

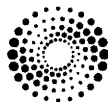
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*Barclays Official*  
**CALIFORNIA  
CODE OF  
REGULATIONS**

**Title 23. Waters**

**Division 1. Central Valley Flood Protection Board**

Vol. 32



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# Division 1. Central Valley Flood Protection Board

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# TITLE 23. WATERS

## Division 1. Central Valley Flood Protection Board

(Originally Printed 7-25-45)

### Chapter 1. Organization, Powers and Standards

#### Article 1. Authority, Purpose, Scope, and Intent

##### § 1. Authority.

These regulations are promulgated by the Central Valley Flood Protection Board pursuant to Water Code sections 8571, 8608 and 8610.5.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8608, 8610.5 and 8710, Water Code.

##### HISTORY

1. Amendment of article 1 heading, new article 1 (sections 1 through 3) and section filed 9-30-96; operative 10-30-96 (Register 96, No. 40). For prior history, see Register 85, No. 26.
2. Amendment of division heading, section and NOTE filed 12-1-2009; operative 12-31-2009 (Register 2009, No. 49).

##### § 2. Purpose, Scope.

(a) The purpose of these regulations is to carry out the board's duties pursuant to Water Code sections 8534, 8608 and 8710 - 8723. Under these statutes, the Board is required to enforce, within its jurisdiction, on behalf of the State of California, appropriate standards for the construction, maintenance, and protection of adopted flood control plans that will best protect the public from floods.

(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 Tulare and Buena Vista basins.

(c) This division does not apply to the construction, operation, or maintenance of the Central Valley Project or the State Water Resources Development System or any parts thereof.

(d) This division does not apply to any activities of the United States or its agencies.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8534, 8536, 8608 and 8710, Water Code.

##### HISTORY

1. New section filed 9-30-96; operative 10-30-96 (Register 96, No. 40).

##### § 3. Intent.

The State has a primary interest in:

- (1) Adequately protecting lands subject to overflow;
- (2) Confining the waters of rivers, tributaries, bypasses, overflow channels, and basins within their respective boundaries;
- (3) Preserving the welfare of residents and landowners;
- (4) Maintaining and protecting the banks of the Sacramento and San Joaquin Rivers, their tributaries, bypasses, overflow channels, and basins; and
- (5) Good and sufficient levees and embankments or other works of flood control and reclamation, to adequately protect lives and property from floods.

The regulations are also intended to comply with the board's obligations to the U.S. Army Corps of Engineers pursuant to numerous assur-

ance agreements, Corps Operation and Maintenance Manuals, and 33 C.F.R. section 208.10.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8710, 8532 and 8533, Water Code.

##### HISTORY

1. New section filed 9-30-96; operative 10-30-96 (Register 96, No. 40).
2. Amendment of subsection (4) filed 12-1-2009; operative 12-31-2009 (Register 2009, No. 49).

#### Article 2. Definitions and Delegations

##### § 4. Definitions.

(a) Adopted Plan of Flood Control. "Adopted Plan of Flood Control" means a flood control or reclamation strategy for a specific area that has been adopted by the board or the Legislature and includes the following:

(1) In the case of project flood channels without levees, it means the natural stream channel and overbank area at design flood levels;

(2) In the case of project channels with levees, it means the area between and including the project levees, and includes:

(A) Additional area outside of the project levees where encroachments could affect the integrity, functioning or maintenance of the works (generally ten [10] feet landward of the levee toe);

(B) Any flowage areas that are part of the federal or state flood control project; and

(C) Areas where there are flowage easements; and

(3) In the case of designated floodways, it means the area between the encroachment lines. For purposes of this section, boundary lines and encroachment lines are interchangeable terms.

(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 acquired by the board specifically provide otherwise.

(b) Berm. "Berm" means the strip of ground between the waterward levee toe and the top of the bank of the low water channel.

(c) Board. "Board" means The Central Valley Flood Protection Board of the Resources Agency of the State of California as provided in Water Code section 8521.

(d) CEQA. "CEQA" means the California Environmental Quality Act, beginning at Public Resources Code section 21000.

(e) Chief Engineer. "Chief engineer" means the person appointed by the board pursuant to Water Code section 8581 for that purpose.

(f) Conforming Existing Encroachment. "Conforming existing encroachment" means an existing facility or use that is consistent with these regulations.

(g) Crest Elevation. "Crest elevation" means the elevation of the top of a levee, dike, or dam.

(h) Department. "Department" means the Department of Water Resources of The Resources Agency of the State of California as provided in Water Code section 120.

(i) Designated Floodway. "Designated floodway" means either:

(1) the channel of the stream and that portion of the adjoining floodplain reasonably required to provide for the passage of a design flood, as indicated by floodway encroachment lines on an adopted map; or

(2) the floodway between existing levees as adopted by the board or the Legislature.

(j) Design Flood. "Design flood" means the flood against which protection is provided or may eventually be provided by means of flood protection or control works, or that flood which the board otherwise determines to be compatible with future developments.

(k) Design Flood Plane. "Design flood plane" means the water surface elevation at design flow as determined by the Army Corps of Engineers, the Board, or Federal Emergency Management Agency, or other higher elevations based upon best available information, as determined by the board.

(l) Dwelling. "Dwelling" means an improvement of real property used, intended to be used, or suitable to be used for residential purposes, including, but not limited to, living, sleeping, cooking, or eating.

(m) Encroachment. "Encroachment" means any obstruction or physical intrusion by construction of works or devices, planting or removal of vegetation, or by whatever means for any purpose, into any of the following:

- (1) any flood control project works;
- (2) the waterway area of the project;
- (3) the area covered by an adopted plan of flood control; or
- (4) any area outside the above limits, if the encroachment could affect any of the above.

(n) Floodway. "Floodway" means the channel of a river or other watercourse and the adjacent land areas that convey flood waters.

(o) Floodway Encroachment Lines. "Floodway encroachment lines" means the exterior limits of any designated floodway.

(p) Executive Officer. "Executive Officer" means the person appointed by the board pursuant to Water Code section 8581 for that purpose.

(q) Impervious Material. "Impervious material" means soil which has twenty (20) percent or more of its particles passing the No. 200 sieve, a plasticity index of eight (8) or more, and a liquid limit of less than fifty percent (50%).

(r) Lawful existing encroachment. "Lawful existing encroachment," as used in Water Code section 8709.4(a), shall mean an encroachment for which the board has previously issued a valid permit or otherwise authorized by written instrument approved by the board.

(s) Levee Section. "Levee section" means the physical levee structure from the landward toe to the waterward toe.

(t) Levee Toe. "Levee toe" means the point of intersection of the levee slope with natural ground.

(u) Low-Flow Channel. "Low-flow channel" means the flowage within a natural channel below top of bank.

(v) Maintenance Activities. "Maintenance activities" means any work required to retain or maintain the intended functions of flood control facilities and of existing encroachments. Maintenance activities include but are not limited to mowing, tree and brush trimming and removal, revetment restoration, rodent control, spraying, painting, coating, patching, burning, and similar works; but does not include any significant excavation or any excavation during flood season. Maintenance activities of public agencies to maintain the designated level of function of flood control facilities within their jurisdiction are authorized and defined by Water Code sections 8361, 8370 and 12642.

(w) Mobile Home. "Mobile home" means a structure transportable in one or more sections and includes any manufactured home, but does not include a recreational vehicle.

(x) Nonconforming Existing Encroachment. "Nonconforming existing encroachment" means an existing facility or use that is inconsistent with these regulations.

(y) Nonproject Works. "Nonproject works" means the entirety or any component of a flood control project within the board's jurisdiction that is neither project works nor designated floodways.

(z) Obstruction. "Obstruction" means any natural or artificial structure or matter which:

- (1) may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by the water; or
- (2) that is placed where the flow of water could carry it downstream to the damage or detriment of either life or property.

(aa) Parties. "Parties" means permit applicants, the board, protestants,

and interested public agencies.

(bb) Permit. "Permit" means the approval issued by the board that approves a plan of work, with or without conditions, that results in an encroachment.

(cc) Permitted Uses. "Permitted uses" means flood control project works or other structures, improvements, and land uses in the floodway that alone or cumulatively, in the judgment of the board, will not unduly impede the free flow of water in a stream or jeopardize public safety.

(dd) Project Works. "Project works" means the entirety or any component of a flood control project within the area of the board's jurisdiction that has been approved or adopted by the board or the Legislature, including state or federally constructed levees, bank protection, weirs, pumping plants, and any other related flood control works, or rights-of-way.

(ee) Projected Levee Section. "Projected levee section" means the projection of the levee slope below natural ground at two (2) feet horizontal to one (1) foot vertical (2:1) landside and three (3) feet horizontal to one (1) foot vertical (3:1) waterside.

(ff) Recreational Vehicle. "Recreational vehicle" means any travel trailer, camp car, motor home, tent trailer, or other similar vehicle, with or without power, which is designed or used for human habitation and which may be moved upon a public highway, but does not include a mobile home.

(gg) Respondent. "Respondent" means the person named in an enforcement proceeding notice served and filed pursuant to Sections 20, 21, and 22 of this title.

(hh) Revetment. "Revetment" means a layer or layers of material, such as stone or concrete, to prevent soil erosion.

(ii) River Mile. "River mile" means the mile along the river channel indicated on a quadrangle map published by the United States Geological Survey or as otherwise indicated on a map adopted by the board.

(jj) State Plan of Flood Control. "State Plan of Flood Control" shall have the same meaning as defined in subdivisions (e) and (j) of section 5096.805 of the Public Resources Code, including the state and federal flood control works, lands, programs, plans, conditions, and mode of maintenance and operations of the Sacramento River Flood Control Project described in Section 8350 of the Water Code, and of flood control projects in the Sacramento River and San Joaquin River watersheds authorized pursuant to Article 2 (commencing with Section 12648) of Chapter 2 of Part 6 of Division 6 of the Water Code for which the board or the department has provided the assurances of nonfederal cooperation to the United States.

(kk) Stream. "Stream" means natural or regulated water flowing in any natural or artificial channel. Streams may be perennial, flowing continuously; intermittent or seasonal, flowing only at certain times of the year; or ephemeral, flowing only in direct response to precipitation.

(ll) Top of Bank. "Top of bank" means the point of intersection of the berm with the bank.

(mm) Toe of Bank. "Toe of bank" means the point of intersection of the bank with the bottom of the channel of a waterway.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8361, 8370, 8521, 8522, 8523, 8581, 8608, 8630, 8709 and 8710, Water Code; Section 65007, Government Code; and Section 5096.805, Public Resources Code.

#### HISTORY

1. Amendment of article 2 heading, new article 2 (sections 4 through 5) and renumbering and amendment of old section 46 to new section 4 filed 9-30-96; operative 10-30-96 (Register 96, No. 40). For prior history, see Register 85, No. 26.
2. Amendment of subsections (a)(1), (a)(3)-(4) and (c) filed 12-1-2009; operative 12-31-2009 (Register 2009, No. 49).
3. Amendment of subsection (p), new subsections (r) and (jj), subsection relettering and amendment of NOTE filed 2-15-2012; operative 2-15-2012 pursuant to Government Code section 11343.4 (Register 2012, No. 7).

#### § 5. Delegations.

(a) For the purposes of this division, all permitting duties of the board, including but not limited to the review and approval of encroachment permit applications, are hereby delegated to the Executive Officer, with the exception of the following:

(1) Permits or other approvals that significantly affect any element of the State Plan of Flood Control or other adopted plan of flood control. Encroachments that do not significantly affect any element of the State Plan of Flood Control or other adopted plan of flood control are defined in subsection (b).

