

CVFPB ENFORCEMENT PROGRAM



CVFPB EXPANDED ENFORCEMENT AUTHORITY

MICHAEL C. WRIGHT

ACTING BRANCH CHIEF

PERMITTING & ENFORCEMENT BRANCH

CENTRAL VALLEY FLOOD PROTECTION BOARD

MARCH 28, 2014

CVFPB ENFORCEMENT PROGRAM



Agenda:

- New Laws and Emergency Regulations
- New Authorities, new enforcement process, encroachment prioritization, the Flood Risk Management Fund
- Enforcement Pilot Program
- Enforcement Challenges
- Moving Forward
- Closing Statements
- Discussion

NEW ENFORCEMENT AUTHORITY



New Authorities

- CVFPB can impose Administrative Penalties ranging from \$500 to \$50,000

CVFPB PENALTIES

Administrative Penalties – Imposed by CVFPB

	Minimum	Maximum	
General	\$500	\$50,000	For a Single Violation

Civil Penalties – Imposed by a Court of Competent Jurisdiction

	Minimum	Maximum	
General	\$500	\$30,000	Total
Intentionally & Knowingly	\$1,000	\$15,000	Per Day
Intentionally or Negligently	\$0	\$6,000	Per Day

NEW ENFORCEMENT AUTHORITY



New Authorities

- CVFPB can impose Administrative Penalties ranging from \$500 to \$50,000
- CVFPB can apply to appropriate court for a judgment to collect Administrative penalties
- CVFPB can order the Enforcement Order to be recorded with the office of the county recorder
- CVFPB can place a lien to recover abatement costs
- CVFPB can delegate the authority to issue NOV's to Local Maintaining Agencies
- Delegated Authority may be revoked / relinquished with ten days written notice

CVFPB ENFORCEMENT PROGRAM

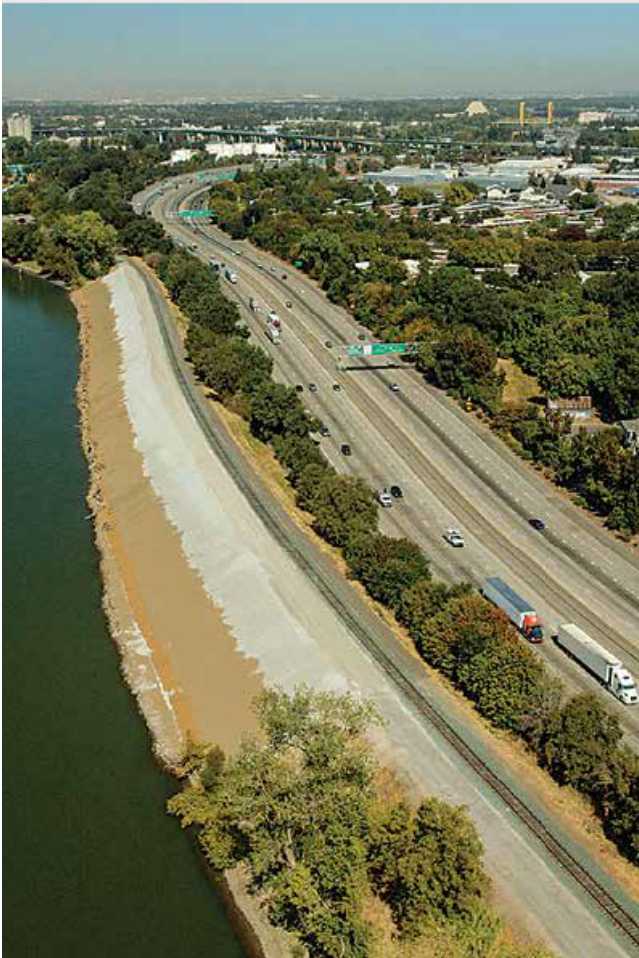


New Enforcement Process

- Pamphlet
- Flowchart

CENTRAL VALLEY
FLOOD PROTECTION BOARD

A GUIDE THROUGH THE
**ENCROACHMENT
ENFORCEMENT
PROCESS**



OVERVIEW

As a landowner living near a State-federal flood control project levee in the Sacramento or San Joaquin Central Valley or Delta, you probably have questions about the Central Valley Flood Protection Board's (CVFPB) encroachment enforcement process. In this pamphlet **you'll find answers** to many of your questions along with some information on how to prevent an encroachment enforcement action.

