PERMIT NO. 18793-3

Mr. Richard Peekema – Petition for Reconsideration

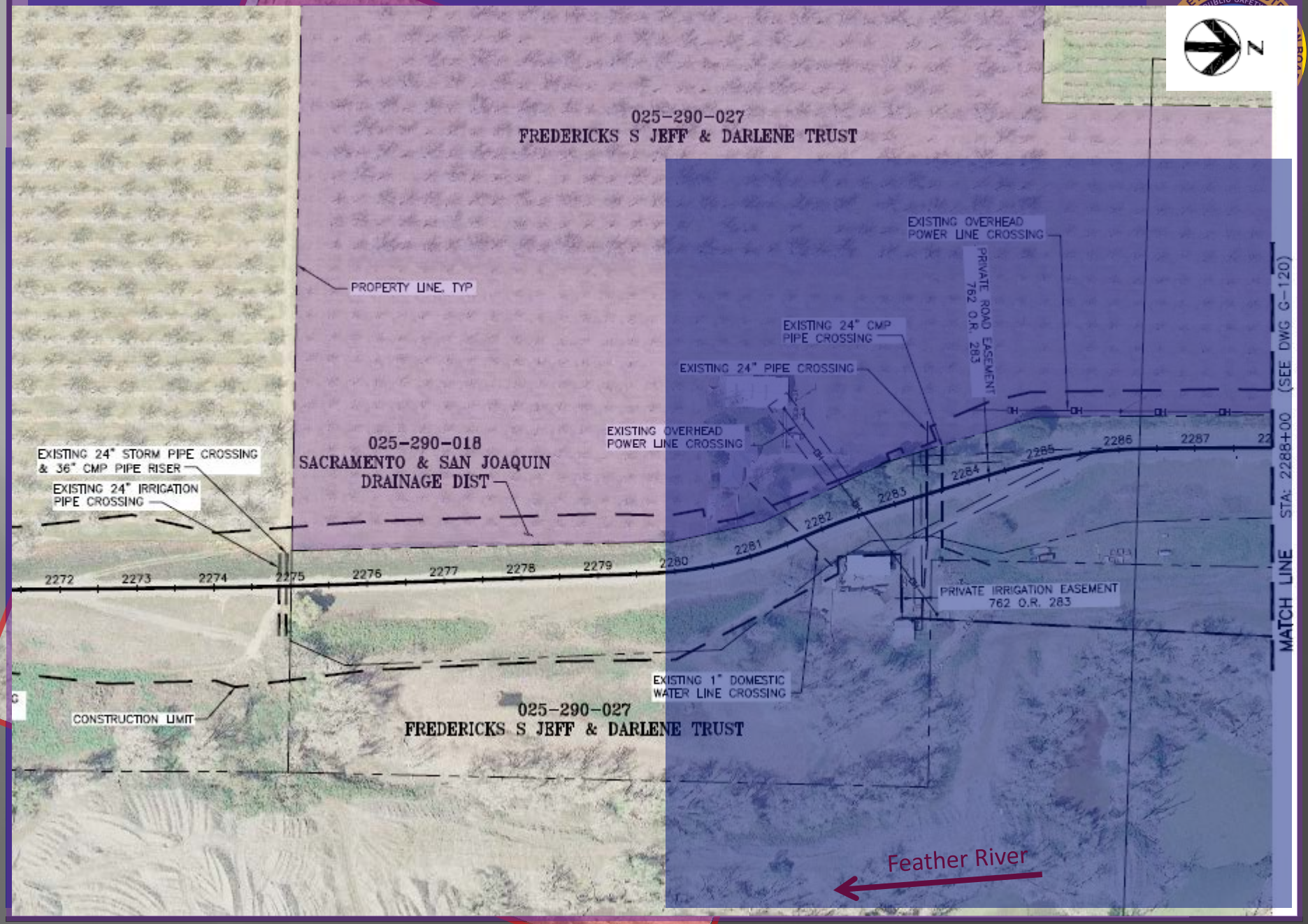
Mr. Jeff Fredericks – Discussion Item

June 27, 2014

BOARD ACTION

Board staff is asking the Board to:

- Consider Mr. Richard Peekema's petition for reconsideration of the Board's February 28, 2014 decision to approve Flood System Improvement Permit No. 18793-3 to construct Project Area D of the Sutter Butte Flood Control Agency's (SBFCA) Feather River West Levee Project (FRWLP).
- Discuss public comments received at the May 23, 2014 meeting from protestant Mr. Jeff Fredericks.