(2) Permits or other approvals for which the board has not received written comments from the U.S. Army Corps of Engineers pursuant to 33 C.F.R. section 208.10 or for which approval is required by the South Pacific Division or Headquarters of the U.S. Army Corps of Engineers, where the U.S. Army Corps of Engineers has jurisdiction.

(3) Permits or other approvals which may create, in the judgment of the Executive Officer or Chief Engineer, more than a de minimus hydraulic impact to an adopted plan of flood control, including, for example, an increase in water surface elevation, a reduction of adequate freeboard, inability to convey design discharge, alteration of flow velocities or directions, increased scour, or expansion of the geographical floodplain or floodway inundation.

(4) Permits or other approvals which may have, in the judgment of the Executive Officer or Chief Engineer, adverse geotechnical impacts to an adopted plan of flood control, including but not limited to increases in under seepage or through seepage, slope-stability issues, increased phreatic pressures, and static or dynamic loading that exceed recommended thresholds.

(5) Permits or other approvals for which a formal written protest has been filed pursuant to Section 12.

(6) Permits or other approvals which require a variance, as defined in Section 11.

(7) Permits or other approvals in which the maintaining agency has not endorsed the application pursuant to Section 7.

(8) Permits or other approvals which, in the judgment of the Executive Officer, may be controversial matters, based on substantial public concern, or for which the Executive Officer has received substantial negative public comment.

(9) Permits or other approvals which, in the judgment of the Executive Officer, may involve significant policy considerations.

(10) Permits or other approvals requiring the preparation of an environmental impact report by the board.

(11) Permits or other approvals involving residential developments, as defined in Section 113.

(12) Permits or other approvals involving surface mining except extensions of time for existing operations.

(b) Subject to subsection (a) the following types of encroachment permits, when in compliance with this division and the board's obligations to the U.S. Army Corps of Engineers, do not significantly affect any element of the State Plan of Flood Control or other adopted plan of flood control and are delegated to the Executive Officer for review and approval:

- (1) Pipelines, conduits, and overhead utilities;
- (2) Irrigation and drainage ditches;
- (3) Septic systems;
- (4) Retaining walls;
- (5) Fences and gates;
- (6) Private, non-commercial boating facilities;
- (7) Water wells;
- (8) Patrol roads and access ramps;
- (9) Orchards, landscaping, and vegetation;
- (10) Bicycle, pedestrian and equestrian trails;
- (11) Stairs and steps;
- (12) Replacement of an existing permitted encroachment without an increase in scope or size;
- (13) Above ground encroachments installed more than ten (10) feet landward of the landside levee toe.

(c) For all encroachment permit applications delegated to the Executive Officer pursuant to subsections (a) and (b) above, a short summary of the project and the proposed action on the permit shall be posted on the board's website for thirty (30) calendar days prior to the decision.

During this posting period the public may provide the Executive Officer with comments on the proposed action. The Executive Officer shall not be required to respond to such comments or change the proposed action based upon such comments.

(d) The Executive Officer shall make periodic reports to the board regarding encroachment permit applications acted upon pursuant to the delegated authority in subsection (a).

(e) The Executive Officer shall have authority to approve notices of exemption, initial studies and negative declarations, notices of preparation, requests for shortened review, and notices of determination prepared pursuant to CEQA. The Executive Officer may conduct public hearings on any matter identified in this subsection. The Executive Officer may distribute draft environmental impact reports.

(f) The Executive Officer may authorize or direct work and approve permits or other matters in response to emergencies or situations that present an imminent threat to public safety in accordance with Section 17.

(g) The board delegates to the Executive Officer the authority to take action to remove or modify encroachments on levees, channels, and other flood control works pursuant to Water Code section 8709.4(c) and the authority to issue Cease and Desist Orders pursuant to Water Code section 8709.5(a) in the manner described in article 4 of this division.

(h) The board may, by resolution or written agreement, delegate other duties and responsibilities to the Executive Officer, the Director of the department, or others, with the authority to redelegate.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8581, 8610.5 and 8710, Water Code.

#### HISTORY

1. New section filed 9-30-96; operative 10-30-96 (Register 96, No. 40).
2. Amendment of section and NOTE filed 12-1-2009; operative 12-31-2009 (Register 2009, No. 49).
3. Amendment filed 2-15-2012; operative 2-15-2012 pursuant to Government Code section 11343.4 (Register 2012, No. 7).

## Article 2.5. Ex Parte Communications

### § 5.1. Ex Parte Communications.

(a) Board members shall not participate in ex parte communications with any person or organization with an interest in board decisions who intends to influence the decision of a board member on a matter before the board, nor such person's or organization's representative, except that communications with a staff member of the board acting in his or her official capacity are excluded from this prohibition. If, however, an ex parte communication occurs, the board member shall notify the interested party that a full disclosure of the ex parte communication shall be entered in the board's record, as provided herein. "Interested party," for purposes of this section, shall mean the person making the ex parte communication.

(b) "Ex parte communication" means any oral or written communication outside of a noticed board meeting concerning matters, other than purely procedural matters, regarding any of the following:

- (1) An application for a permit that has been submitted to the board and has been determined to be complete by the Executive Officer;
- (2) Enforcement actions, after the Executive Officer issues a notice of violation; and
- (3) Any other quasi-judicial matter for which board action is required and after the matter has been placed on the board's agenda and notice of the meeting has been provided pursuant to Section 11125 of the Government Code.

It shall not mean quasi-legislative actions, including topics of general concern which are not related to a specific application, such as the adoption of an overall policy regarding flood protection or general policy concerns which may be raised at task force, subcommittee, or other meetings. After the board votes on a matter listed in this subsection and the thirty (30) calendar day time period for reconsideration pursuant to section 28 of these regulations has expired and no petition for reconsideration has been submitted, communications regarding the matter are not

longer “ex parte communications.” “Ex parte communication” shall also not include communications related to lawsuits filed against the board, including, but not limited to, settlement discussions.

(c) “Procedural matters” include, but are not limited to, communications regarding the schedule, location, or format for hearings, filing dates, identity of parties, and other such non-substantive information.

(d) When the ex parte rules of this section attach, a board member may only take a field trip with a party to the matter or that party’s representative to the site of a proposed project or a pending enforcement action if ten (10) calendar days’ advance public notice is given stating the time, location, and intended scope of the field trip.

(e) If disclosure of an ex parte communication is required, such disclosure shall be made as follows:

(1) Any required disclosure under this section shall occur prior to the time that the board hears the matter that is the subject of the ex parte communication. If any disclosures have been made, either the board member receiving the ex parte communication or the Executive Officer shall state on the record prior to the board’s vote on the matter that ex parte communications have been received. Upon request, the public shall be given an opportunity to review any such disclosure and provide public testimony regarding the disclosure prior to the board’s vote.

(2) Compliance with the disclosure requirement regarding the receipt of a written ex parte communication shall be accomplished by having the recipient board member or the person who engaged in the communication with the board member send a copy of the written communication and any response to the communication to the Executive Officer for inclusion into the record of the matter that is the subject of the ex parte communication. “Written ex parte communication” shall mean a communication in any written form, including but not limited to electronic mail, handwritten note, or type-written document.

(3) Compliance with the disclosure requirement regarding the receipt of an oral ex parte communication shall be accomplished by having the recipient board member or the person who engaged in the communication with the board member submit a written request to the Executive Officer for inclusion of the communication into the record of the matter that is the subject of the ex parte communication. The written request to the Executive Officer may be by any written means, including, but not limited to, electronic mail. The oral summary and written request shall include the substance of the communication, any response by the recipient board member, and the identity of each person from whom the recipient board member received the communication.

(f) Once paragraph (e) is complied with, the communication ceases to be an ex parte communication.

NOTE: Authority cited: Section 8571, Water Code. Reference: Section 8578, Water Code.

#### HISTORY

1. New article 2.5 (section 5.1) and section filed 12-1-2009; operative 12-31-2009 (Register 2009, No. 49).
2. Amendment filed 2-15-2012; operative 2-15-2012 pursuant to Government Code section 11343.4 (Register 2012, No. 7).

## Article 3. Application Procedures

### § 6. Need for a Permit.

(a) Every proposal or plan of work, including the placement, construction, reconstruction, removal, or abandonment of any landscaping, culvert, bridge, conduit, fence, projection, fill, embankment, building, structure, obstruction, encroachment or works of any kind, and including the planting, excavation, or removal of vegetation, and any repair or maintenance that involves cutting into the levee, wholly or in part within any area for which there is an adopted plan of flood control, must be approved by the board prior to commencement of work.

(b) Permits may be required by the board for existing structures that predate permitting or where it is necessary to establish the conditions normally imposed by permitting. The circumstances include those where re-

sponsibility for the encroachment has not been clearly established or ownership and use have been revised.

(c) Every proposal or plan of work described in subdivision (a), but located outside an area over which there is an adopted plan of flood control, must be submitted to the board for approval prior to commencement of work if it is foreseeable that the plan of work could be injurious to or interfere with the successful execution, functioning, or operation of any facilities of an adopted plan of flood control or of a plan under study. If in the judgment of the Executive Officer, the plan of work is determined to be injurious to or interfere with an adopted plan of flood control or of a plan under study, the plan of work would be subject to requirements of this division.

(d) Permits are not required for maintenance activities as defined in article 2, section 4 of this title.

(e) The Executive Officer may waive the requirement for a permit for minor alterations within an adopted plan of flood control that would not be injurious to the adopted plan of flood control.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8608 and 8710, Water Code.

#### HISTORY

1. New article 3 (sections 6 through 19) and section, with renumbering and amendment of old section 95 to new section 6(c) filed 9-30-96; operative 10-30-96 (Register 96, No. 40). For prior history, see Register 85, No. 26.
2. Amendment of subsections (c) and (e) filed 12-1-2009; operative 12-31-2009 (Register 2009, No. 49).

### § 7. Endorsement by Maintaining Agency.

(a) Prior to submitting an encroachment permit application to the board, the application must be endorsed by the agency responsible for maintenance of levees within the area of the proposed work, such as a reclamation district, drainage district, flood control district, levee district, state, county, or city. Endorsement or denial of the application by the maintaining agency does not preclude the board from either approving or denying the application. If endorsement by the maintaining agency is declined or is unreasonably delayed, the application may be submitted to the board for consideration, along with a satisfactory explanation for lack of an endorsement.

(b) For the purpose of this section “endorsement” means conceptual plan approval, which may include recommended permit conditions of the local maintaining agency.

(c) Applicants shall be advised by the board that permission for an encroachment may also be required from the local maintaining agency.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8370, 8708, 8710 and 12642, Water Code.

#### HISTORY

1. New section, including renumbering and amendment of old section 18 to new section 7(a) filed 9-30-96; operative 10-30-96 (Register 96, No. 40). For prior history, see Register 85, No. 26.
2. Amendment of section heading and subsection (a) and repealer of subsection (d) filed 12-1-2009; operative 12-31-2009 (Register 2009, No. 49).

### § 8. Applications.

(a) All applications for approval must be on forms provided by the board. The board provides a standard application for most projects. When available, a special joint permit application may be used by an applicant. Applications to the board must be typewritten or in legible handwriting in ink and signed by or on behalf of the applicant. Applicants must furnish copies of other material as may be needed by the board and its staff to adequately determine the exact nature of the proposed work and its effect upon any project facilities or adopted plan of flood control. Applications and all associated material must be filed in quadruplicate (4 copies) with the office of the board. A copy of the standard application form is found in Appendix A. Applicants should contact the board if their project is covered under a joint permit application form previously approved by the board.

(b) Information furnished to the board must include:

(1) A description of the proposed work, together with a statement of the dates the planned construction will be initiated and completed.