CVFPB Mission:

To reduce the risk of catastrophic flooding to people and property within the California Central Valley.

CVFPB Area of Jurisdiction:

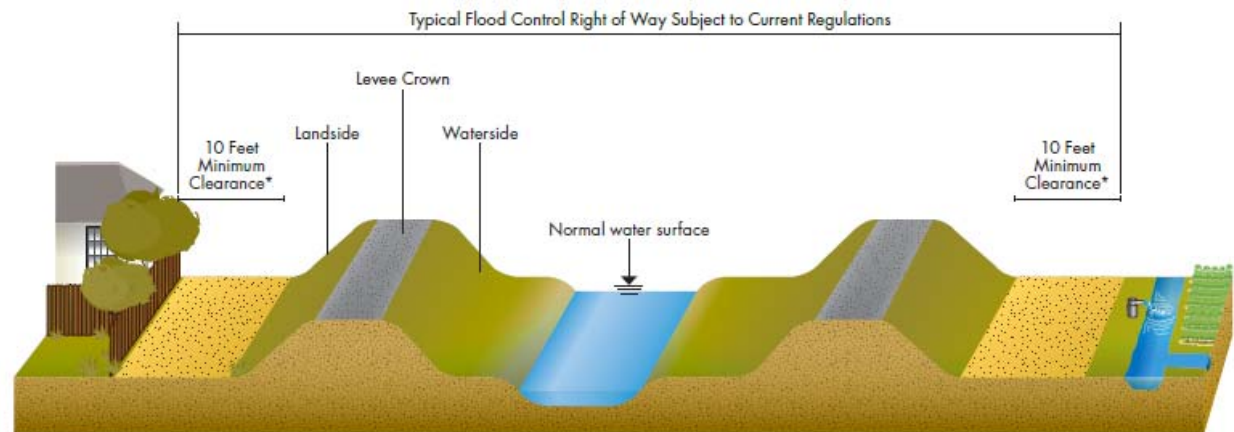
As stated in the California Code of Regulations, Title 23, Article 1, Section 2(b), "the area of the Board's jurisdiction includes the entire Central Valley, including all tributaries and distributaries of the Sacramento and San Joaquin Rivers, and the Tulare and Buena Vista Basins.

What should you do if you are contacted about a noncompliant encroachment or work on your property?

- Contact your Local Maintaining Agency (LMA) for guidance on steps to take to prevent further encroachment enforcement actions.
- Get informed about living near a levee: <http://www.cvfpb.ca.gov> has links to the California Water Code and our Regulations. CVFPB's user-friendly "**Need for an Encroachment Permit**" pamphlet describes the CVFPB permitting process.
- Work with CVFPB enforcement staff to resolve the encroachment issue(s) as efficiently as possible.

Read on for an overview of the CVFPB Encroachment Enforcement Process.

Levee/Flood Channel cross-section showing the minimum 10-foot clearance



*Future regulations may increase the minimum 10-foot clearance requirement. Please review the CVFPB website for the latest standards.

NOTICE OF VIOLATION (NOV)

- Begins the official enforcement process.
- Cites the relevant statutes and/or regulations that your noncompliant encroachment(s) or unpermitted work have violated.
- **Requires a response**, with a plan and schedule for the removal or repair of the encroachments or work.
- Guides you on what actions to take to address code violations, and whether those actions require a permit from the CVFPB.
- Informs you of the consequences that can result from noncompliance.

ENFORCEMENT HEARING

- Except in case of emergency CVFPB staff will notify you at least 30 days prior to the Enforcement Hearing date.
- The notice will include the proposed Enforcement Order, and may include administrative penalties, which depending on the severity of the violation, range from \$500 to \$50,000.
- The CVFPB staff will present the enforcement case to the Board, and then you will have an opportunity to present your case.
- The Board may approve, amend, or reject the Enforcement Order and determine necessary actions.

ADDITIONAL ENFORCEMENT ACTIONS

- The CVFPB may file the Enforcement Order with the court to collect the imposed penalties.
- The CVFPB may record the Enforcement Order against your property.
- The CVFPB may order removal, modification, abatement, or restoration.
- The CVFPB may recover abatement costs from the responsible party by any legal remedy available, **including placing a lien on your property.**
- Once the Enforcement Action has been fully resolved, and all fines paid in full, the CVFPB Executive Officer will issue a Certificate of Abatement, which may be recorded to clear the Enforcement Order.