025-290-027
FREDERICKS S JEFF & DARLENE TRUST
PROPERTY LINE, TYP
EXISTING OVERHEAD
POWER LINE CROSSING
PRIVATE ROAD EASEMENT
762 O.R. 283
EXISTING 24" CMP
PIPE CROSSING
EXISTING 24" PIPE CROSSING
EXISTING OVERHEAD
POWER LINE CROSSING
025-290-018
SACRAMENTO & SAN JOAQUIN
DRAINAGE DIST
EXISTING 24" STORM PIPE CROSSING
& 36" CMP PIPE RISER
EXISTING 24" IRRIGATION
PIPE CROSSING
2272
2273
2274
2275
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2281
2282
2283
2284
2285
2286
2287
PRIVATE IRRIGATION EASEMENT
762 O.R. 283
EXISTING 1" DOMESTIC
WATER LINE CROSSING
CONSTRUCTION LIMIT
025-290-027
FREDERICKS S JEFF & DARLENE TRUST
MATCH LINE STA: 2288+00 (SEE DWG G-120)
Feather River
N

PERMIT 18793-3 HISTORY

- **10/30/12 –** Board sent a letter to the U.S. Army Corps of Engineers (USACE) requesting Title 33 United States Code § 408 (Section 408) approval
- **9/13/13 –** USACE Headquarters issued Section 408 Record of Decision (ROD)
- **2/3 and 2/11/14 –** Board staff received Mr. Peekema's and Mr. Fredericks' protests
- **2/26/14 –** Mr. Peekema submitted supplemental protest information
- **2/28/14 –** Board approved Flood System Improvement Permit No. 18793-3
- **3/3/14 –** The USACE Sacramento District issued their Letter of Permission (LOP)
- **3/26/14 –** Board staff issued Permit No. 18793-3
- **3/27/14 –** Mr. Peekema submitted a timely petition for reconsideration
- **5/19/14 –** The SBFCA team met in San Jose with Mr. Peekema regarding his petition
- **5/20/14 –** Email from Mr. Peekema stating his intention of continuing with the petition
- **5/23/14 –** Mr. Fredericks spoke at the Board meeting and submitted a redesign request

RECONSIDERATION PETITION (1/3)

Reconsideration Petition, Per Title 23, § 30 (Section 30):

Petitions must be submitted within 30 days of the decision for 1 of 4 following reasons:

- *Irregularity in the proceeding, or any ruling, or abuse of discretion which prevented a fair hearing;*
- *The decision or order is not supported by substantial evidence;* Mr. Peekema's basis
- *There is relevant evidence which could not have reasonably been produced previously; or*
- *Error in law.*

The request must be submitted in writing and contain the following information: submitted

- *Name and address of petitioner;*
- *The specific action of which petitioner requests reconsideration;*
- *The specific reason the action was inappropriate or improper;*
- *The specific action the petitioner requests; and*
- *A statement that copies of the petition and accompanying material have been sent to all interested parties.*

The Board may then in its sole discretion:

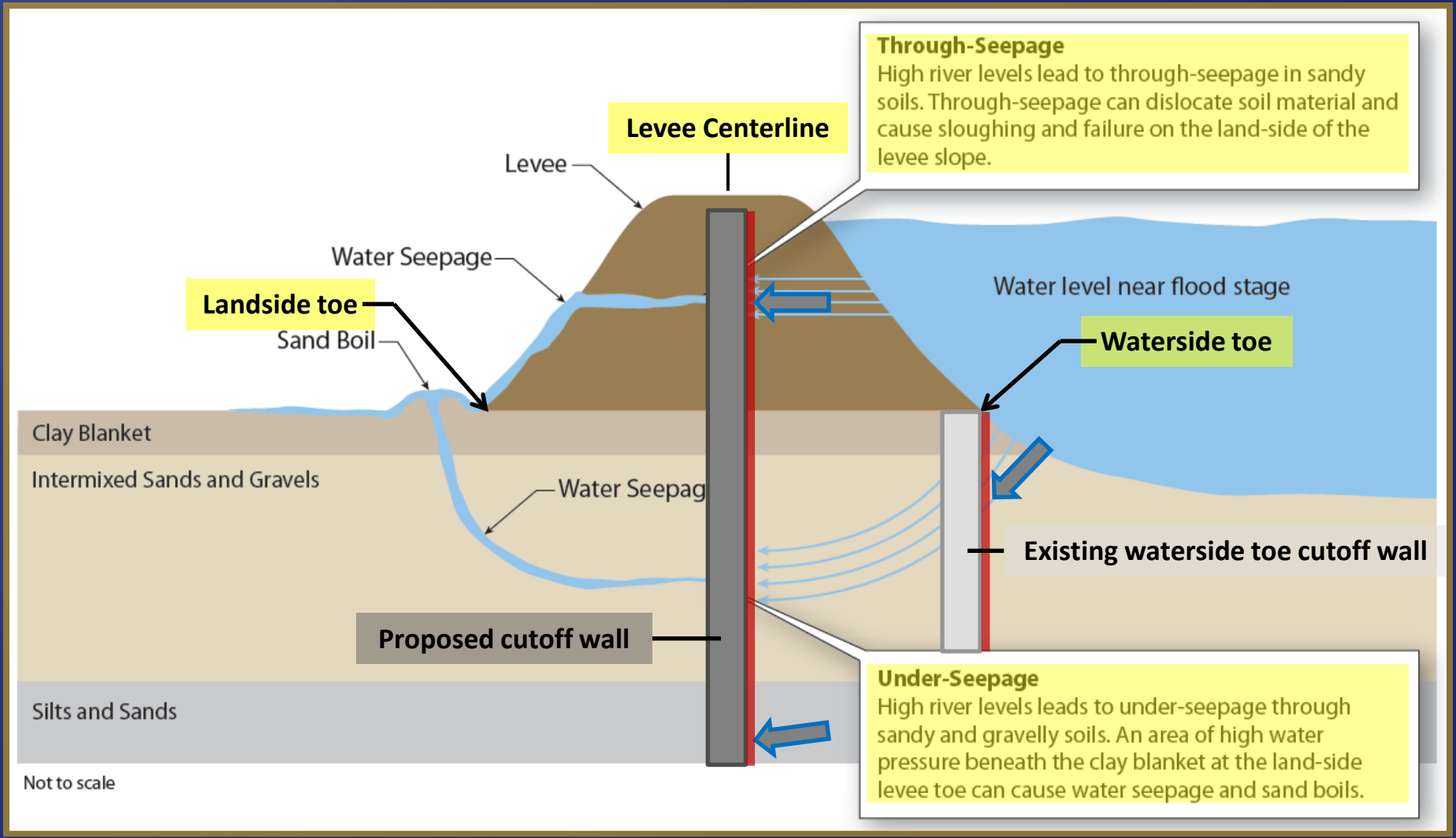
- *Refuse to consider the decision or order;*
- *Deny the petition upon finding that the decision or order was proper;* Staff's recommendation
- *Set aside or modify the decision or order; or*
- *Take other appropriate actions.*

RECONSIDERATION PETITION (2/3)

Mr. Peekema's Petition:

- Reconsideration based on claim that the Board's decision was not supported by substantial evidence (reason (2) in Section 30)
- The existing cutoff wall, constructed by the USACE (1997), is deeper than the design drawings, and in any event, is adequate for flood control

RECONSIDERATION PETITION (3/3)



DISCUSSION ITEM

Mr. Fredericks' Involvement:

- Submitted a timely protest letter
- Did not attend the February permit hearing
- Did not submit a petition for reconsideration
- Attended the May 23, 2014 Board meeting and spoke during the public comments asking the Board to suggest alternatives for SBFCA to modify the project and he requested additional time before the Board during this reconsideration hearing (which was granted)

Staff Determination:

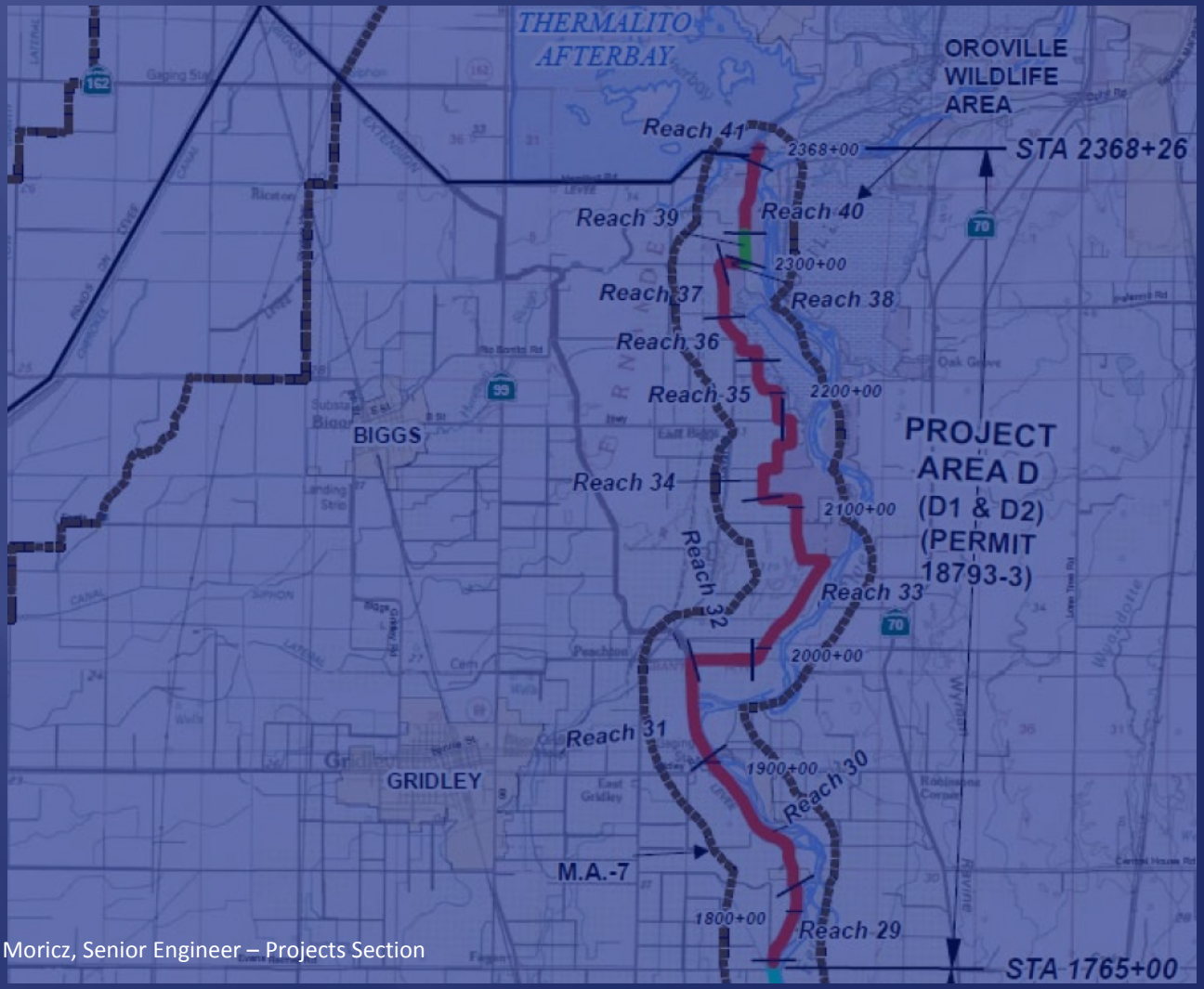
- Board staff recommends the Board allow the additional comments to be submitted on the record as requested, but take no further action on this item
  - because Mr. Fredericks did not file a petition for reconsideration

STAFF RECOMMENDATION

Board Staff is Recommending that the Board:

- deny Mr. Peekema's petition for reconsideration and find that the February 2014 decision approving Permit No.18793-3 was based on substantial evidence in the record and was proper; and
- allow Mr. Fredericks to make additional comments on the record, but take no further action on this item.

QUESTIONS



Presented by: Nancy Moricz, Senior Engineer – Projects Section