(2) A completed copy of the Environmental Assessment Questionnaire that accompanies the application form from the board (See Appen-



dix A) and a copy of any draft and final environmental review document prepared for the project, such as an initial study, environmental assessment, negative declaration, notice of exemption, or environmental impact report. For any reasonably foreseeable significant environmental impacts, mitigation for such impacts shall be proposed.

(3) Complete plans and specifications showing the proposed work, including a location map showing the site of the work with relation to topographic features; a plan view of the area; and adequate cross sections through the area of the proposed work. The plans must be drawn to scale and refer to National Geodetic Vertical Datum (NGVD), or other known datum. The plans must also indicate any project features such as levees and/or channels, roads, or other structures, and must show river mile or levee mile references. The dimensions of any proposed or existing fills, excavations, and construction must be given.

(4) Additional information, such as geotechnical exploration, soil testing, hydraulic or sediment transport studies, biological surveys, environmental surveys and other analyses may be required at any time prior to board action on the application.

(5) The names and addresses of all landowners of the property on which the project is located and all landowners adjacent to the property on which the project is located.

(c) The Board may waive minor variations in an application.

NOTE: Authority cited: Section 8571, Water Code. Reference: Section 2090, Fish and Game Code; Sections 21080.3, 21104.2 and 21160, Public Resources Code; and Sections 8611, 8710 and 8730.3, Water Code.

#### HISTORY

1. Renumbering and amendment of old section 16 to new section 8 filed 9-30-96; operative 10-30-96 (Register 96, No. 40). For prior history, see Register 85, No. 26.
2. Amendment of subsections (a) and (b)(5) filed 12-1-2009; operative 12-31-2009 (Register 2009, No. 49).

### § 9. Acknowledgement of Receipt, Completeness of Applications, and Notice to Contiguous Landowners.

(a) The board shall acknowledge receipt of all applications in writing within ten (10) working days of receipt.

(b) Within thirty (30) calendar days of receipt of an application, the board shall determine whether the application is complete and notify the applicant, or the applicant's agent, of its determination and any need for additional information.

(c) Applications shall be deemed received and complete either when the applicant supplies the requested additional information or, if no additional information is requested, thirty (30) calendar days after the receipt of the application by the board.

(d) Once the application is deemed complete, the board shall send a notice of the pending application and its content to each adjacent landowner identified by the applicant.

NOTE: Authority cited: Section 8571, Water Code. Reference: Section 65943, Government Code; and Sections 8710, 8730.1 and 8730.3, Water Code.

#### HISTORY

1. New section filed 9-30-96; operative 10-30-96 (Register 96, No. 40). For prior history, see Register 85, No. 26.
2. Amendment filed 2-15-2012; operative 2-15-2012 pursuant to Government Code section 11343.4 (Register 2012, No. 7).

### § 10. Environmental Review.

(a) Each application shall be evaluated by an environmental review committee appointed by the Executive Officer, to review the environmental aspects of the application and to make recommendations with respect to compliance with the California Environmental Quality Act, Public Resources Code section 21000 et seq. ("CEQA") and the CEQA Guidelines, Title 14, California Code of Regulations, section 15000 et seq. The recommendations may include proposals for mitigation to avoid significant effects on the environment.

(b) The board may charge and collect a reasonable fee from any person proposing a project for which the board must prepare an environmental impact report ("EIR"), initial study, or negative declaration. The fee will

be an amount which will recover the costs incurred by the board and the department in preparing such EIR, initial study, and negative declaration. The board may charge and collect a deposit from the applicant for fees prior to undertaking environmental review. The deposit for these costs will include the cost of any consultants, staff time, and costs of printing established according to the formula contained in section 503 of this title which is incorporated by reference.

(c) The applicant shall provide the board and its authorized agents access to the area of the proposed work, upon request by the board or its authorized agents, for environmental, engineering or other purposes related to the board's review of the application.

NOTE: Authority cited: Section 21082, Public Resources Code; and Section 8571, Water Code. Reference: Sections 21082 and 21089, Public Resources Code; and Sections 8608 and 8710, Water Code.

#### HISTORY

1. New section filed 9-30-96; operative 10-30-96 (Register 96, No. 40). For prior history, see Register 69, No. 25.
2. Amendment of subsection (a) filed 2-15-2012; operative 2-15-2012 pursuant to Government Code section 11343.4 (Register 2012, No. 7).

### § 11. Variances.

(a) An application for an encroachment permit for a use that is not consistent with the board's standards as outlined in Article 8 requires a variance approved by the board.

(b) When approval of an encroachment requires a variance, the applicant must clearly state in the application why compliance with the board's standards is infeasible or not appropriate.

(c) The Executive Officer or Chief Engineer may grant temporary variances to allow work during the flood season (See Table 8.1).

(d) Where the Executive Officer finds in a particular situation that there is no legitimate reason for the application of one of the board's standards, the Executive Officer may waive any such standard for that situation.

NOTE: Authority cited: Section 8571, Water Code. Reference: Section 8710, Water Code.

#### HISTORY

1. New section filed 9-30-96; operative 10-30-96 (Register 96, No. 40). For prior history, see Register 85, No. 26.
2. Amendment filed 2-15-2012; operative 2-15-2012 pursuant to Government Code section 11343.4 (Register 2012, No. 7).

### § 12. Protests.

Protests to permit applications may be submitted by any interested party. For the purpose of the section, the term "interested party" means a party who has a legally recognizable private or public interest. Protests must be submitted in writing. Each protest must include:

- (1) The name, address, and telephone number of the protestant;
- (2) A clear statement of the protestant's objections; and
- (3) An explanation of how the protestant will be adversely affected by the proposed project. Within ten (10) calendar days of receipt of a protest, the board shall mail a copy of the protest to the applicant. Protests must be based solely upon flood control concerns or, where the board is acting as lead agency under CEQA, environmental concerns.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8571 and 8710, Water Code; and Section 21092, Public Resources Code.

#### HISTORY

1. New section filed 9-30-96; operative 10-30-96 (Register 96, No. 40).
2. Amendment of subsection (3) filed 2-15-2012; operative 2-15-2012 pursuant to Government Code section 11343.4 (Register 2012, No. 7).

### § 13. Evidentiary Hearings.

(a) Except where approval of permits has been delegated to the Executive Officer pursuant to section 5, an evidentiary hearing shall be held for any matter that requires the issuance of a permit.

(b) The requirement for an evidentiary hearing may be satisfied for permit applications by placing the matter on the board's consent calendar in accordance with Section 13.3.

(c) Evidentiary hearings shall be conducted pursuant to the procedures in Section 13.1.

(d) The applicant and other parties may request in writing that the board provide a copy of any document, not exempt from disclosure under

the Public Records Act, beginning at Government Code section 6251, that is relevant to any proceeding. The board may charge a reasonable fee for each copy.

(e) The board may hold a hearing or a partial hearing at any place within the state on its own initiative or on the request of the applicant. All hearings must be open to the public. The board may require the applicant to pay all overtime pay expenses incurred for any hearing not located in the County of Sacramento, if the hearing is moved from Sacramento at the request of the applicant.

(f) Written notice of the hearing shall be provided to the applicant at least ten (10) calendar days prior to the date of the hearing. The notice shall include the following:

- (1) The name and number assigned to the application, if any;
- (2) A description of the application and its proposed location;
- (3) The date, time, and place at which the hearing will be held;
- (4) A statement that the hearing will be governed by this Article, and that a copy of the governing procedures will be provided to the applicant upon request;

(5) A statement that Chapter 5 of the Administrative Procedure Act (commencing with section 11500) shall not apply to the proceeding; and

(6) A statement that if the applicant or any of the applicant's witnesses do not proficiently speak or understand English, the applicant may request language assistance by contacting the board and making such request within a reasonable amount of time prior to the hearing to allow appropriate arrangements to be made. The President may direct the applicant to pay for the cost of the interpreter based upon an equitable consideration of all the circumstances of each case, such as the ability of the party in need of the interpreter to pay.

(g) Applicants shall be notified of the staff recommendations on the application at least seven (7) calendar days prior to the hearing, unless this period is waived by the applicant. Adjacent landowners shall also be notified of staff recommendations at least seven (7) calendar days prior to the hearing if they have responded in writing to the notice sent pursuant to section 9(b) of this article. Protestants shall be notified of the staff recommendations at least seven (7) calendar days prior to the hearing.

(h) Notice to an applicant's representative as designated on the completed permit application form shall constitute notice to the applicant.

(i) The board President may implement additional administrative procedures for the conduct of hearings and related proceedings.

(j) For purposes of this section, minor alterations pursuant to section 6(e) and minor amendments to a previously issued permit shall not require an evidentiary hearing.

NOTE: Authority cited: Section 8571, Water Code; and Section 11400.20, Government Code. Reference: Sections 6253, 11125 and 11425.10, Government Code; and Sections 8710, 8730.2, 8731, 8732, 8732.5, 8734 and 8735, Water Code.

#### HISTORY

1. New section filed 9-30-96; operative 10-30-96 (Register 96, No. 40).
2. Amendment of section heading, section and NOTE filed 12-1-2009; operative 12-31-2009 (Register 2009, No. 49).
3. Amendment of subsections (a), (f), (g) and (h) filed 2-15-2012; operative 2-15-2012 pursuant to Government Code section 11343.4 (Register 2012, No. 7).
4. Amendment of subsections (b) and (e), repealer of subsection (f), subsection relettering and amendment of newly designated subsections (g)(6) and (j) filed 1-9-2014 as an emergency; operative 1-9-2014 (Register 2014, No. 2). A Certificate of Compliance must be transmitted to OAL by 7-8-2014 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 1-9-2014 order transmitted to OAL 5-29-2014 and filed 7-11-2014 (Register 2014, No. 28).

### § 13.1. Conduct and Order of Evidentiary Hearing Proceedings.

(a) It is the purpose of this section to incorporate and implement the informal hearing procedures and Administrative Adjudication Bill of Rights in Chapter 4.5 of the Administrative Procedure Act (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code to the extent consistent with the Water Code, which require notice and an opportunity to be heard, including the opportunity to present and

rebut evidence. Chapter 5 of the Administrative Procedure Act (commencing with section 11500) does not apply to evidentiary hearings before the board or an appointed hearing officer.

(b) Evidentiary hearings shall be conducted in a manner deemed most suitable to ensure fundamental fairness to all parties concerned, and with a view toward securing all relevant information and material necessary to render a decision without unnecessary delay.

(c) Evidentiary hearings shall be held in open session. Unless the President directs otherwise, the hearing shall proceed in the following order:

(1) The Executive Officer or his/her designee shall make a presentation to the board describing the application and summarizing the staff recommendation, including, for example, the proposed findings and written correspondence received prior to the hearing.

(2) The public testimony portion of the public hearing shall proceed in the following order:

(A) Persons or their representatives desiring to state their views on the application shall have the opportunity to do so as follows:

- (i) The applicant;
- (ii) Other persons supporting the application;
- (iii) Persons opposing the application;
- (iv) Other persons.

(B) The President may allow rebuttal testimony by the applicant.

(C) The Executive Officer may respond to and comment, as appropriate, on the testimony presented by any previous speaker.

(3) The President may close the public testimony portion of the hearing when a reasonable opportunity to present all questions and points of view has been allowed.

(4) Board members may ask questions at any time following any person's presentation.

(5) At the conclusion of the public testimony portion of the public hearing, the Executive Officer or his/her designee may propose to change the staff recommendation or the board may propose to add, delete, or modify the conditions contained in the staff recommendation. The applicant and the Executive Officer or his/her designee shall have an opportunity to comment on any proposed change.

(6) The board shall vote on a permit application in accordance with Water Code section 8560. In the case of an appointed hearing officer, the hearing officer shall act on the application.

