

**Meeting of the Central Valley Flood Protection Board  
May 23, 2014  
Staff Report  
Capital Conservation Bank  
Amended Resolution No. 2014-10 and Permit No. 18856**

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**1.0 – ITEM**

Consider approval of Resolution No. 2014 - 10 and Permit No.18856 that were amended as directed by the Board at the April 25, 2014 Board Meeting.  
(Attachments B and D)

**2.0 – APPLICANTS**

Capital Conservation Bank LLC  
Owners – Ronald D. and Clover A. Smith

**3.0 – LOCATION**

The project is located approximately 10.7-miles south of Interstate 80, 6.5-miles west of Clarksburg, and east of County Road 104 at the northern terminus of County Road 107 within the Yolo Bypass. (Yolo Bypass, Yolo County)

**4.0 – DESCRIPTION**

This action is for Board approval of the modifications made to Resolution No. 2014 - 10 and to Permit No. 18856 as directed by the Board at the April 25, 2014 hearing.

**5.0 – BACKGROUND**

The Board voted unanimously to approve Resolution No. 2014 - 10 and Permit No. 18856 contingent on the following changes;

1. Amend Resolution No. 2014 - 10 to reflect the Department of Water Resources' Flood Maintenance Office (FMO) statement of neutrality on the proposed project per testimony presented at the April 25, 2014 hearing;
2. Remove Condition No. THIRTY from Permit No. 18856 as directed by the Board;
3. Remove Condition No. FORTY-ONE from Permit No. 18856 as the FMO has no conditions concerning the project;
4. Modify Condition No. SEVENTEEN to reflect that no construction may begin on the CCB until all construction-related permits have been obtained.

#### **6.0 – STAFF RECOMMENDATION**

Staff recommends that the Board accept and approve the amendments to Resolution No. 2014 - 10, and Permit No. 18856.

#### **7.0 – LIST OF ATTACHMENTS**

- A. Resolution No. 2014 – 10, redlined April 25, 2014 version
- B. Resolution No. 2014 – 10, final version
- C. Permit No. 18856, redlined April 25, 2014 version
- D. Permit No. 18856, final version

Document Review: Leslie Gallagher, Chief Counsel

Draft Resolution 2014-10

Agenda Item 8A, Attachment B

STATE OF CALIFORNIA  
THE RESOURCES AGENCY  
CENTRAL VALLEY FLOOD PROTECTION BOARD

RESOLUTION NO. 2014-10

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FINDINGS AND DECISION AUTHORIZING ISSUANCE OF  
ENCROACHMENT PERMIT NO. 18856

CCB Phase 1, LLC. - CAPITAL CONSERVATION ~~AND MITIGATION~~ BANK  
PERENNIAL MARSH AND UPLAND HABITAT CREATION  
FOR THE GIANT GARTER SNAKE  
YOLO COUNTY

**WHEREAS**, Ronald D. and Clover A. Smith are proposing to construct a perennial marsh and upland habitat for giant garter snake bank totaling approximately 137-acres known as the Capital Conservation ~~and Mitigation~~ Bank (CCB); and

**WHEREAS**, the CCB will provide compensatory off-site mitigation for impacts to the Giant Garter Snake from future projects; and

**WHEREAS**, Ronald D. and Clover A. Smith, CCB owners, submitted Encroachment Permit Application No. 18856 to the Central Valley Flood Protection Board on March 12, 2013. The CCB project is located approximately 10.7 miles south of Interstate 80, and 6.5 miles west of Clarksburg within the Yolo Bypass in Yolo County; and

**WHEREAS**, America's Habitats will be the initial CCB Manager and will be responsible for maintaining the CCB per the Interim Management Plan and the Long-Term Maintenance Plan (LTMP) dated April 2014; and

**WHEREAS**, a non-wasting endowment fund will be established for conservation easement compliance monitoring and implementation of the CCB's LTMP in perpetuity; and

**WHEREAS**, Board staff completed a technical review of Permit Application No. 18856, and has determined that the proposed project conforms to all Title 23 standards; and

**WHEREAS**, the U.S. Army Corps of Engineers (USACE) issued a no-objection letter to the proposed project dated September 05, 2013, with conditions, that are incorporated into the permit as Exhibit A; and

**WHEREAS**, the Department of Water Resources' Flood Maintenance Office (FMO) ~~has not formally commented~~, speaking as the Local Maintaining Agency of the Yolo Bypass, stated at the evidentiary hearing on Encroachment Permit Application No. 18856 that it had no specific objection to the proposed project ~~due to concerns about mitigation bank projects such as the proposed CCB and their potential impacts on FMO's ability to effectively carry out its~~