If there is no response, or if no action is taken towards correcting the violations, you will receive a Cease and Desist (C&D) Order as required by California State Law.

Any actions approved and fines levied in the Enforcement Order are immediately enforceable.

At any point prior to the issuance of an Enforcement Order you have the opportunity to stop the enforcement action by working with CVFPB staff to comply with the NOV or C&D.



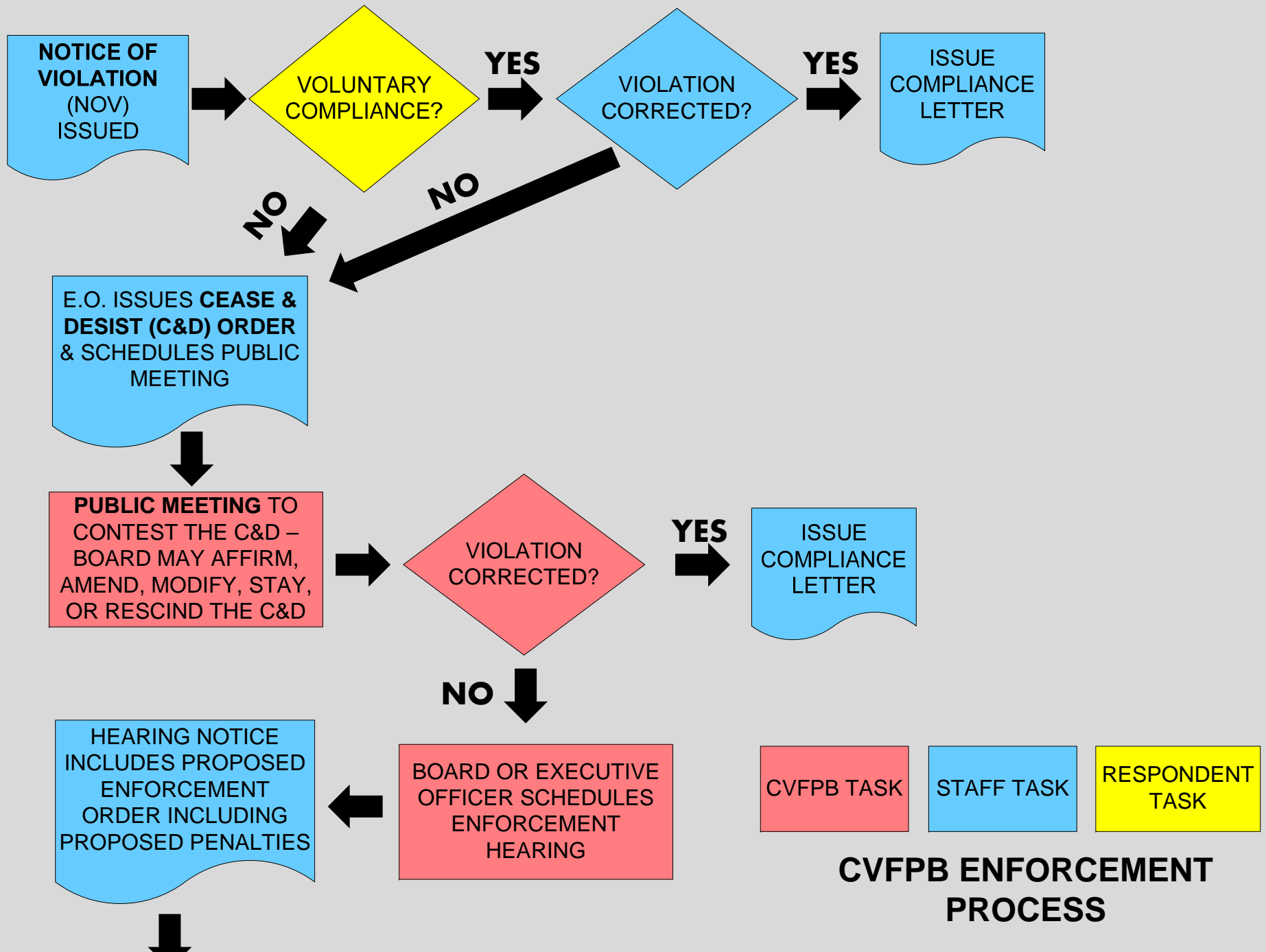
Noncompliant staircase on levee slope.
Noncompliant steps are not flush with levee slope.