(d) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be considered if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. The President may take official notice of such facts as may be judicially noticed by the courts of this state. Unduly repetitious or irrelevant evidence shall be excluded upon order by the President or appointed hearing officer.

(e) The President may establish reasonable time limits for presentations. The time limits shall be made known to all speakers prior to any hearing. The President or appointed hearing officer may require individuals to consolidate their comments to avoid repetition.

(f) In order for audio, visual, or audio-visual materials to be considered by the board, they must be submitted to staff in the course of review of the application or shown in full at the public hearing. The presentation of these materials shall occur within the time limit allocated to speakers.

(g) The applicant must submit all materials presented at the hearing to the Executive Officer or his/her designee for inclusion in the record of the proceeding. Any speaker who exhibits models or other large-sized materials as part of his or her presentation may satisfy this requirement by:

(1) Submitting accurate reproductions or photographs of the models or other large materials and

(2) Agreeing in writing to make such materials available to the board if necessary for any administrative or judicial proceeding. If written materials are submitted, the applicant shall bring a sufficient number of copies of all such materials to the hearing to allow members of the public to review the materials prior to the board's or hearing officer's decision.

(h) All decisions of the board relating to permit applications shall be accompanied by written conclusions setting forth the factual and legal basis of the decision based upon the record. The written conclusions shall include all elements identified in Water Code section 8610.5(c)(1)–(4).

(1) For purposes of this section, a resolution adopted by the board at the hearing shall be deemed to satisfy the requirement for written conclusions, including any modifications made to the resolution at the hearing.

(2) In addition, unless otherwise specified at the time of the vote, an action taken consistent with the staff recommendation shall be deemed to have been taken on the basis of, and to have adopted, the reasons, findings and conclusions set forth in the staff report, including any modifications made to the staff report at the hearing.

(i) If the board action is substantially different than that recommended in the staff report and/or the resolution, the board may direct staff to return at a subsequent board meeting with a revised resolution and/or proposed revised written conclusions that reflect the action of the board. Revised written conclusions may be placed on the consent calendar and do not re-open the hearing. Public comment is restricted to whether the revised written conclusions reflect the action of the board. Any proposed written conclusions shall only be effective if concurred in by at least four members of the board. Board members who were not present for the original vote may only vote on the revised written conclusions if they have familiarized themselves with the record of proceedings. If the board does not accept the revised resolution or proposed revised written conclusions submitted by the Executive Officer, the board can either make such changes as it determines are appropriate and adopt the findings at that meeting or direct the Executive Officer to prepare further proposed written conclusions and submit them to the board at the next meeting. The board's decision is deemed final at the time of the initial vote on the application, not the time that the revised written conclusions are adopted.

(j) If the applicant requests language assistance prior to the hearing, the board shall provide language assistance in accordance with Article 8 (commencing with Section 11435.05) of the Administrative Procedure Act. The President may direct the applicant to pay for the cost of the interpreter. The determination whether to direct payment shall be based upon an equitable consideration of all the circumstances in each case, such as the ability of the applicant in need of the interpreter to pay. If the request for an interpreter is not made within a reasonable amount of time prior to the hearing to allow appropriate arrangements to be made, the hearing may be continued to a subsequent meeting and the applicant shall be deemed to have consented to such continuance.

(k) The board may vote to continue all or part of the hearing to a subsequent meeting. Notice of the subsequent hearing shall be distributed in accordance with Section 13 of these regulations. A continuance of part of a hearing does not reopen the entire hearing.

NOTE: Authority cited: Section 8571, Water Code; and Section 11400.20, Government Code. Reference: Section 11425.10, Government Code; and Section 8610.5, Water Code.

#### HISTORY

1. New section filed 12–1–2009; operative 12–31–2009 (Register 2009, No. 49).
2. Amendment of subsections (c), (c)(2)(B), (c)(3)–(4), (d)–(e) and (j) filed 1–9–2014 as an emergency; operative 1–9–2014 (Register 2014, No. 2). A Certificate of Compliance must be transmitted to OAL by 7–8–2014 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 1–9–2014 order transmitted to OAL 5–29–2014 and filed 7–11–2014 (Register 2014, No. 28).

### § 13.2. Evidentiary Hearings Before a Hearing Officer or Committee.

(a) The board President may designate a hearing officer or board committee to conduct evidentiary hearings.

(b) The provisions regarding evidentiary hearings provided for in Sections 13 and 13.1 of the regulations shall apply to hearings before an appointed hearing officer or committee except that the term “board” or “Board President” or “President” shall refer to the “hearing officer or committee.”

(c) At the conclusion of a hearing by a designated hearing officer or committee, the hearing officer or committee shall draft proposed findings and a decision.

(1) The proposed findings and decision, along with any evidence admitted at the hearing, shall be transmitted to the board as soon as reasonably possible following the hearing. The board may only consider the proposed findings and decision on consent if there is no objection.

(2) The decision on the matter shall not become final until the board approves or rejects the hearing officer or committee's proposed findings and decision. The board's review of the hearing officer or committee's proposed findings and decision does not re-open the hearing and no new evidence shall be submitted unless allowed by the board President.

NOTE: Authority cited: Section 8571, Water Code; and Section 11400.20, Government Code. Reference: Section 11425.10, Government Code; and Sections 8610.5 and 8732, Water Code.

#### HISTORY

1. New section filed 12–1–2009; operative 12–31–2009 (Register 2009, No. 49).
2. Renumbering of former section 13.2 to section 13.3 and new section 13.2 filed 1–9–2014 as an emergency; operative 1–9–2014 (Register 2014, No. 2). A Certificate of Compliance must be transmitted to OAL by 7–8–2014 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 1–9–2014 order, including nonsubstantive amendment of subsection (c), transmitted to OAL 5–29–2014 and filed 7–11–2014 (Register 2014, No. 28).

### § 13.3. Consent Calendar.

(a) Unless otherwise provided in this Article, the procedures set forth in Article 3 of these regulations pertaining to permit applications, including staff reports, staff recommendations, resolutions, and voting, shall apply to the consent calendar procedure.

(b) Any matter for which there are no speakers in opposition, including permit matters, may be placed on the board's consent calendar in accordance with Section 13.3, unless one of the following occurs to remove the item from the consent calendar:

- (1) Upon request by the applicant, any member of the public, or any board member;
- (2) When any interested party files a written protest conforming to the requirements of section 12 and requests a hearing;
- (3) When approval requires a variance to the board's standards;
- (4) Upon the board's own motion.

(c) All items included in the consent calendar shall be considered by the board in one action. Public testimony shall be deemed waived. If the item is not removed from the consent calendar and the consent calendar is approved, any recommended conditions contained in the staff report and resolution, if one is prepared, shall be deemed approved by the board.

(d) Consent calendar items shall only be voted on if the board accepts the staff recommendation as stated in the staff report with no substantial changes. Otherwise, the item must either be removed from the consent calendar for discussion and action at the same meeting or continued to a subsequent board meeting.

(e) If an item is removed from the consent calendar pursuant to (b) above, then the public shall have the right to present testimony and evidence in accordance with Section 13.1 of these regulations.

NOTE: Authority cited: Section 8571, Water Code; and Section 11400.20, Government Code. Reference: Section 11425.10, Government Code; and Section 8610.5, Water Code.

#### HISTORY

1. Renumbering of former section 13.2 to new section 13.3, including amendment of subsection (b), filed 1–9–2014 as an emergency; operative 1–9–2014 (Register 2014, No. 2). A Certificate of Compliance must be transmitted to OAL by 7–8–2014 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–9–2014 order transmitted to OAL 5–29–2014 and filed 7–11–2014 (Register 2014, No. 28).

### § 14. Board Decision.

(a) The board shall act upon applications within the following time limits:

- (1) When the board is the lead agency pursuant to CEQA and an environmental impact report is prepared, it shall approve or disapprove a

project within six months from the date of the certification of the environmental impact report.

(2) When the board is the lead agency and a negative declaration is adopted or if the project is exempt from CEQA, the board shall approve or disapprove a project within three months from the date of the adoption of the negative declaration.

(3) When the board is a responsible agency for a project that has been approved by the lead agency, it shall either approve or disapprove the project within whichever is the longer:

(A) Within one-hundred-eighty (180) calendar days of the date on which the lead agency has approved the project; or

(B) Within one-hundred-eighty (180) calendar days of the date on which the application is deemed complete.

(b) Applicants may waive the requirement that applications be acted upon within such periods. Waivers must be in writing or expressed on the record at a hearing.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 65950 and 65952, Government Code; and Section 8730.1, Water Code.

#### HISTORY

1. New section filed 9-30-96; operative 10-30-96 (Register 96, No. 40).
2. Amendment of subsections (a)(3)(A)-(B) filed 2-15-2012; operative 2-15-2012 pursuant to Government Code section 11343.4 (Register 2012, No. 7).

### § 15. Bases for Denial of Permit Applications.

The board may deny a permit for any of the following reasons:

(a) If the proposed work could:

(1) Jeopardize directly or indirectly the physical integrity of levees or other works;

(2) Obstruct, divert, redirect, or raise the surface level of design floods or flows, or the lesser flows for which protection is provided;

(3) Cause significant adverse changes in water velocity or flow regimen;

(4) Impair the inspection of floodways or project works;

(5) Interfere with the maintenance of floodways or project works;

(6) Interfere with the ability to engage in floodfighting, patrolling, or other flood emergency activities;

(7) Increase the damaging effects of flood flows; or

(8) Be injurious to, or interfere with, the successful execution, functioning, or operation of any adopted plan of flood control.

(9) Adversely affect the State Plan of Flood Control, as defined in the Water Code.

(b) When the board is the lead agency under CEQA, and the proposed encroachment could result in potential and unmitigated significant environmental effects, including cumulative environmental effects.

(c) When the board is a responsible agency under CEQA, and the CEQA document is inadequate.

(d) If the applicant fails to supply information deemed necessary by the board for application purposes, including the names of all adjacent landowners.

(e) If the proposed work does not meet board standards contained in article 8.

(f) If there has been a failure by the applicant (or persons associated with the applicant through an agreement or agency relationship) to substantially comply with permit conditions on prior related permits or if there has been work performed without a permit and that work is not the subject of the pending permit application where the applicant has not supplied reasonable and convincing assurances that compliance with the board's regulations will be achieved.

NOTE: Authority cited: Section 8571, Water Code. Reference: Section 65943, Government Code; Sections 21002 and 21081, Public Resources Code; Sections 8608, 8610.5, 8710 and 8723, Water Code.

#### HISTORY

1. New section filed 9-30-96; operative 10-30-96 (Register 96, No. 40).
2. Amendment of section heading, new subsection (a)(9) and amendment of NOTE filed 12-1-2009; operative 12-31-2009 (Register 2009, No. 49).

### § 16. Permit Conditions.

(a) Any board permit may include and be subject to such reasonable conditions as deemed appropriate by the board, and may include mitigation for effects of the approved activity on the environment.

(b) The permit may require inspection by the board, its officers, or staff before, during, and after construction, and at regular intervals thereafter. The board may charge and collect a reasonable fee from an applicant to recover inspection costs, including staff or consultant time and expenses.

(c) The permit may require a reporting and monitoring program for any mitigation required by the board to avoid significant effects on the environment.

(d) The permit may require the filing with the board of reports and data, including a description of all work done under the approved application. The board may also request in writing at any time any reports or data, even if not expressly stated in a condition to the decision.

(e) The permit shall require that all of the work must be in accordance with the submitted drawings and specifications and accomplished in a professional manner.