~~Draft Resolution 2014-10~~ ~~Agenda Item 8A, Attachment B~~

~~maintenance responsibilities as specified under California Water Code sections 8361 and 12878. Should the FMO choose to endorse the project with no further conditions, the conditions will be incorporated into the permit as Exhibit B; and— of approval to add ; and~~

**WHEREAS**, Yolo County as lead agency under the California Environmental Quality Act, Public Resources Code sections 21000 *et seq.* (“CEQA”) prepared an Initial Study, Mitigated Negative Declaration (IS/MND) (State Clearinghouse No.: 2013042067, April 2013) and Mitigation Monitoring and Reporting Plan (MMRP) on the Capital Conservation and Mitigation Bank Project (incorporated herein by reference and available at the Central Valley Flood Protection Board offices or Yolo County office); and

**WHEREAS**, Yolo County, as lead agency, certified the IS/MND, adopted mitigation measures and a MMRP (incorporated herein by reference and available at the Central Valley Flood Protection Board or at Yolo County), approved findings pursuant to CEQA and the CEQA Guidelines (incorporated herein by reference); and adopted Resolution 14-20 on March 11, 2014, and filed a Notice of Determination with the Yolo County Clerk on March 17, 2014 approving the Project; and

**WHEREAS**, the Central Valley Flood Protection Board has conducted an evidentiary hearing on Encroachment Permit Application No. 18856, and has reviewed the application and all supporting documentation, the Staff Report of its staff, the documents and correspondence in its file, and the environmental documents prepared by Yolo County;

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 all Attachments listed in the Staff Report.

#### **CEQA Findings**

~~3.~~ The Central Valley Flood Protection Board, as a responsible agency, has independently reviewed the analysis in the IS/MND, MMRP, and the findings prepared by the lead

~~3.~~ agency, Yolo County, and has reached its own conclusions.

4. The Central Valley Flood Protection Board, after consideration of the IS/MND, MMRP, and Yolo County findings, adopts the project description, analysis and ~~Findings~~ findings which are relevant to activities authorized by issuance of Encroachment Permit No. 18856 for the Capital Conservation ~~and Mitigation~~ Bank Project.

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 151, Sacramento, California 95821.

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Draft Resolution 2014-10

Agenda Item 8A, Attachment B

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**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 original and updated applications and supporting documents, this Staff Report and attachments, and all other evidence presented by any individual or group, and all letters and other correspondence received by the Board and in the Board's files related to this matter.
7. **Best Available Science.** In making its findings, the Board has used the best available science relating to the issues presented by all parties.
8. **Effects on State Plan of Flood Control.** This project has no effects on facilities of the State Plan of Flood Control as the hydrologic and geotechnical impacts from the proposed project are localized and considered to be insignificant. Although the proposed project is located within the Yolo Bypass (approximately 2.5 miles east of the west levee and approximately one mile west of the Sacramento Deep Water Ship Channel Levee) it is compatible with the stated goals of the 2012 Central Valley Flood Protection Plan.
9. **Effects of Reasonable Projected Future Events.** The proposed project is located within the Yolo Bypass and habitat for the GGS is primarily perennial marsh. There will be minimal impacts to the proposed project from reasonable projected future events.

**Other Findings/Conclusions regarding Issuance of the Permit**

10. This resolution shall constitute the written decision of the Central Valley Flood Protection Board in the matter of Encroachment Permit Application No. 18856.

**Approval of Encroachment Permit No. 18856**

11. Based on the foregoing, the Central Valley Flood Protection Board hereby conditionally approves issuance of Encroachment Permit ~~Application~~-No. 18856 in substantially the form provided by the Board Staff as Attachment C of the Staff Report, subject with the following exceptions: Special Conditions THIRTY and FORTY-ONE are to any be removed; and Special Condition SEVENTEEN is to be amended to include a statement specifying that construction of the CCB may not begin until all necessary additional consideration of testimony construction-related permits have been issued by the Department of Water Resources, Division of Flood Management, Flood Maintenance Office, and all appropriate agencies, and
12. The Central Valley Flood Protection Board directs the Executive Officer to take the necessary actions to prepare and execute the permit and all related documents and to

~~Draft Resolution 2014-10~~ ~~Agenda Item 8A, Attachment B~~

prepare and file a Notice of Determination pursuant to CEQA for Encroachment Permit  
~~Application~~ No. 18856.

~~12.~~

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PASSED AND ADOPTED by vote of the Board on \_\_\_\_\_, 2014.

