

# CVFPB ENFORCEMENT PROGRAM



## CVFPB ENFORCEMENT CHALLENGES

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CENTRAL VALLEY FLOOD PROTECTION BOARD

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# ENFORCEMENT CHALLENGES



## Outdated Land Rights Information

- SSJDD levee easement information is currently in deed format only.
- There is no land rights and easement database for the 100-year old flood control system.
- Using the existing land rights information consumes a lot of time and resources.
- One field survey estimate for an enforcement action in a nearby county was \$34,000. This estimate was to field stake and develop an exhibit of an approximate 1,000 linear foot levee easement.
- Inadequate funding for field surveys and right-of-way maps.
- By comparison, the 54-year old State Water Project has right of way maps for all its facilities.
- With accurate levee easement information that is easily obtainable and transferable to the ground, we can address this challenge.

# ENFORCEMENT CHALLENGES



## Levee Creep

- Over time, settlement, coupled with periodic levee slope and road maintenance, may cause a levee to widen at its base.
- This creep can encroach into an existing levee easement causing a reduction in that area. Over time, items that were originally just close to a levee seem to encroach into the Adopted Plan of Flood Control, which is considered to extend at least 10 feet landward from the levee toe.
- However, levee erosion, farming activities, unauthorized encroachments, retaining walls, etc., may cause a levee to become narrower at its base.
- With accurate levee easement information that is easily obtainable and transferable to the ground, we can address this challenge.

# ENFORCEMENT CHALLENGES



## “Legacy” Encroachments

- CVFPB Staff considers “Legacy” Encroachments to be encroachments which were in-place prior to a Federal flood control project being constructed, appear in USACE As-Built drawings, appear in O&M Manuals, and still exist today.
- Title 23, Article 6, *Existing Encroachments within an Adopted Plan of Flood Control*, Section 108, Existing Encroachments; was written to address and allow an existing facility or use to continue after a flood control project was constructed.
- The lack of historical documentation for these past existing encroachments makes addressing “legacy” encroachment responsibility extremely difficult.
- Most of the “legacy” encroachments which are pipes have surpassed their expected useful lifetime. Only some have an Automatic Board Order (ABO) or have been permitted.

# ENFORCEMENT CHALLENGES



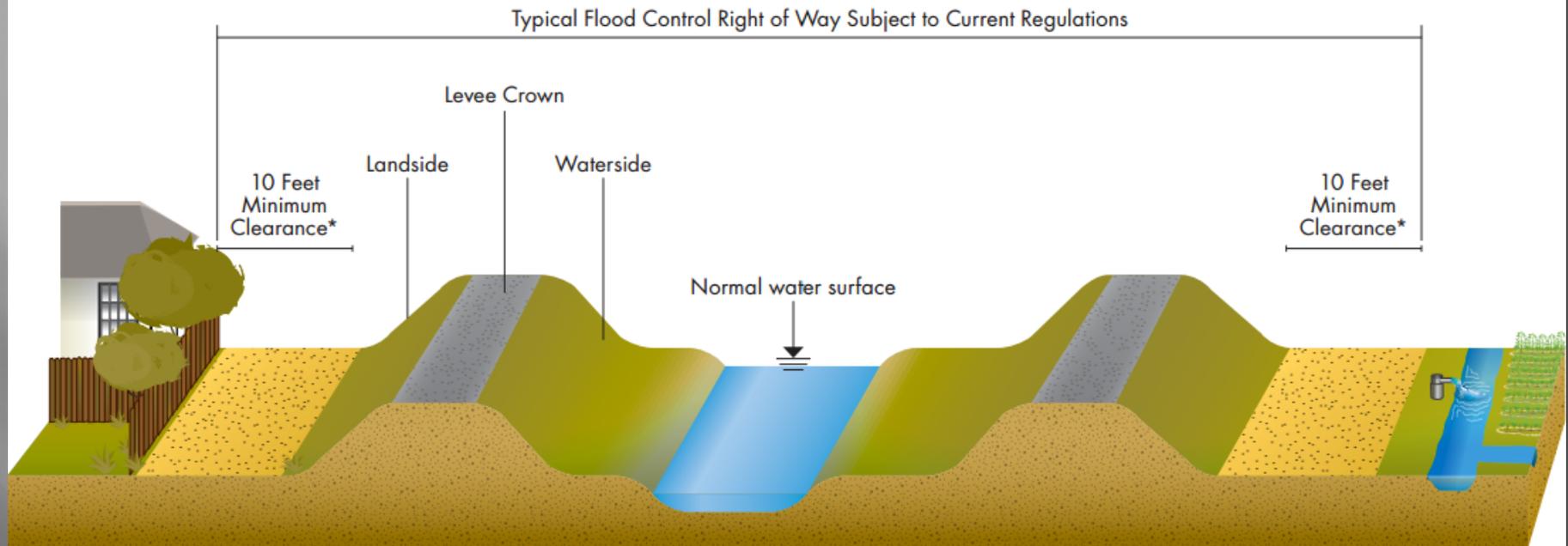
## Regulatory Authority

- Per Title 23, Article 2, Section 4, Definitions, Paragraph (a)(4):  
‘Where levees are involved, the “Adopted Plan of Flood Control” extends at least ten (10) feet landward from the levee toe, except where an operation and maintenance manual furnished pursuant to 33 C.F.R. 208.10, or the real property rights (i.e.: levee/floodway easements) acquired by the board specifically state otherwise.’
- Because our existing levee easements are defined only in deed format at this time, the property owners next to levees, along with CVFPB or DWR staff investigating levee/floodway encroachments, have difficulty determining in the field the extent of the board’s regulatory authority.
- With accurate levee easement information that is easily obtainable and transferable to the ground, we can address this challenge.

# ENFORCEMENT CHALLENGES



**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.

# ENFORCEMENT CHALLENGES



## CVFPB Encroachment Permit Issues

- Permits currently do not have any limit on their life; they are essentially active forever.
- Other than DWR inspections, there is no follow-up program to verify if an applicant has complied or is currently complying with their permit conditions.
- Permits are typically not recorded with the counties so they are not tied to the land in addition to a person or an entity.
- Challenges occur when one person sells a property to another, and does not inform the new owner of the existing encroachment permit, along with the maintenance responsibilities the new owner will have to fulfill associated with that particular encroachment.

# ENFORCEMENT AUTHORITY DELEGATION



## Moving Forward – Martin Janolo