(f) The permit may require the owner of an encroachment, or the owner of real property upon which the encroachment is located, to execute and cause to be recorded a document which imposes a covenant, restriction, servitude, or combination thereof, which runs with the land and binds all owners, heirs, successors, lessees, agents, and assigns, and would be enforceable by the board or its successor. This requirement may be imposed where there are particular concerns about permit compliance, such as where there may have been previous permit violations by the applicant or where record notice to successors-in-interest to the applicant or landowner is deemed appropriate.

(g) The permit may require the applicant to provide notice of the continuing flood threat to occupants and potential occupants of property subject to flood risk.

(h) The permit may require additional conditions requested by the Corps and the local maintaining agency.

(i) The permit shall require exercise of reasonable care to operate and maintain any work authorized by the permit to prevent injury or damage to any works necessary to any adopted plan of flood control, or interference with the successful execution, functioning, or operation of any present adopted plan of flood control or future plan. The permittee shall maintain the permitted encroachment and the project works within the utilized area in the manner required by the authorized representative of the department or any other agency responsible for flood control maintenance.

(j) The permit may require the permittee to be responsible for all personal liability and property damage which may arise out of permittee's actions or failure to perform the obligations of the permit. The permittee shall agree to save and hold the state free and harmless from, and to defend and indemnify the state against, any and all claims and liability, including but not limited to, personal injury or property damage arising or claimed to arise, directly or indirectly, from the uses of land pursuant to the permit. The permittee shall agree to release the state from responsibility or liability for any damages that may be caused to the encroachment by operation of the flood control project or from the releases of water from storage reservoirs. The permittee shall also agree to be precluded from receiving state disaster assistance for flood damage to the permitted works, except as provided by a flood insurance policy.

(k) The permit may require that if the work covered by the permit is not commenced within one year after the issuance of the permit, the board may revoke the permit or change any condition in the permit as may be consistent with current flood control standards and policies of the board.

(l) The permit may provide that commencement of work under a permit constitutes an acceptance of the conditions of the permit.

(m) If any of the work does not conform to the conditions of the permit, the permittee, upon the order of the Executive Officer or Chief Engineer, shall, in the manner prescribed, be responsible for the cost and expense to remove, alter, relocate, or reconstruct all or any part of the work.

(n) The permit may require the permittee, at permittee's cost and expense, to remove, alter, relocate, or reconstruct all or any part of the permitted work if the removal, alteration, relocation, or reconstruction is necessary under or in conjunction with any present or future flood control plan or if damaged by any cause.

(o) The permit may require the permittee to mitigate for the hydraulic impacts of the permitted works by reducing or eliminating the additional flood risk to third parties created by the permitted works.

(p) Liability insurance may be required to be provided naming the State and the local maintaining agency performing flood control maintenance as additional insureds.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 21002, 21081 and 21081.6, Public Resources Code; Sections 8608 and 8710, Water Code; Title 33, Code of Federal Regulations, Section 208.10.

#### HISTORY

1. Repealer of article 3 heading, renumbering and amendment of old section 16 to new section 8, and new section 16, including renumbering of old section 22 to new section 16(d) filed 9–30–96; operative 10–30–96 (Register 96, No. 40). For prior history, see Register 69, No. 25.
2. Amendment of subsection (m) filed 2–15–2012; operative 2–15–2012 pursuant to Government Code section 11343.4 (Register 2012, No. 7).

### § 17. Emergencies.

(a) Any existing levee, conforming existing encroachment, or permitted encroachment may be protected or strengthened in case of emergency during flood season, as specified in section 112, where there is imminent danger of injury to persons, loss of life, or destruction of property.

(b) Any person conducting emergency work shall immediately notify the local maintaining agency and the board through the Executive Officer or Chief Engineer.

(c) For the purpose of this section, the term "emergency" includes any lawfully declared emergency, or any circumstance determined to be an emergency by the Executive Officer or Chief Engineer.

(d) In an emergency, the Executive Officer may issue a temporary permit. A completed application with proper plans, cross sections, completed environmental assessment questionnaire, and any other necessary information required by section 8 of this article must be submitted to the board within thirty (30) calendar days following the date of the commencement of emergency work.

(e) All emergency work is subject to subsequent approval of the board, and the board may require its removal or alteration if not approved.

(f) The board or the Executive Officer may impose reasonable conditions, pursuant to section 16, on its approval of any emergency work.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8715, 8716, 8717 and 8718, Water Code.

#### HISTORY

1. Renumbering and amendment of old section 17 to new section 19 and new section filed 9–30–96; operative 10–30–96 (Register 96, No. 40). For prior history, see Register 69, No. 25.
2. Amendment filed 2–15–2012; operative 2–15–2012 pursuant to Government Code section 11343.4 (Register 2012, No. 7).

### § 18. Revisions in Plans.

(a) Any plan of work approved by the board may be changed or altered only with the consent of the board prior to the time of commencement or during progress of the work. A request for an amendment to a plan of work must be in the same form as an original application or in a form acceptable to the Chief Engineer.

(b) Minor, insubstantial changes may be made in plans without the submission of a written request for an amendment; however, the permittee shall first notify the Chief Engineer of any change before commencing work on any changed work. A minor, insubstantial change must be one that is essentially consistent with the application or permit, consistent with board standards, and does not pose a threat to the adopted plan of flood control. The board reserves the right to require the applicant to file a written request for an amendment.

NOTE: Authority cited: Section 8571, Water Code. Reference: Section 8721, Water Code.

#### HISTORY

1. Renumbering and amendment of old section 18 to new section 7(a) and new section filed 9–30–96; operative 10–30–96 (Register 96, No. 40). For prior history, see Register 69, No. 25.

### § 19. District Lands.

No encroachment may be constructed or maintained upon lands owned in fee by the Sacramento and San Joaquin Drainage District, except when expressly permitted by a proper and revocable license, lease, easement, or agreement executed between the owner of the encroachment and the district, and upon payment to the district of its expenses and adequate rental or compensation therefor. This requirement is in addition to the need for a permit as required in section 6 of this article.

NOTE: Authority cited: Section 8608, Water Code. Reference: Sections 8504, 8598, 8708 and 8709, Water Code.

#### HISTORY

1. Renumbering of old section 17 to new section 19 and new section filed 9–30–96; operative 10–30–96 (Register 96, No. 40). For prior history, see Register 85, No. 26.

## Article 4. Enforcement Actions

### § 20. Purpose and Authority.

(a) The board has the authority to require permits and enforce standards for the erection, maintenance, and operation of levees, channels, and other flood control works within its jurisdiction, including, but not limited to, standards for encroachments, construction, vegetation, and erosion control measures.

(b) In the event of a violation of the Water Code, the board's regulations adopted thereto, any permit issued by the board, or in the case of facilities of the State Plan of Flood Control, applicable federal law or regulations where the board has signed assurances with the U.S. Army Corps of Engineers that it will comply with such law or regulations, the board has the administrative authority to issue notices of violation, cease and desist orders, and enforcement orders that order, without limitation, the following:

- (1) Removal, modification or abatement of a violation, at the violator's cost;
- (2) Restoration;
- (3) Administrative penalties;
- (4) Permit revocation; or
- (5) Recordation of an enforcement order or a lien with the county recorder's office.

(c) The board also has the authority to commence a civil lawsuit to, without limitation, abate a nuisance, or seek mandamus, an injunction, costs, attorney's fees, and civil penalties.

(d) Copies of any notices of violation, cease and desist orders, or enforcement orders issued by the board shall be provided to the entity that maintains the flood control facility and the appropriate state and federal levee inspector. Failure to provide copies shall not be grounds for invalidating any notice or order issued by the board.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8534, 8596, 8598, 8608, 8615, 8700, 8701, 8701.2, 8701.4, 8702, 8704, 8704.1, 8704.2, 8704.4, 8706.5, 8707, 8710 and 8719, Water Code.

#### HISTORY

1. New article 4 (sections 20 through 22) and section filed 9–30–96; operative 10–30–96 (Register 96, No. 40). For prior history, see Register 85, No. 26.
2. Amendment of article heading, repealer of former article 4 (sections 20–22) and new article 4 (sections 20–27) and section filed 2–15–2012; operative 2–15–2012 pursuant to Government Code section 11343.4 (Register 2012, No. 7).
3. Amendment of section and NOTE filed 1–9–2014 as an emergency; operative 1–9–2014 (Register 2014, No. 2). A Certificate of Compliance must be transmitted to OAL by 7–8–2014 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 1–9–2014 order transmitted to OAL 5–29–2014 and filed 7–11–2014 (Register 2014, No. 28).

**§ 21. Conduct Subject to Enforcement.**

(a) An enforcement action may be preceded by an investigation that may include, but is not limited to, document review, site visits, interviews, and public agency input to determine if violations exist within the jurisdiction of the board. The investigation may be conducted by (i) board staff, or (ii) a local maintaining agency where authority has been delegated by the board to issue notices of violation, or (iii) the department where authority has been delegated by the board to issue notices of violation.

(b) Actions that may be subject to investigation and enforcement include, but are not limited to:

(1) Undertaking or threatening to undertake any activity that may encroach on levees, channels, or other flood control works under the jurisdiction of the board;

(2) Owning, undertaking, or maintaining any work in violation of or inconsistent with any condition of any permit previously issued by or subject to the jurisdiction of the board; or

(3) Any violation of any requirement in Part 4 of Division 5 of the Water Code, including but not limited to:

(A) Owning, undertaking, or maintaining any work that requires a permit or other approval from the board without securing such permit or approval;

(B) Owning, undertaking, or maintaining any work in violation of Title 23, Division 1 of the California Code of Regulations; or

(C) Owning, undertaking, or maintaining any work that is inconsistent with applicable federal law or regulations where the board has signed assurances with the U.S. Army Corps of Engineers that it will comply with such law or regulations.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8534, 8596, 8598, 8608, 8615, 8617, 8700, 8702 and 8710, Water Code.

**HISTORY**

1. New section filed 9–30–96; operative 10–30–96 (Register 96, No. 40). For prior history, see Register 69, No. 25.
2. Repealer and new section filed 2–15–2012; operative 2–15–2012 pursuant to Government Code section 11343.4 (Register 2012, No. 7).
3. Renumbering of former section 21 to section 26 and new section 21 filed 1–9–2014 as an emergency; operative 1–9–2014 (Register 2014, No. 2). A Certificate of Compliance must be transmitted to OAL by 7–8–2014 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 1–9–2014 order, including nonsubstantive redesignation of former subsections (b)(3)(i)–(iii) as subsections (b)(3)(A)–(C), transmitted to OAL 5–29–2014 and filed 7–11–2014 (Register 2014, No. 28).

**§ 22. Settlement of Violations.**

(a) Subject to subsection (c), at any point during the enforcement process, the board or the Executive Officer may negotiate a proposed resolution with the person or entity responsible for the violation.

(b) The board or Executive Officer may enter into an agreement tolling any applicable statute of limitations as specified in the Code of Civil Procedure, pending conclusion of negotiations.

(c) Once the board has taken action on a cease and desist order, any settlement of the underlying violation shall require board approval and be placed on the board's consent calendar pursuant to Section 13.3 of these regulations, for approval by the board.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8534, 8596, 8598 and 8700, Water Code.

**HISTORY**

1. Renumbering of old section 22 to new section 16(d) and new section filed 9–30–96; operative 10–30–96 (Register 96, No. 40).
2. Repealer and new section filed 2–15–2012; operative 2–15–2012 pursuant to Government Code section 11343.4 (Register 2012, No. 7).
3. Repealer and new section filed 1–9–2014 as an emergency; operative 1–9–2014 (Register 2014, No. 2). A Certificate of Compliance must be transmitted to OAL by 7–8–2014 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 1–9–2014 order, including nonsubstantive amendments, transmitted to OAL 5–29–2014 and filed 7–11–2014 (Register 2014, No. 28).