\_\_\_\_\_  
William H. Edgar  
President

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Jane Dolan  
Secretary

STATE OF CALIFORNIA  
THE RESOURCES AGENCY  
CENTRAL VALLEY FLOOD PROTECTION BOARD

RESOLUTION NO. 2014-10

FINDINGS AND DECISION AUTHORIZING ISSUANCE OF  
ENCROACHMENT PERMIT NO. 18856  
CCB Phase 1, LLC. - CAPITAL CONSERVATION BANK  
PERENNIAL MARSH AND UPLAND HABITAT CREATION  
FOR THE GIANT GARTER SNAKE  
YOLO COUNTY

**WHEREAS**, Ronald D. and Clover A. Smith are proposing to construct a perennial marsh and upland habitat for giant garter snake bank totaling approximately 137-acres known as the Capital Conservation Bank (CCB); and

**WHEREAS**, the CCB will provide compensatory off-site mitigation for impacts to the Giant Garter Snake from future projects; and

**WHEREAS**, Ronald D. and Clover A. Smith, CCB owners, submitted Encroachment Permit Application No. 18856 to the Central Valley Flood Protection Board on March 12, 2013. The CCB project is located approximately 10.7 miles south of Interstate 80, and 6.5 miles west of Clarksburg within the Yolo Bypass in Yolo County; and

**WHEREAS**, America's Habitats will be the initial CCB Manager and will be responsible for maintaining the CCB per the Interim Management Plan and the Long-Term Maintenance Plan (LTMP) dated April 2014; and

**WHEREAS**, a non-wasting endowment fund will be established for conservation easement compliance monitoring and implementation of the CCB's LTMP in perpetuity; and

**WHEREAS**, Board staff completed a technical review of Permit Application No. 18856, and has determined that the proposed project conforms to all Title 23 standards; and

**WHEREAS**, the U.S. Army Corps of Engineers (USACE) issued a no-objection letter to the proposed project dated September 05, 2013, with conditions, that are incorporated into the permit as Exhibit A; and

**WHEREAS**, the Department of Water Resources' Flood Maintenance Office (FMO), speaking as the Local Maintaining Agency of the Yolo Bypass, stated at the evidentiary hearing on Encroachment Permit Application No. 18856 that it had no specific objection to the proposed project and no further conditions of approval to add ; and

**WHEREAS**, Yolo County as lead agency under the California Environmental Quality Act, Public Resources Code sections 21000 *et seq.* (“CEQA”) prepared an Initial Study, Mitigated Negative Declaration (IS/MND) (State Clearinghouse No.: 2013042067, April 2013) and Mitigation Monitoring and Reporting Plan (MMRP) on the Capital Conservation and Mitigation Bank Project (incorporated herein by reference and available at the Central Valley Flood Protection Board offices or Yolo County office); and

**WHEREAS**, Yolo County, as lead agency, certified the IS/MND, adopted mitigation measures and a MMRP (incorporated herein by reference and available at the Central Valley Flood Protection Board or at Yolo County), approved findings pursuant to CEQA and the CEQA Guidelines (incorporated herein by reference); and adopted Resolution 14-20 on March 11, 2014, and filed a Notice of Determination with the Yolo County Clerk on March 17, 2014 approving the Project; and

**WHEREAS**, the Central Valley Flood Protection Board has conducted an evidentiary hearing on Encroachment Permit Application No. 18856, and has reviewed the application and all supporting documentation, the Staff Report of its staff, the documents and correspondence in its file, and the environmental documents prepared by Yolo County.

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 all Attachments listed in the Staff Report.

**CEQA Findings**

3. The Central Valley Flood Protection Board, as a responsible agency, has independently reviewed the analysis in the IS/MND, MMRP, and the findings prepared by the lead agency, Yolo County, and has reached its own conclusions.
4. The Central Valley Flood Protection Board, after consideration of the IS/MND, MMRP, and Yolo County findings, adopts the project description, analysis and findings which are relevant to activities authorized by issuance of Encroachment Permit No. 18856 for the Capital Conservation Bank Project.
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 151, 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 original and updated applications and supporting documents, this Staff Report and attachments, and all other evidence presented by any individual or group, and all letters and other correspondence received by the Board and in the Board's files related to this matter.
7. **Best Available Science.** In making its findings, the Board has used the best available science relating to the issues presented by all parties.
8. **Effects on State Plan of Flood Control.** This project has no effects on facilities of the State Plan of Flood Control as the hydrologic and geotechnical impacts from the proposed project are localized and considered to be insignificant. Although the proposed project is located within the Yolo Bypass (approximately 2.5 miles east of the west levee and approximately one mile west of the Sacramento Deep Water Ship Channel Levee) it is compatible with the stated goals of the 2012 Central Valley Flood Protection Plan.
9. **Effects of Reasonable Projected Future Events.** The proposed project is located within the Yolo Bypass and habitat for the GGS is primarily perennial marsh. There will be minimal impacts to the proposed project from reasonable projected future events.