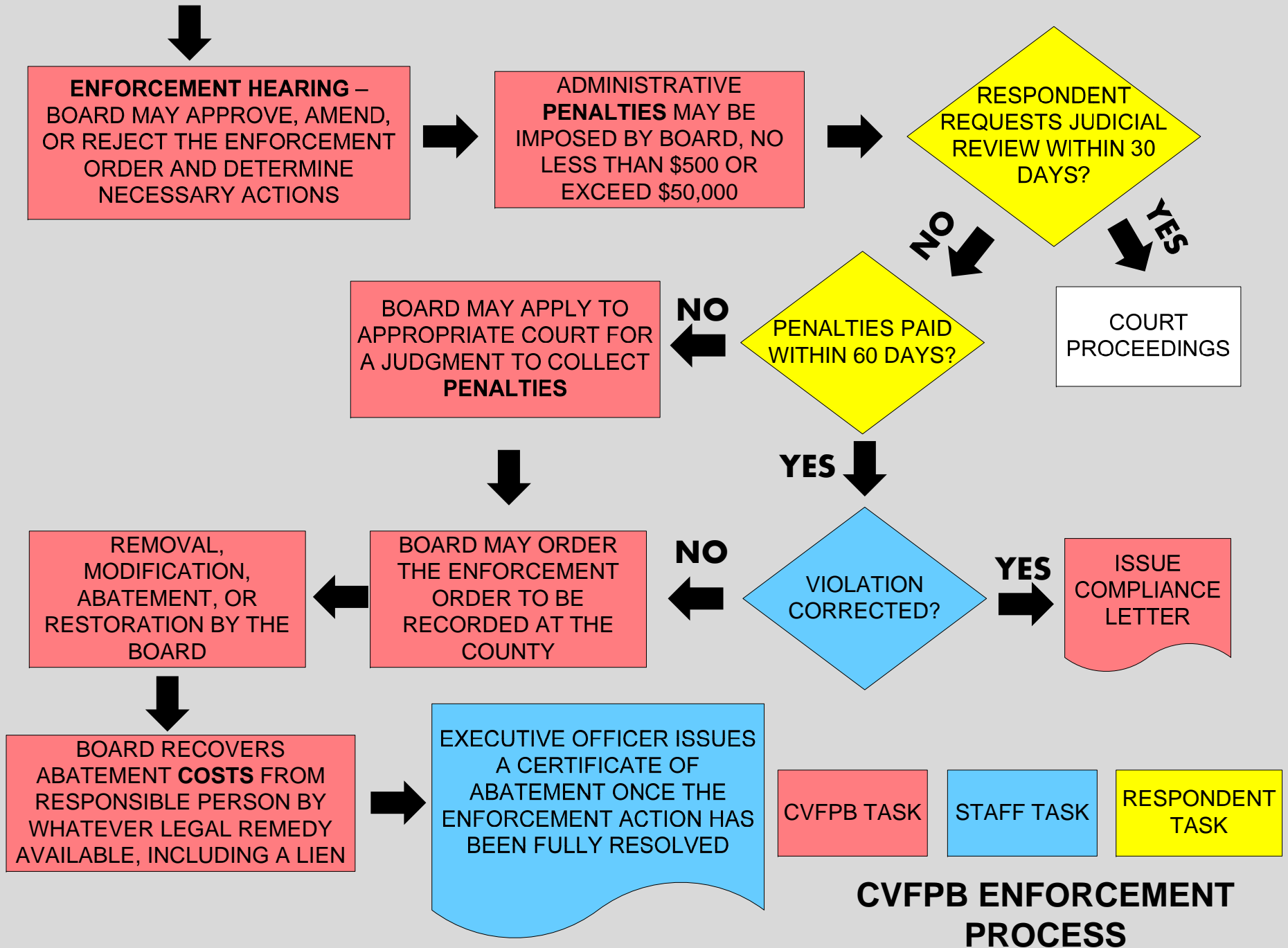


Damaged pipe eroding levee slope.



Landslide levee toe patrol corridor obstructions.
Landslide levee toe encroachments obstructing maintenance and patrol corridor.