**§ 23. Delegation of Enforcement Authority.**

(a) The board may delegate to the department or to a local agency that operates and maintains facilities and works on behalf of the board the authority to issue notices of violation for violations affecting a flood control facility operated and maintained by the department or local agency.

(b) The delegation of enforcement authority shall be made in writing in a delegation letter signed by the Executive Officer.

(c) The delegation shall be deemed effective only upon the local agency's or the department's acceptance of the delegation, evinced by its signature and return of the delegation letter to the Executive Officer.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8534, 8598, 8700 and 8701, Water Code.

**HISTORY**

1. New article 4.1 (section 23) and section filed 9–30–96; operative 10–30–96 (Register 96, No. 40). For prior history, see Register 85, No. 26.
2. Renumbering of former section 23 (formerly within article 4.1) to section 28 and new section 23 filed 2–15–2012; operative 2–15–2012 pursuant to Government Code section 11343.4 (Register 2012, No. 7).
3. Repealer and new section filed 1–9–2014 as an emergency; operative 1–9–2014 (Register 2014, No. 2). A Certificate of Compliance must be transmitted to OAL by 7–8–2014 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 1–9–2014 order, including nonsubstantive amendments, transmitted to OAL 5–29–2014 and filed 7–11–2014 (Register 2014, No. 28).

**§ 24. Board Approval of Cease and Desist Orders.**

(a) Any cease and desist order issued by the Executive Officer shall provide a date, time, and location of a public meeting of the board at which time the person or public agency subject to the order may appear to contest the order.

(b) If the person or public agency subject to the order fails to appear at the noticed public meeting, the board may approve issuance of the cease and desist order on its consent calendar pursuant to Section 13.3 of these regulations.

(c) The board's consideration of issuance of a cease and desist order is not an evidentiary hearing and the provisions of these regulations that apply to evidentiary hearings, sections 13 and 13.1 do not apply to the board's consideration of cease and desist orders. The board may within its discretion, but is not required to, consider any new evidence presented at the meeting by the respondent.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8598, 8700, and 8701.2, Water Code.

**HISTORY**

1. New section filed 2–15–2012; operative 2–15–2012 pursuant to Government Code section 11343.4 (Register 2012, No. 7).
2. Repealer and new section filed 1–9–2014 as an emergency; operative 1–9–2014 (Register 2014, No. 2). A Certificate of Compliance must be transmitted to OAL by 7–8–2014 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 1–9–2014 order, including nonsubstantive amendments, transmitted to OAL 5–29–2014 and filed 7–11–2014 (Register 2014, No. 28).

**§ 25. Enforcement Order Hearing Procedures.**

Enforcement Order hearings shall be conducted pursuant to the evidentiary hearing procedures described in Sections 13(c)–(f) and (i), 13.1, and 13.2 of these regulations with the following changes:

(a) The "applicant" shall be referred to as the "respondent".

(b) The "application" shall be referred to as the "enforcement action".

(c) Except as provided in subsection (d), original notice of the hearing shall be served on the respondent by certified mail or hand delivery at least thirty (30) calendar days prior to the hearing.

(d) In certain situations, the Executive Officer may determine that the public interest necessitates a shorter notice period such as, but not limited to, situations where the thirty-day notice would endanger public health and welfare. In these situations, less notice may be provided, but in all cases the original notice of an enforcement hearing must be provided a minimum of ten (10) calendar days prior to the hearing.

(e) The notice shall contain the information required by Section 13(f), describe the violation, identify any statute(s) or regulation(s) the respondent is alleged to have violated; and include a proposed enforcement order



der, which shall set forth the amount of proposed administrative penalties.

(f) Any staff report the board intends to consider at the enforcement order hearing shall be provided to the respondent with the notice of the hearing.

(g) The respondent may submit a written statement of defense to the Executive Officer at least fifteen (15) calendar days prior to the hearing. If abbreviated notice is provided pursuant to subsection (d) the respondent may submit a written statement to the Executive Officer at least three (3) days prior to the hearing.

(h) If the board President appoints a hearing officer, the hearing officer shall be a board member. A hearing may also be held by a committee of the board appointed by the board President. Hearings held by a hearing officer or a committee of the board shall follow the hearing officer procedures in Section 13.2.

(i) If the hearing is held before a hearing officer or committee of the board, the hearing officer or committee shall prepare the proposed findings and decision required by Section 13.2(c) within thirty (30) calendar days of the conclusion of the hearing. The respondent shall be provided with a copy of the proposed findings and decision at least ten (10) calendar days prior to the board's consideration of the proposed decision.

(j) The written conclusions required by Section 13.1(h) need not include a discussion of the elements identified in Water Code Section 8610.5(c)(1)-(4).

(k) Cross-examination shall not be allowed unless deemed appropriate by the board, appointed hearing officer, or committee of the board.

(l) Where the board has acted as the hearing body, the board may do any of the following to comply with the requirement in Section 13.1(h) that the board adopt written findings of its decision;

(1) Immediately adopt all or part of the staff report or enforcement order;

(2) Amend the staff report or enforcement order, as it deems appropriate for immediate adoption; or

(3) Direct a board member, along with board legal counsel and independent support staff, to draft proposed findings and a decision for adoption by the board at a subsequent meeting pursuant to Section 13.1(i). The respondent shall be provided with a copy of the proposed revised enforcement order at least ten (10) calendar days prior to the board's consideration of the proposed findings and decision. The board's consideration of a proposed enforcement order at a subsequent meeting does not re-open the hearing and no new evidence will be permitted unless allowed by the board President. However, all parties shall be given an opportunity to present argument related to the proposed order.

NOTE: Authority cited: Section 8571, Water Code; and Section 11400.20, Government Code. Reference: Sections 6253, 11125 and 11425.10, Government Code; and Sections 8560, 8598, 8700, 8701.4 and 8732, Water Code.

#### HISTORY

1. New section filed 2-15-2012; operative 2-15-2012 pursuant to Government Code section 11343.4 (Register 2012, No. 7).
2. Repealer and new section filed 1-9-2014 as an emergency; operative 1-9-2014 (Register 2014, No. 2). A Certificate of Compliance must be transmitted to OAL by 7-8-2014 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 1-9-2014 order, including nonsubstantive amendments, transmitted to OAL 5-29-2014 and filed 7-11-2014 (Register 2014, No. 28).

### § 26. Maintenance Activities.

(a) In the performance of maintenance activities as defined in section 4(v), the department, local maintaining agency, or designated representatives of the board may remove unpermitted abandoned property that interferes with maintenance or inspections after notification by the Executive Officer as described in subsection (b).

(b) Prior to any removal allowed under (a), the Executive Officer shall notify the landowner or owner of the unpermitted abandoned property by one of the following methods: in person, phone, e-mail, or U.S. mail. If the landowner or owner of the abandoned property cannot be located after reasonable efforts, a notice may be posted on the property for a mini-

um of five (5) calendar days prior to removal. The posted notice shall be clearly visible, shall provide a board contact name, phone number, e-mail address, and mailing address, and shall state that the owner may contact the board to object to such removal. The notice shall also state the date on or after which removal will occur if no objection is made.

(c) If a timely objection is made, no removal shall take place until the Executive Officer has provided the objector a reasonable opportunity to present reasons why the items should not be removed. The Executive Officer shall provide a written decision, which may be reviewed by the board pursuant to section 110.

(d) For purposes of this section, "abandoned property" shall mean any structure, material, or object that appears to a reasonable person to have been discarded, cast aside, dumped, neglected, unusable, dilapidated, or permanently vacated. Examples of abandoned property may include, but are not limited to, the following: refuse, vegetation, pipelines, or structures such as stairs, fences, or boat docks that have fallen into a state of disrepair.

(e) Nothing in this section is intended to remove any authority already vested in the department or any local maintaining entity in the performance of maintenance activities.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8361, 8370, 8534, 8598, 8615, 8700 and 8704.4, Water Code.

#### HISTORY

1. New section filed 2-15-2012; operative 2-15-2012 pursuant to Government Code section 11343.4 (Register 2012, No. 7).
2. Renumbering of former section 26 to section 28 and renumbering of former section 21 to section 26, including amendment of section and NOTE, filed 1-9-2014 as an emergency; operative 1-9-2014 (Register 2014, No. 2). A Certificate of Compliance must be transmitted to OAL by 7-8-2014 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 1-9-2014 order transmitted to OAL 5-29-2014 and filed 7-11-2014 (Register 2014, No. 28).

### § 27. Emergency Action.

(a) Except as set forth in this Section, the summary abatement of emergencies is not subject to the enforcement procedures set forth in this Article.

(b) In addition to the emergency authority in Section 17, the department, board, executive officer and local maintaining agencies may take emergency action to prevent an imminent failure of a levee, channel, floodway, stream bank, or flood control features, or other emergency action necessary to protect the public welfare.

(c) If the exercise of this authority includes the removal, modification or abatement of an encroachment on a flood system improvement, facility, or activity maintained by a person or a public agency, the person or public agency may request a hearing before the board within 30 days after the removal, modification, or abatement has commenced.

(d) The entity that carries out the emergency action may also request a hearing before the board within 30 days after the removal, modification, or abatement has commenced to seek the reimbursement of its abatement costs from the person or public agency maintaining the affected encroachment or activity.

(e) If, upon holding a hearing, the board orders the payment of abatement costs to the entity that has carried out the emergency action, that entity may pursue any legal remedies available to it or the board may use its legal remedies to recover the costs of abatement, including imposition of a lien.

(f) Any hearing pursuant to this section shall proceed in accordance with Section 25 of this Article.

(g) Any entity removing or modifying property pursuant to this Section shall attempt to give any landowners or owners of the property subject to modification or removal prior notice when possible, and shall only take such actions as are reasonably necessary to abate the immediate threat to public health and safety.

(h) Any actions taken pursuant to this Section shall be reported to the Executive Officer or the board at the first reasonably available opportunity.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8534, 8598, 8708 and 8715, Water Code.

## HISTORY

1. New section filed 2–15–2012; operative 2–15–2012 pursuant to Government Code section 11343.4 (Register 2012, No. 7).
2. Repealer and new section filed 1–9–2014 as an emergency; operative 1–9–2014 (Register 2014, No. 2). A Certificate of Compliance must be transmitted to OAL by 7–8–2014 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 1–9–2014 order, including nonsubstantive amendments, transmitted to OAL 5–29–2014 and filed 7–11–2014 (Register 2014, No. 28).

**§ 28. Permit Revocation.**

(a) A previously issued permit or approval may be revoked or modified for any of the following reasons:

- (1) The permit or approval was obtained by misrepresentation or fraud;
- (2) The permit or approval was approved or issued in error;
- (3) One or more of the conditions of the permit or approval have not been satisfied or have been violated;
- (4) One or more of the conditions of the permit or approval anticipate revocation if certain terms are met, and those terms have been met;
- (5) The activity permitted by the permit or approval violates an applicable statute, law, or regulation, including but not limited to federal law or regulations;
- (6) The activity permitted by the permit or approval is detrimental to the public health, safety, or welfare or interferes with the successful execution, functioning or operation of any flood control system feature;
- (7) The activity permitted by the permit or approval constitutes a public nuisance as defined by statute or law; or
- (8) The permit is for an encroachment that the board has ordered to be removed or modified because it makes one of the findings in Water Code Section 8702.