**Other Findings/Conclusions regarding Issuance of the Permit**

10. This resolution shall constitute the written decision of the Central Valley Flood Protection Board in the matter of Encroachment Permit Application No. 18856.

**Approval of Encroachment Permit No. 18856**

11. Based on the foregoing, the Central Valley Flood Protection Board hereby conditionally approves issuance of Encroachment Permit No. 18856 in substantially the form provided by the Board Staff as Attachment C of the Staff Report with the following exceptions: Special Conditions THIRTY and FORTY-ONE are to be removed; and Special Condition SEVENTEEN is to be amended to include a statement specifying that construction of the CCB may not begin until all necessary construction-related permits have been issued by all appropriate agencies, and
12. The Central Valley Flood Protection 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 Determination pursuant to CEQA for Encroachment Permit No. 18856.

PASSED AND ADOPTED by vote of the Board on \_\_\_\_\_, 2014.

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William H. Edgar  
President

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Jane Dolan  
Secretary

**DRAFT**

STATE OF CALIFORNIA  
THE RESOURCES AGENCY  
**THE CENTRAL VALLEY FLOOD PROTECTION BOARD**

**PERMIT NO. 18856 BD**

**This Permit is issued to:**

Capital Conservation and Mitigation Bank  
2665 Somey Loop Road  
Rescue, California 95661

To create approximately 130-acres of perennial marsh and upland habitat inside of the Yolo Bypass. The 137-acre Capital Conservation Bank project includes water delivery channels, shallow wetlands, and raised areas suitable for the Giant Garter Snake. The project is located approximately 10.7-miles south of Interstate 80, 6.5-miles west of Clarksburg, and east of County Road 104 at the northern terminus of County Road 107 within the Yolo Bypass (Section 33, T7N, R3E, MDB&M, Sacramento Maintenance Yard, Yolo Bypass, Yolo County).

**NOTE:** Special Conditions have been incorporated herein which may place limitations on and/or require modification of your proposed project as described above.

**(SEAL)**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Executive Officer

**GENERAL CONDITIONS:**

**ONE:** This permit is issued under the provisions of Sections 8700 – 8723 of the Water Code.

**TWO:** Only work described in the subject application is authorized hereby.

**THREE:** This permit does not grant a right to use or construct works on land owned by the Sacramento and San Joaquin Drainage District or on any other land.

**FOUR:** The approved work shall be accomplished under the direction and supervision of the State Department of Water Resources, and the permittee shall conform to all requirements of the Department and The Central Valley Flood Protection Board.

**FIVE:** Unless the work herein contemplated shall have been commenced within one year after issuance of this permit, the Board reserves the right to change any conditions in this permit as may be consistent with current flood control standards and policies of The Central Valley Flood Protection

Board.

**SIX:** This permit shall remain in effect until revoked. In the event any conditions in this permit are not complied with, it may be revoked on 15 days' notice.

**SEVEN:** It is understood and agreed to by the permittee that the start of any work under this permit shall constitute an acceptance of the conditions in this permit and an agreement to perform work in accordance therewith.

**EIGHT:** This permit does not establish any precedent with respect to any other application received by The Central Valley Flood Protection Board.

**NINE:** The permittee shall, when required by law, secure the written order or consent from all other public agencies having jurisdiction.

**TEN:** The permittee is responsible for all personal liability and property damage which may arise out of failure on the permittee's part to perform the obligations under this permit. 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 permittee shall defend and shall hold each of them harmless from each claim.

**ELEVEN:** The permittee shall exercise reasonable care to operate and maintain any work authorized herein to preclude injury to or damage to any works necessary to any plan of flood control adopted by the Board or the Legislature, or interfere with the successful execution, functioning or operation of any plan of flood control adopted by the Board or the Legislature.

**TWELVE:** Should any of the work not conform to the conditions of this permit, the permittee, 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 approved.

#### **SPECIAL CONDITIONS FOR PERMIT NO. 18856 BD**

**THIRTEEN:** A copy of this permit (No.18856) shall be included as an attachment to the Capital Interim Management Plan and the Capital Conservation Bank Long Term Management Plan.

**FOURTEEN:** All of the terms in the Capital Conservation Bank Long Term Management Plan dated April 2014 (LTMP) are incorporated into this permit. No changes may be made to the LTMP after the date of issuance of this permit, unless such changes are approved in writing by the Central Valley Flood Protection Board.

**FIFTEEN:** The permittee and/or subsequent Capital Conservation Bank Manager shall restore the project site to the initial as-constructed approved project conditions if the Central Valley Flood Protection Board, in its sole discretion, determines that the project negatively impacts flood conveyance and/or flood capacities in the Yolo Bypass.