ENFORCEMENT PRIORITIZATION



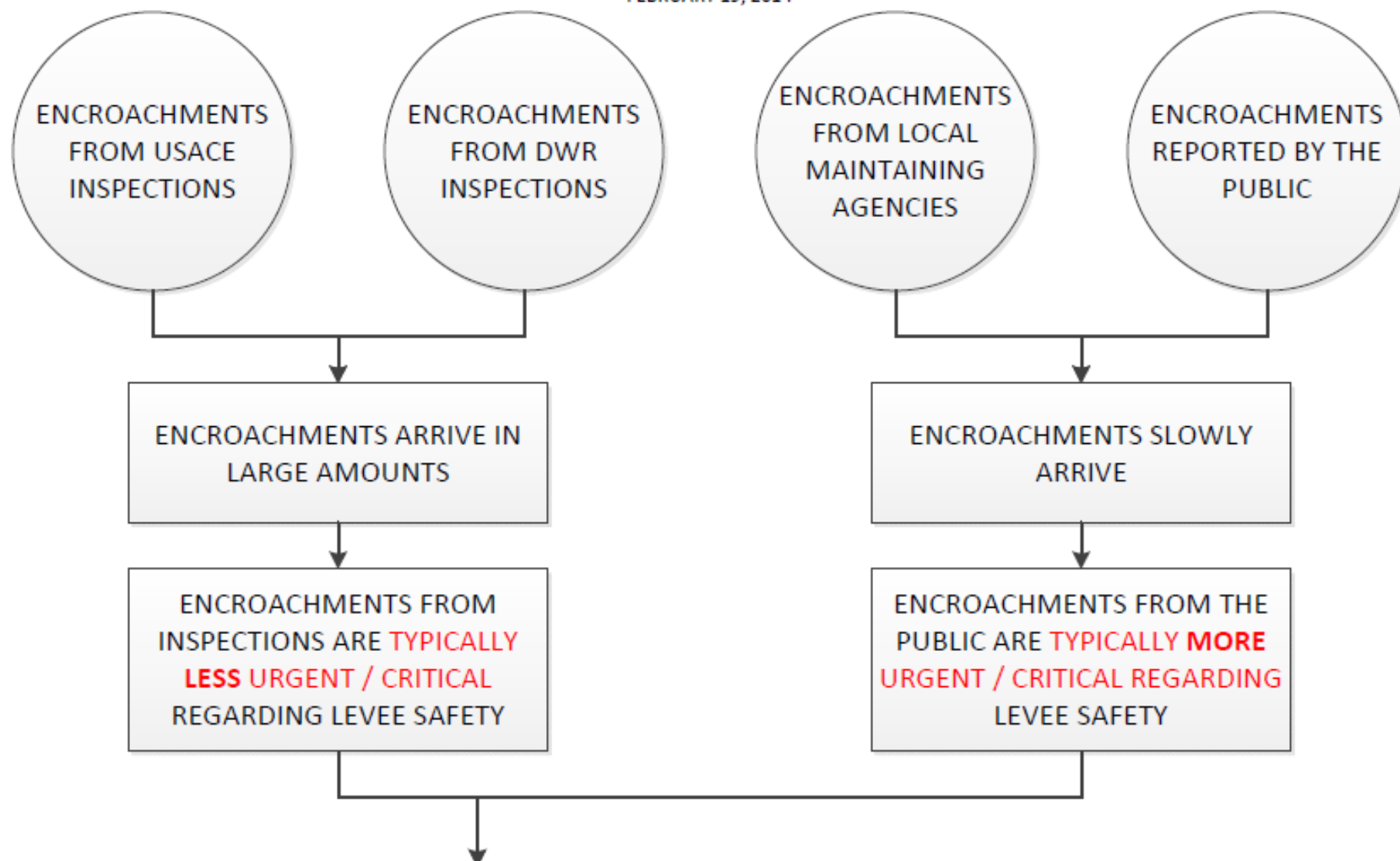
Enforcement Prioritization

- 58 Active Enforcements (40 from USACE Investigations)
- 507 Encroachments under Investigation (447 from USACE Investigations)
- 447 Closed Encroachments / Enforcements
- Total Active & Investigate = 565