(b) The board shall follow the hearing procedures in Section 25, above, for permit revocation hearings, except that:

- (1) The “enforcement order” shall be referred to as the “revocation order.”
- (2) The “application” shall be referred to as the “revocation action.”
- (3) In addition to the notice requirements of Section 25, the notice shall describe any permit condition(s) that are the subject of the revocation hearing and set forth any required findings, including those required for ordering the removal or modification of a previously permitted encroachment.

(4) The removal of previously permitted encroachments shall not be subject to administrative or civil penalties.

(c) The board may hold a single hearing to consider permit revocation, removal or modification of a permitted encroachment, and approval of an enforcement order.

NOTE: Authority cited: Section 8571, Water Code; and Section 11400.20, Government Code. Reference: Sections 6253, 11125 and 11425.10, Government Code; and Sections 8534, 8560, 8598, 8608, 8700, 8702, 8704.4 and 8710, Water Code.

## HISTORY

1. New section filed 2–15–2012; operative 2–15–2012 pursuant to Government Code section 11343.4 (Register 2012, No. 7).
2. Renumbering of former section 28 to section 30 and renumbering of former section 26 to section 28, including amendment of section and NOTE, filed 1–9–2014 as an emergency; operative 1–9–2014 (Register 2014, No. 2). A Certificate of Compliance must be transmitted to OAL by 7–8–2014 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 1–9–2014 order, including nonsubstantive amendments, transmitted to OAL 5–29–2014 and filed 7–11–2014 (Register 2014, No. 28).

**§ 29. Lien Procedures.**

(a) Before recording a lien, the board or its designee shall provide notice of the lien to the property owner that includes the following information:

- (1) identification of the board as the entity on whose behalf the lien is to be imposed,

- (2) the board’s authority as described in Water Code Section 8704.2
- (a) for recordation of the lien,
- (3) a legal description and assessor’s parcel number for the real property upon which the lien is to be imposed,
- (4) the amount of the lien,
- (5) the name of the property owner of record, and
- (6) the time and date of a hearing before the board at which time the owner may appear to contest the amount of the lien.

(b) Upon recordation, the lien shall continue until it is released or otherwise discharged by the board by recording a notice of discharge with the county clerk upon payment of the lien. The notice of discharge shall contain the information listed in (a)(1) through (5) of this Section.

(c) Any hearing held regarding recordation of the lien shall comply with the evidentiary hearing provisions described in these regulations at Sections 13(c)–(f) and (i), 13.1, and 13.2 with the following changes:

- 1) The “applicant” shall be referred to as the respondent.
- 2) The “application” shall be referred to as the “proposed lien.”
- 3) Notice of the hearing shall be provided 20 days before the hearing is scheduled to occur.
- 4) The staff recommendation, if adopted in whole or in part by the board, may serve as the written conclusions required by Section 13.1(h) and need not include a discussion of the elements identified in Water code Section 8610.5(c)(1)–(4).

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8534, 8598, 8701.4 and 8704.2, Water Code.

## HISTORY

1. New section filed 1–9–2014 as an emergency; operative 1–9–2014 (Register 2014, No. 2). A Certificate of Compliance must be transmitted to OAL by 7–8–2014 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–9–2014 order, including nonsubstantive amendments, transmitted to OAL 5–29–2014 and filed 7–11–2014 (Register 2014, No. 28).

**Article 4.1. Reconsideration****§ 30. Reconsideration.**

(a) No later than thirty (30) calendar days after adoption by the board of a decision or order, other than an enforcement order, any interested person affected by the decision or order may petition the board for reconsideration of the matter based on any of the following reasons:

- (1) Irregularity in the proceeding, or any ruling, or abuse of discretion which prevented a fair hearing;
- (2) The decision or order is not supported by substantial evidence;
- (3) There is relevant evidence, which could not have reasonably been produced previously; or
- (4) Error in law.

(b) The petition for reconsideration shall be in writing and contain the following:

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

(c) The board, in its sole discretion, may:

- (1) Refuse to reconsider the decision or order;
- (2) Deny the petition upon finding that the decision or order was proper;
- (3) Set aside or modify the decision or order; or
- (4) Take other appropriate action.

(e) Any person seeking judicial review of a permit issued by the board must first seek reconsideration. If the permit is upheld or modified upon reconsideration, it may then be subject to judicial review.

(f) Enforcement orders are not subject to reconsideration by the board, but are subject to judicial review pursuant to Water Code Section 8579.



NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8598, 8608 and 8710, Water Code.

#### HISTORY

1. Renumbering of former section 28 to new section 30, including amendment of subsection (a) and new subsections (e) and (f), filed 1–9–2014 as an emergency; operative 1–9–2014 (Register 2014, No. 2). A Certificate of Compliance must be transmitted to OAL by 7–8–2014 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–9–2014 order transmitted to OAL 5–29–2014 and filed 7–11–2014 (Register 2014, No. 28).

## Article 5. Designated Floodways

### § 101. Responsibility of the Board.

The board, after appropriate studies have been made, shall delineate on an aerial mosaic or map, the proposed designated floodway and the floodway encroachment lines. The board shall further determine allowable uses in the designated floodway pursuant to Section 107.

NOTE: Authority cited: Section 8571, Water Code. Reference: Section 8609, Water Code.

#### HISTORY

1. New article 5 (sections 101 through 107), renumbering of old section 55 to new section 101, removal of articles 6 through 11 and removal of chapter 1.1, articles 1 through 3. Renumbering of old section 46 to new section 4, old section 56 to new section 102, old section 65 to new section 103, old section 67 to new section 104, old section 68 to new section 105, old section 69 to new section 106, old sections 75 and 76 to new section 107, old sections 85 and 86 to new section 108, old section 95 to new section 6(c), old section 150 to new section 109, and old section 152 to new section 110, filed 9–30–96; operative 10–30–96 (Register 96, No. 40).

### § 102. Considerations in Designating Floodways.

In proposing and revising designated floodways, the board must consider all of the following:

- (a) Existing and projected federal, state, and local flood control improvements and regulations affecting the flood plain;
- (b) The degree of danger from flooding to life, property, public health and welfare; and
- (c) The rate and type of development taking place upon the flood plain.

NOTE: Authority cited: Section 8571, Water Code. Reference: Section 8609, Water Code.

#### HISTORY

1. Renumbering and amendment of old section 56 to new section 102 filed 9–30–96; operative 10–30–96 (Register 96, No. 40).

### § 103. Notices and Hearings.

The board shall notify local interested parties, thirty (30) calendar days prior to any hearing or hearings on designated floodways and floodway encroachment lines, by notice published at least twice in a newspaper of general circulation in the affected area. Hearings must be held in areas convenient to the majority of interested parties. The board shall hold one hearing prior to initiation of the study and at least one hearing after the study has been completed but prior to adoption.

NOTE: Authority cited: Section 8571, Water Code. Reference: Section 8609, Water Code.

#### HISTORY

1. Renumbering and amendment of old section 65 to new section 103 filed 9–30–96; operative 10–30–96 (Register 96, No. 40).
2. Amendment filed 2–15–2012; operative 2–15–2012 pursuant to Government Code section 11343.4 (Register 2012, No. 7).

### § 104. Recording.

After a designated floodway and the floodway encroachment lines are adopted by the board, an aerial mosaic or map showing the designated floodway and the floodway encroachment lines shall be transmitted to the appropriate county or counties for recording.

NOTE: Authority cited: Section 8571, Water Code. Reference: Section 8609, Water Code.

#### HISTORY

1. Renumbering and amendment of old section 67 to new section 104 filed 9–30–96; operative 10–30–96 (Register 96, No. 40).

### § 105. Availability of Maps.

The board shall furnish a copy of the map or maps showing the limits of the designated floodway to the county engineer, the county planning department, and other interested parties.

NOTE: Authority cited: Section 8571, Water Code. Reference: Section 8609, Water Code.

#### HISTORY

1. Renumbering and amendment of old section 68 to new section 105 filed 9–30–96; operative 10–30–96 (Register 96, No. 40). For prior history, see Register 72, No. 14.

### § 106. Floodway Modifications.

If, after the adoption of the designated floodway and floodway encroachment lines, the board determines that conditions have changed sufficiently to necessitate altering the lines, the board may, at any regularly noticed meeting, make modifications to the designated floodway as it deems to be appropriate.

NOTE: Authority cited: Section 8571, Water Code. Reference: Section 8609, Water Code.

#### HISTORY

1. Renumbering and amendment of old section 69 to new section 106 filed 9–30–96; operative 10–30–96 (Register 96, No. 40). For prior history, see Register 72, No. 14.

### § 107. Permitted Uses in Designated Floodways.

The following uses may be permitted in the designated floodway so long as alone or cumulatively, in the judgment of the board, they will not unduly impede the free flow of water in the floodway or jeopardize public safety:

- (a) Open space uses not requiring a closed building, such as agricultural croplands, orchards, livestock feeding and grazing, or public and private recreation areas.
- (b) Fences, fills, walls, or other appurtenances which do not create an obstruction or debris-catching obstacle to the passage of floodwaters.
- (c) Storage yards for equipment and material, if the equipment and material can be either securely anchored or removed upon notice.
- (d) Railroads, streets, bridges, and public utility wires and pipelines for transmission and local distribution.
- (e) Commercial excavation of materials from pits, strips, or pools provided that no stockpiling of materials, products, or overburden creates an obstruction to the passage of flood flows.
- (f) Improvements in stream channel alignment, cross-section, and capacity.
- (g) Structures that are designed to have a minimum effect upon the flow of water and are firmly anchored to prevent the structure from flotation, provided that normally no structures for human habitation will be permitted.
- (h) Recreational vehicles and related service facilities that are either floodproofed or are removed during the flood season of the particular stream involved.
- (i) Other uses which are not appreciably damaged by floodwaters.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8609 and 8710, Water Code.

#### HISTORY

1. Renumbering and amendment of old sections 75 and 76 to new section 107 filed 9–30–96; operative 10–30–96 (Register 96, No. 40). For prior history, see Register 72, No. 14 and Register 73, No. 34.

## Article 6. Existing Encroachments Within an Adopted Plan of Flood Control

### § 108. Existing Encroachments.

(a) Upon adoption of a plan of flood control, an existing facility or use shall be allowed to continue as provided below:

- (1) A permit or order shall be automatically issued for all conforming existing facilities and uses. The facility or use may not be changed, extended, or expanded without a new application to and approval by the board. If the facility is abandoned, it shall be removed at the expense of the owner and not replaced.

(2) Nonconforming existing encroachments that do not have a major detrimental impact shall be allowed to continue under a permit or order until abandoned or until they are destroyed or damaged, by any cause, to the cumulative extent of more than fifty (50) percent of their market value or their physical usefulness during any 10-year period. The facility or use may not be changed, extended, or expanded without a new application to and approval of the board. If the facility is abandoned, it shall be removed at the expense of the owner and not replaced.

(3) Nonconforming existing encroachments that have a major detrimental impact shall be removed, abandoned, or suitably modified at no cost to the owner, if they have been in existence prior to the adoption or authorization of a project by the United States or prior to the adoption or authorization of a plan of flood control by the state.

(4) Nonconforming existing facilities or uses that have a major detrimental impact on the adopted plan of flood control and which were not in existence at the time of adoption of the plan of flood control shall be removed, abandoned, or suitably modified as directed by the board, all at the expense of the owner, and within a period of time specified by the board.

(b) The board shall make the final determination as to whether the facility or use has or has not a major detrimental impact within the adopted plan of flood control or on project facilities, and shall advise the owner of the facility or use of any action required.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8609 and 8710, Water Code.

**HISTORY**

1. New article 6 (section 108) and renumbering and amendment of old sections 85 and 86 to new section 108 and new section filed 9-30-96; operative 10-30-96 (Register 96, No. 40). For prior history, see Register 69, No. 25. For prior history, see Register 72, No. 14.