**SIXTEEN:** The permittee and/or subsequent Capital Conservation Bank Manager will be responsible for securing any necessary permits, including those permits incidental to habitat manipulation and restoration work completed in the flood control project, and any biological surveying, monitoring, and reporting needed to satisfy those permits.

**SEVENTEEN:** In the event a required permit issued by another local, State or federal agency contains terms or conditions that conflict with any of the conditions in this Permit, the permittee and/or subsequent Capital Conservation Bank Manager must immediately take steps to resolve the conflict and agrees to incur all costs for compliance with local, state and federal permitting and resolution of any conflicts.

**EIGHTEEN:** The activities permitted by this Permit are and forever shall be subordinate to the flowage easements held by the Sacramento and San Joaquin Drainage District (i.e. The Central

Valley Flood Protection Board).

NINETEEN: If the Central Valley Flood Protection Board, in its sole discretion, determines at any time during the life of this permit that the LTMP is inadequate or that the permittee or its designee is not maintaining the project per the Capital Conservation Bank Long Term Management Plan, the Board shall be entitled to order maintenance of the project and access any and all funds in the endowment fund to pay for said maintenance. The Endowment Agreement must include a provision for Board access of funds.

TWENTY: All work approved by this permit shall be in accordance with the submitted drawings and specifications except as modified by special permit conditions herein. No further work, other than that approved by this permit, shall be done in the area without prior approval of the Central Valley Flood Protection Board.

TWENTY-ONE: The permittee and/or subsequent Capital Conservation Bank Manager is responsible for all liability associated with construction, operation, and maintenance of the permitted facilities and shall defend, indemnify, and hold the Central Valley Flood Protection Board and the State of California; including its agencies, departments, boards, commissions, and their respective officers, agents, employees, successors and assigns (collectively, the "State"), safe and harmless, of and from all claims and damages arising from the project undertaken pursuant to this permit, all to the extent allowed by law. The State expressly reserves the right to supplement or take over its defense, in its sole discretion.

TWENTY-TWO: The permittee and/or subsequent Capital Conservation Bank Manager shall defend, indemnify, and hold the Central Valley Flood Protection Board and the State of California, including its agencies, departments, boards, commissions, and their respective officers, agents, employees, successors and assigns (collectively, the "State"), safe and harmless, of and from all claims and damages related to the Central Valley Flood Protection Board's approval of this permit, including but not limited to claims filed pursuant to the California Environmental Quality Act. The State expressly reserves the right to supplement or take over its defense, in its sole discretion.

TWENTY-THREE: The Central Valley Flood Protection Board and Department of Water Resources shall not be held liable for any damage to the permitted encroachment(s) resulting from flood fight, operation, maintenance, inspection, or emergency repair of any of the facilities of the State Plan of Flood Control.

TWENTY-FOUR: No construction work of any kind shall be done during the flood season from November 1st to April 15th without prior approval of the Central Valley Flood Protection Board.

TWENTY-FIVE: The permittee shall be responsible for repair of any damages to the project levee and other flood control facilities due to construction, operation, or maintenance of the proposed project.

TWENTY-SIX: Upon receipt of a signed copy of the issued permit the permittee shall contact the Department of Water Resources by telephone, (916) 574-0609, and submit the enclosed postcard to schedule a preconstruction conference. Failure to do so at least 10 working days prior to start of work may result in delay of the project.

TWENTY-SEVEN: No material stockpiles, temporary buildings, or equipment shall remain in the

floodway during the flood season from November 1st to April 15th.

TWENTY-EIGHT: The excess material, estimated to be 3,311-cubic yards, that will be spoiled in the northerly parcel shall be graded uniformly so that no holes or high spots remain.

TWENTY-NINE: Fill material shall be placed only within the areas indicated on the approved plans.

~~THIRTY: Submitted Grading Plans dated April 10, 2013 show that the proposed project will place approximately 1,500 cubic yards of rock inside the Yolo Bypass to control erosion in the water delivery channels and for the benefit of the Giant Garter Snake. An equivalent volume of material will be removed and discarded outside the Yolo Bypass and off all Project Works.~~

THIRTY-ONE: All debris generated by this project shall be disposed of outside the Yolo Bypass and off all Project Works.

THIRTY-TWO: The mitigation measures approved by the CEQA lead agency and the permittee are found in its Mitigation and Monitoring Reporting Program (MMRP) adopted by the CEQA lead agency. The permittee and/or subsequent Conservation Bank Manager shall implement all such mitigation measures.

THIRTY-THREE: The U.S. Army Corps of Engineers, the Department of Water Resources, and the Central Valley Flood Protection Board or their authorized representatives shall have access to the Capital Conservation Bank site at all times.

THIRTY-FOUR: The permittee or subsequent Capital Conservation Bank Manager shall not import any State or federally listed, threatened, or endangered species to the project site without prior written approval of the Central Valley Flood Protection Board.