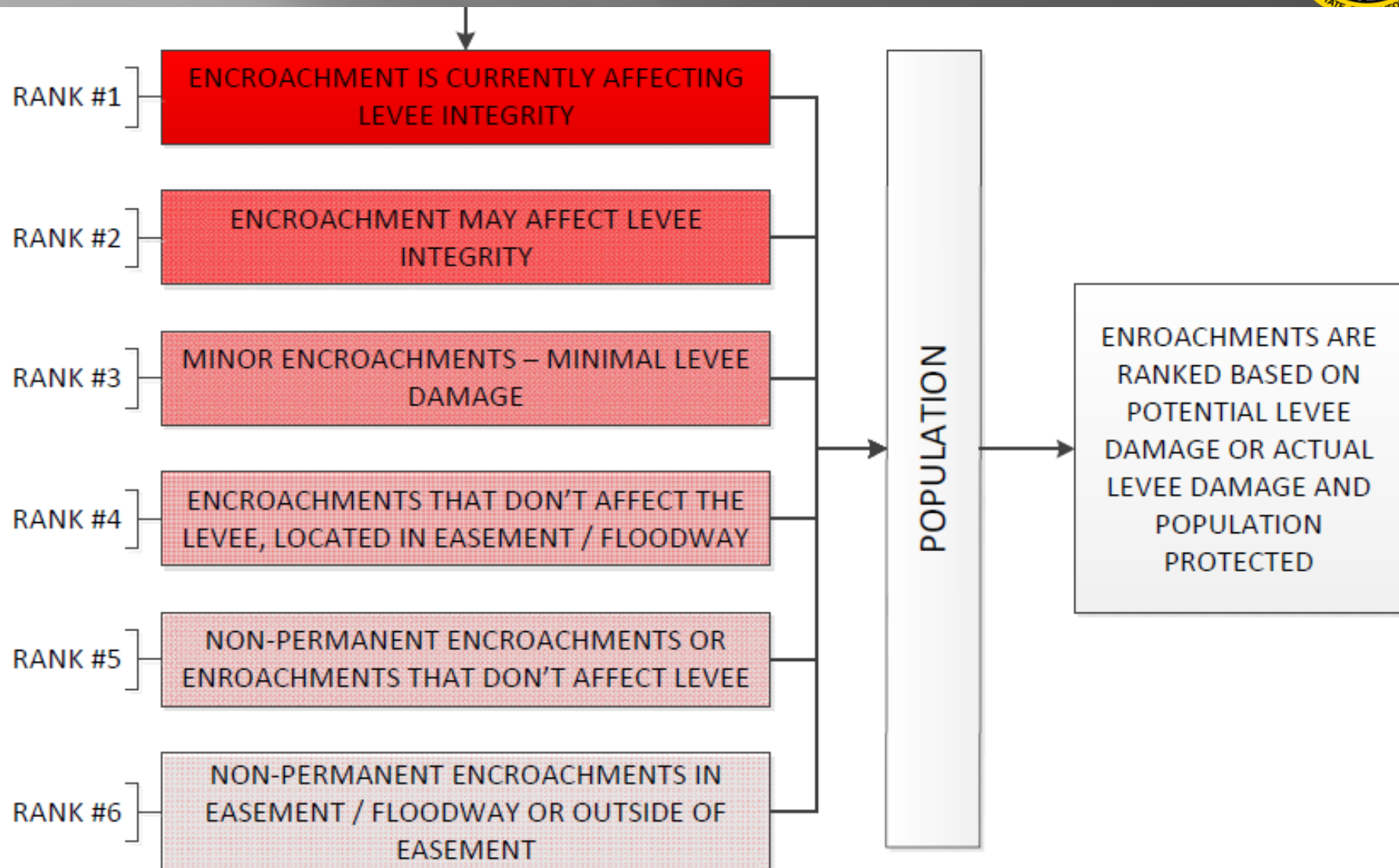
CENTRAL VALLEY FLOOD PROTECTION BOARD

ENCROACHMENT PRIORITIZATION

FEBRUARY 19, 2014



NEW ENFORCEMENT AUTHORITY



FLOOD RISK MANAGEMENT FUND



Special Fund

- CWC Section 8705 – The Flood Risk Management Fund is hereby established in the State Treasury
- All funds received from penalties shall be paid into the fund
- Upon appropriation by the Legislature, the moneys in the fund shall be expended by the board to cover:
 - Enforcement
 - Costs of modification, removal, abatement, or restoration of violations
 - Related litigation

Pilot Program – Alison Tang