this Conservation Easement are to ensure that the Bank Property will be retained forever in its natural, restored, or enhanced condition as contemplated by the [insert: BEI or CBEI], the Development Plan, and the Management Plan, and to prevent any use of the Bank Property that will impair or interfere with the Conservation Values of the Bank Property.

within the floodway (maintenance, funding, etc.)



# PATH FORWARD (1/2)



## Initial Steps:

- Continue collaboration to further define challenges and possible solutions
- Engage stakeholders for input on a future white paper
- Clearly identify Board needs for permit applications for matters under Board jurisdiction (e.g. impacts / conveyance capacity, cumulative effects, maintenance and funding as it pertains to flood control and not just habitat management)
- Clarify roles of the Board and IRT with regards to CEQA and NEPA

# PATH FORWARD (2/2)



## Next Steps:

- Report back to the Board as appropriate to discuss progress and allow for direction
- Develop recommendations on whether and how to modify Board's permit conditions
- Develop outreach materials for permittees
- Create strategic agreements for permit applicants
- Identify possible sources for long-term funding (endowments for protected resources and flood maintenance)
- Recommendations for IRT and Board collaboration for specific phases and projects
- Recommendations on how to modify the BEI documents (including the Long Term Management Plan)

## Ongoing Actions:

- Develop a structure for Board and IRT collaboration (when within Board jurisdiction)

# NEXT STEPS / DISCUSSION



- Kickoff outreach to stakeholders (audience, venue, expectations, etc.)
- Board staff's continued participation
- Consider permit condition modifications
- Draft an issue paper with stakeholder input