THIRTY-FIVE: The permitted encroachment(s) shall not interfere with operation and maintenance of the flood control project. If the permitted encroachment(s) are determined by any agency responsible for operation or maintenance of the flood control project to interfere, the permittee and/or subsequent Conservation Bank Manager shall be required, at permittee's and/or subsequent Conservation Bank Manager's cost and expense, to modify or remove the permitted encroachment(s) under direction of the Central Valley Flood Protection Board or Department of Water Resources. If the permittee and/or subsequent Conservation Bank Manager does not comply, the Central Valley Flood Protection Board may modify or remove the encroachment(s) at the permittee's and/or subsequent Conservation Bank Manager's expense.

THIRTY-SIX: The permittee and/or subsequent Capital Conservation Bank Manager shall provide a copy of the Annual Report, defined in Section 4.8, Reporting Activities, of the Capital Conservation Bank Long Term Management Plan, to the Central Valley Flood Protection Board for review and comment.

THIRTY-SEVEN: The permittee and/or subsequent Capital Conservation Bank Manager shall submit any proposed material amendment to the Conservation Easement (CE), Conservation Bank Agreement (CBA), Interim Management Plan (IMP), Long Term Management Plan (LTMP), and Habitat Development Plan (HDP), including any "adaptive management" employed by the permittee, to the Central Valley Flood Protection Board for written approval prior to making any such

amendment.

THIRTY-EIGHT: The permittee and/or subsequent Conservation Bank Manager may be required, at permittee's and/or subsequent Conservation Bank Manager cost and expense, to remove, alter, relocate, or reconstruct all or any part of the permitted encroachment(s) if removal, alteration, relocation, or reconstruction is necessary as part of or in conjunction with any present or future flood control plan or project or if damaged by any cause. If the permittee and/or subsequent Conservation Bank Manager does not comply, the Central Valley Flood Protection Board may remove the encroachment(s) at the permittee's and/or subsequent Conservation Bank Manager's expense.

THIRTY-NINE: If the project, or any portion thereof, is to be abandoned in the future, the permittee and/or subsequent Conservation Bank Manager shall abandon the project under direction of the Central Valley Flood Protection Board and Department of Water Resources, at the permittee's and/or subsequent Conservation Bank Manager's cost and expense.

FORTY: The permittee and/or subsequent Capital Conservation Bank Manager shall comply with all conditions set forth in the letter from the Department of the Army (U.S. Army Corps of Engineers, Sacramento District) dated September 5, 2013, which is attached to this permit as Exhibit A and is incorporated by reference.

~~FORTY ONE: The permittee and/or subsequent Capital Conservation Bank Manager shall comply with all conditions set forth in the letter from the DWR Flood Maintenance Office dated April xx, 2014, which is attached to this permit as Exhibit B and is incorporated by reference.~~

FORTY-TWO: Upon completion of the project, the permittee shall submit as-constructed drawings to: Department of Water Resources, Flood Project Inspection Section, 3310 El Camino Avenue, Suite 256, Sacramento, California 95821.

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STATE OF CALIFORNIA  
THE RESOURCES AGENCY  
**THE CENTRAL VALLEY FLOOD PROTECTION BOARD**

**PERMIT NO. 18856 BD**

**This Permit is issued to:**

CCB Phase 1, LLC.  
2665 Somey Loop Road  
Rescue, California 95661

To create approximately 130-acres of perennial marsh and upland habitat inside of the Yolo Bypass. The 137-acre Capital Conservation Bank project includes water delivery channels, shallow wetlands, and raised areas suitable for the Giant Garter Snake. The project is located approximately 10.7-miles south of Interstate 80, 6.5-miles west of Clarksburg, and east of County Road 104 at the northern terminus of County Road 107 within the Yolo Bypass (Section 33, T7N, R3E, MDB&M, Sacramento Maintenance Yard, Yolo Bypass, Yolo County).

**NOTE:** Special Conditions have been incorporated herein which may place limitations on and/or require modification of your proposed project as described above.

**(SEAL)**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Executive Officer

**GENERAL CONDITIONS:**

**ONE:** This permit is issued under the provisions of Sections 8700 – 8723 of the Water Code.

**TWO:** Only work described in the subject application is authorized hereby.

**THREE:** This permit does not grant a right to use or construct works on land owned by the Sacramento and San Joaquin Drainage District or on any other land.

**FOUR:** The approved work shall be accomplished under the direction and supervision of the State Department of Water Resources, and the permittee shall conform to all requirements of the Department and The Central Valley Flood Protection Board.

**FIVE:** Unless the work herein contemplated shall have been commenced within one year after issuance of this permit, the Board reserves the right to change any conditions in this permit as may be consistent with current flood control standards and policies of The Central Valley Flood Protection

Board.

**SIX:** This permit shall remain in effect until revoked. In the event any conditions in this permit are not complied with, it may be revoked on 15 days' notice.

**SEVEN:** It is understood and agreed to by the permittee that the start of any work under this permit shall constitute an acceptance of the conditions in this permit and an agreement to perform work in accordance therewith.

**EIGHT:** This permit does not establish any precedent with respect to any other application received by The Central Valley Flood Protection Board.

**NINE:** The permittee shall, when required by law, secure the written order or consent from all other public agencies having jurisdiction.

**TEN:** The permittee is responsible for all personal liability and property damage which may arise out of failure on the permittee's part to perform the obligations under this permit. 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 permittee shall defend and shall hold each of them harmless from each claim.

**ELEVEN:** The permittee shall exercise reasonable care to operate and maintain any work authorized herein to preclude injury to or damage to any works necessary to any plan of flood control adopted by the Board or the Legislature, or interfere with the successful execution, functioning or operation of any plan of flood control adopted by the Board or the Legislature.

**TWELVE:** Should any of the work not conform to the conditions of this permit, the permittee, 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 approved.

#### **SPECIAL CONDITIONS FOR PERMIT NO. 18856 BD**

**THIRTEEN:** A copy of this permit (No.18856) shall be included as an attachment to the Capital Interim Management Plan and the Capital Conservation Bank Long Term Management Plan.

**FOURTEEN:** All of the terms in the Capital Conservation Bank Long Term Management Plan dated April 2014 (LTMP) are incorporated into this permit. No changes may be made to the LTMP after the date of issuance of this permit, unless such changes are approved in writing by the Central Valley Flood Protection Board.

**FIFTEEN:** The permittee and/or subsequent Capital Conservation Bank Manager shall restore the project site to the initial as-constructed approved project conditions if the Central Valley Flood Protection Board, in its sole discretion, determines that the project negatively impacts flood conveyance and/or flood capacities in the Yolo Bypass.

**SIXTEEN:** The permittee and/or subsequent Capital Conservation Bank Manager will be responsible for securing any necessary permits, including those permits incidental to habitat manipulation and restoration work completed in the flood control project, and any biological surveying, monitoring, and reporting needed to satisfy those permits.

**SEVENTEEN:** No construction may begin on the Capital Conservation Bank until all necessary construction-related permits have been issued by all appropriate agencies. In the event a required permit issued by another local, State or federal agency contains terms or conditions that conflict with any of the conditions in this Permit, the permittee and/or subsequent Capital Conservation Bank Manager must immediately take steps to resolve the conflict and agrees to incur all costs for compliance with local, state and federal permitting and resolution of any conflicts.

**EIGHTEEN:** The activities permitted by this Permit are and forever shall be subordinate to the

flowage easements held by the Sacramento and San Joaquin Drainage District (i.e. The Central Valley Flood Protection Board).

NINETEEN: If the Central Valley Flood Protection Board, in its sole discretion, determines at any time during the life of this permit that the LTMP is inadequate or that the permittee or its designee is not maintaining the project per the Capital Conservation Bank Long Term Management Plan, the Board shall be entitled to order maintenance of the project and access any and all funds in the endowment fund to pay for said maintenance. The Endowment Agreement must include a provision for Board access of funds.

TWENTY: All work approved by this permit shall be in accordance with the submitted drawings and specifications except as modified by special permit conditions herein. No further work, other than that approved by this permit, shall be done in the area without prior approval of the Central Valley Flood Protection Board.

TWENTY-ONE: The permittee and/or subsequent Capital Conservation Bank Manager is responsible for all liability associated with construction, operation, and maintenance of the permitted facilities and shall defend, indemnify, and hold the Central Valley Flood Protection Board and the State of California; including its agencies, departments, boards, commissions, and their respective officers, agents, employees, successors and assigns (collectively, the "State"), safe and harmless, of and from all claims and damages arising from the project undertaken pursuant to this permit, all to the extent allowed by law. The State expressly reserves the right to supplement or take over its defense, in its sole discretion.

TWENTY-TWO: The permittee and/or subsequent Capital Conservation Bank Manager shall defend, indemnify, and hold the Central Valley Flood Protection Board and the State of California, including its agencies, departments, boards, commissions, and their respective officers, agents, employees, successors and assigns (collectively, the "State"), safe and harmless, of and from all claims and damages related to the Central Valley Flood Protection Board's approval of this permit, including but not limited to claims filed pursuant to the California Environmental Quality Act. The State expressly reserves the right to supplement or take over its defense, in its sole discretion.

TWENTY-THREE: The Central Valley Flood Protection Board and Department of Water Resources shall not be held liable for any damage to the permitted encroachment(s) resulting from flood fight, operation, maintenance, inspection, or emergency repair of any of the facilities of the State Plan of Flood Control.

TWENTY-FOUR: No construction work of any kind shall be done during the flood season from November 1st to April 15th without prior approval of the Central Valley Flood Protection Board.

TWENTY-FIVE: The permittee shall be responsible for repair of any damages to the project levee and other flood control facilities due to construction, operation, or maintenance of the proposed project.

TWENTY-SIX: Upon receipt of a signed copy of the issued permit the permittee shall contact the Department of Water Resources by telephone, (916) 574-0609, and submit the enclosed postcard to schedule a preconstruction conference. Failure to do so at least 10 working days prior to start of work may result in delay of the project.

TWENTY-SEVEN: No material stockpiles, temporary buildings, or equipment shall remain in the floodway during the flood season from November 1st to April 15th.

TWENTY-EIGHT: The excess material, estimated to be 3,311-cubic yards, that will be spoiled in the northerly parcel shall be graded uniformly so that no holes or high spots remain.

TWENTY-NINE: Fill material shall be placed only within the areas indicated on the approved plans.

THIRTY: All debris generated by this project shall be disposed of outside the Yolo Bypass and off all Project Works.

THIRTY-ONE: The mitigation measures approved by the CEQA lead agency and the permittee are found in its Mitigation and Monitoring Reporting Program (MMRP) adopted by the CEQA lead agency. The permittee and/or subsequent Conservation Bank Manager shall implement all such mitigation measures.

THIRTY-TWO: The U.S. Army Corps of Engineers, the Department of Water Resources, and the Central Valley Flood Protection Board or their authorized representatives shall have access to the Capital Conservation Bank site at all times.

THIRTY-THREE: The permittee or subsequent Capital Conservation Bank Manager shall not import any State or federally listed, threatened, or endangered species to the project site without prior written approval of the Central Valley Flood Protection Board.

THIRTY-FOUR: The permitted encroachment(s) shall not interfere with operation and maintenance of the flood control project. If the permitted encroachment(s) are determined by any agency responsible for operation or maintenance of the flood control project to interfere, the permittee and/or subsequent Conservation Bank Manager shall be required, at permittee's and/or subsequent Conservation Bank Manager's cost and expense, to modify or remove the permitted encroachment(s) under direction of the Central Valley Flood Protection Board or Department of Water Resources. If the permittee and/or subsequent Conservation Bank Manager does not comply, the Central Valley Flood Protection Board may modify or remove the encroachment(s) at the permittee's and/or subsequent Conservation Bank Manager's expense.

THIRTY-FIVE: The permittee and/or subsequent Capital Conservation Bank Manager shall provide a copy of the Annual Report, defined in Section 4.8, Reporting Activities, of the Capital Conservation Bank Long Term Management Plan, to the Central Valley Flood Protection Board for review and comment.

THIRTY-SIX: The permittee and/or subsequent Capital Conservation Bank Manager shall submit any proposed material amendment to the Conservation Easement (CE), Conservation Bank Agreement (CBA), Interim Management Plan (IMP), Long Term Management Plan (LTMP), and Habitat Development Plan (HDP), including any "adaptive management" employed by the permittee, to the Central Valley Flood Protection Board for written approval prior to making any such amendment.

THIRTY-SEVEN: The permittee and/or subsequent Conservation Bank Manager may be required, at permittee's and/or subsequent Conservation Bank Manager cost and expense, to remove, alter, relocate, or reconstruct all or any part of the permitted encroachment(s) if removal, alteration,

relocation, or reconstruction is necessary as part of or in conjunction with any present or future flood control plan or project or if damaged by any cause. If the permittee and/or subsequent Conservation Bank Manager does not comply, the Central Valley Flood Protection Board may remove the encroachment(s) at the permittee's and/or subsequent Conservation Bank Manager's expense.

THIRTY-EIGHT: If the project, or any portion thereof, is to be abandoned in the future, the permittee and/or subsequent Conservation Bank Manager shall abandon the project under direction of the Central Valley Flood Protection Board and Department of Water Resources, at the permittee's and/or subsequent Conservation Bank Manager's cost and expense.

THIRTY-NINE: The permittee and/or subsequent Capital Conservation Bank Manager shall comply with all conditions set forth in the letter from the Department of the Army (U.S. Army Corps of Engineers, Sacramento District) dated September 5, 2013, which is attached to this permit as Exhibit A and is incorporated by reference.

FORTY: Upon completion of the project, the permittee shall submit as-constructed drawings to: Department of Water Resources, Flood Project Inspection Section, 3310 El Camino Avenue, Suite 256, Sacramento, California 95821.