**Article 7. Review Rights**

**§ 109. Right of Review of Delegated Authority.**

Any person or public agency having an interest in a decision made by the Director of the department or the Executive Officer of the board pursuant to any delegation by the board, including those delegations in Section 5 and any other delegation of authority has the right to review by the board in accordance with the requirements of section 12. Adversely affected persons have the right to present arguments to the board in person or by a designated representative at a regularly scheduled board meeting in accordance with section 110.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8609 and 8710, Water Code.

**HISTORY**

1. New article 7 (sections 109 through 110) and renumbering and amendment of old section 150 to new section 109 filed 9-30-96; operative 10-30-96 (Register 96, No. 40). For prior history, see Register 78, No. 3.
2. Amendment filed 12-1-2009; operative 12-31-2009 (Register 2009, No. 49).
3. Amendment filed 2-15-2012; operative 2-15-2012 pursuant to Government Code section 11343.4 (Register 2012, No. 7).

**§ 110. Review Procedures.**

A person or public agency adversely affected by a decision described in section 109 is entitled to board review at a regularly scheduled meeting of the board after receipt of a written request directed to the Executive Officer of the board stating the facts and circumstances upon which the re-

quest is based, provided the request complies with the requirements of section 12. If a petition for reconsideration is not submitted within the time limits specified in section 23, the decision of the board is final.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8609 and 8710, Water Code.

**HISTORY**

1. Renumbering and amendment of old section 152 to new section 110 filed 9-30-96; operative 10-30-96 (Register 96, No. 40).
2. Amendment filed 2-15-2012; operative 2-15-2012 pursuant to Government Code section 11343.4 (Register 2012, No. 7).

**Article 8. Standards**

**§ 111. Introduction to Standards.**

These standards govern the design and construction of encroachments which affect the flood control works and floodways and are used by the board for the regulation of encroachments. The standards apply to any work within the limits of, or which can affect, any authorized flood control project or any adopted plan of flood control. These standards also provide the public with information needed to prepare and submit encroachment applications to the board. Where any provision in this division requires the application of judgment, such as where "practical," "feasible," or "reasonable," the burden of proof on such issues as impracticality, unfeasibility, or unreasonableness lies with the applicant or permittee.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8608, 8609 and 8710, Water Code.

**HISTORY**

1. New article 8 (sections 111 through 137) and section filed 9-30-96; operative 10-30-96 (Register 96, No. 40).

**§ 112. Streams Regulated and Nonpermissible Work Periods.**

(a) The board requires applications to be filed for all proposed encroachments within the floodways under its jurisdiction (identified in Table 8.1) and on levees adjacent thereto, on any stream which may affect those floodways.

(b) Banks, levees, and channels of floodways along any stream, its tributaries, or distributaries may not be excavated, cut, filled, obstructed, or left to remain excavated during the flood season.

(1) The flood seasons for the various floodways are shown in Table 8.1.

(2) The board, at the prior written request of the applicant, may allow work to be done during flood season within the floodway, provided that, in the judgment of the board, forecasts for weather and river conditions are favorable.

(c) The following definitions apply to this section:

(1) Bank. "Bank" means the ground bordering a river, stream, lake, or sea, or forming the edge of a cut or hollow.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8608, 8609 and 8710, Water Code.

**HISTORY**

1. New section and table 8.1 filed 9-30-96; operative 10-30-96 (Register 96, No. 40).
2. Amendment of table 8.1 filed 12-1-2009; operative 12-31-2009 (Register 2009, No. 49).

Table 8.1—Regulated Streams and Nonpermissible Work Periods

[1] Flood season November 1 through July 15

[2] Flood season November 1 through April 15

<i>Stream Title</i>	<i>County—Limits</i>	<i>Flood Season</i>
Alta Main Canal	Fresno	1
American River	Sacramento — to Nimbus Dam	2
Antelope Creek	Placer — to settlement ponds	2
Antelope Creek	Tehama	2
Angel Slough	Butte	2
Arcade Creek	Sacramento — to Roseville Road	2
Ash Creek	Modoc	2
Ash Slough	Madera	2
Atherton Cove	San Joaquin — northeast bank only	2
Auburn Ravine	Sutter and Placer	2
Banta Carbona Intake Canal	San Joaquin	2
Beacon Creek	Sacramento — Morrison Creek to Franklin Boulevard	2
Battle Creek	Tehama	2
Bear Creek	Merced	2
Bear Creek	San Joaquin, up to Jack Tone Road	2
Bear Creek	Shasta, reach within designated floodway of the Sacramento River	2
Bear River	Sutter, Placer & Yuba	2
Berenda Slough	Madera — Avenue 21-1/2 to Ash Slough	2
Best Slough	Yuba	2
Big Chico Creek	Butte	2
Black Rascal Creek	Merced	2
Butte Basin	Butte, Glenn, and Colusa	2
Butte Creek	Butte and Glenn — to Skyway Bridge	2
Butte Creek Diversion Canal	Sutter	2
Butte Slough	Sutter	2
Byrd Slough	Fresno	1
Cache Creek	Yolo, Yolo Bypass to 1/2 mile west of I-5	2
Cache Slough	Solano	2
Calaveras River	San Joaquin — to New Hogan Dam	2
Cameron Slough	Fresno, within the Kings River designated floodway	1
Canal Creek	Merced	2
Cherokee Creek	Butte	2
Chowchilla Canal Bypass	Merced, Madera, and Mariposa	1
Chowchilla River	Merced, Madera and Mariposa, to Buchanan Dam	2
Churn Creek	Shasta — within Sacramento River floodway	2
Cirby Creek	Placer	2
Clarks Fork	Kings	1
Clear Creek	Shasta — Sacramento River to Whiskeytown Dam	2
Clover Creek	Shasta — to 1.1 miles upstream from Millville Plains Road	2
Clover Creek	Lake	2
Cole Slough	Fresno	1
Colusa Bypass	Colusa	2
Colusa Basin Drain and Canal	Glenn, Colusa, and Yolo	2
Colusa Trough	Colusa	2
Coon Creek	Placer and Sutter	2
Consumnes River	Sacramento	2
Cottonwood Creek	Shasta and Tehama — divides counties — to Dutch Gulch Dam	2
Cottonwood Creek South Fork	Tehama	2

[The next page is 4.9.]



Table 8.1—Regulated Streams and Nonpermissible Work Periods  
(Continued)

<i>Stream Title</i>	<i>County—Limits</i>	<i>Flood Season</i>
Cottonwood Creek	Tulare — St. Johns River to Grapevine Creek	2
Cow Creek	Shasta — to 0.6 miles upstream of Millville Plains Road	2
Crescent Bypass	Kings and Fresno — North Fork Kings River	1
Cross Creek	Kings and Tulare — Nevada Avenue to St. Johns River	1
Davis Drain	Yolo	2
Dead Horse Slough	Butte	2
Deer Creek	Sacramento	2
Deer Creek	Tehama	2
Dog Creek	Fresno	2
Dry Creek	Butte	2
Dry Creek	Fresno	2
Dry Creek	Sacramento and Placer — to Antelope Creek	2
Dry Creek	Shasta, reaches within designated floodways of Clear and Cottonwood Creeks	2
Dry Creek	Stanislaus — Tuolumne River to AT&SF RR	2
Dry Creek	Sutter	2
Dry Creek	Tehama	2
Dry Creek	Tulare	2
Dry Creek	Yuba	2
Duck Creek	San Joaquin	2
Duck Creek, South Branch	San Joaquin	2
Duck Slough	Merced	2
Duck Slough	Yolo	2
Dutch John Cut Slough	Kings	1
Dye Creek	Tehama	2
East Sand Slough	Tehama — within Sacramento R. floodway	2
Eastside Bypass	Merced and Madera	1
Edendale Creek	Merced	2
El Capitan Canal	Merced	2
Elder Creek	Tehama — to Ralston Road Bridge	2
Elder Creek	Sacramento County	2
Elk Bayou	Tulare	1
Elk Slough	Yolo	2
Fahrens Creek	Merced	2
Feather River	Butte and Yuba	2
Feather River, North Fork	Plumas	2
Five Mile Slough	Fresno	1
Florin Creek	Sacramento County	2
Fourteenmile Slough	San Joaquin	2
French Camp Slough	San Joaquin	2
Fresno River	Madera to Hidden Dam	2
Fresno River, South Fork	Madera	2
Fresno Slough	Kings and Fresno	1
Georgiana Slough	Sacramento	2
Globe Slough	Fresno	1
Gold Run Creek	Butte	2
Haas Slough	Solano	2
Hastings Cut	Solano	2
Honcut Creek	Butte and Yuba — to 1/2 mile west of S.P.R.R.	2
Hughes Creek	Kings	2
Hutchinson Creek	Yuba	2

Table 8.1—Regulated Streams and Nonpermissible Work Periods  
(Continued)

<i>Stream Title</i>	<i>County—Limits</i>	<i>Flood Season</i>
Ida Island	Sacramento	2
Inside Creek	Tulare	1
James Bypass	Kings and Fresno	1
Jack Slough	Yuba	2
Kaweah River	Tulare	1
Kaweah River, North Fork	Tulare	1
Kaweah River, Middle Fork	Tulare	1
Kaweah River, South Fork	Tulare	1
Kern River, South Fork	Kern, Isabella Dam to Tulare County Line	1
Kern River	Kern and Kings	1
Kern River Bypass Channel	Kern and Kings	1
Kings River	Kings, Tulare and Fresno — to Pine Flat Reservoir	1
Kings River, North Fork	Tulare	1
Kings River, South Fork	Tulare	1
Knights Landing Ridge Cut	Yolo	2
Laird Slough	Stanislaus	1
Laguna Creek	Sacramento—Morrison Creek to Franklin Boulevard	2
Laurel Creek	Solano	2
Ledgewood Creek	Solano	2
Linda Creek	Sacramento and Placer	2
Lindo Channel	Butte	2
Lindsey Slough	Solano	2
Little Chico Creek	Butte	2
Little Chico Diversion Canal	Butte	2
Little Cow Creek	Shasta	2
Littlejohns Creek	San Joaquin	2
Lone Tree Creek	San Joaquin	2
Lower San Joaquin River Flood Control Project	Fresno, Madera, and Merced	1
Magpie Creek	Sacramento — up to Raley Boulevard	2
Main Drain Canal	Kern	1
Mariposa Bypass	Merced	1
Mariposa Creek	Merced	2
Markham Creek	Sutter	2
Mayberry Slough	Sacramento	2
McClure Creek	Tehama	2
McCoy Creek	Solano	2
Merced River	Merced	1
Middle Creek	Lake	2
Miles Creek	Merced	2
Mill Creek	Tehama, Sacramento River to Highway 99	2
Miners Ravine	Placer — to Interstate 80 Highway	2
Miner Slough	Solano	2
Mokelumne River	Sacramento, San Joaquin — to Camanche Reservoir	2
Moody Slough	Solano	1
Mormon Slough	San Joaquin	2
Morrison Creek	Sacramento	2
Mosher Slough/Creek	San Joaquin — to Eight mile Road	2
Moulton Bypass and Weir	Colusa	2
Mud Creek	Butte	2

Table 8.1—Regulated Streams and Nonpermissible Work Periods  
(Continued)

<i>Stream Title</i>	<i>County—Limits</i>	<i>Flood Season</i>
Mud Slough Creek	Butte	2
Murphy Slough	Butte	2
Natomas Cross Canal	Sutter	2
Natomas East Main Drainage Canal	Sutter and Sacramento	2
Oak Run Creek	Shasta — to 0.6 miles upstream from Millville Plains Road	2
Old River	San Joaquin to Paradise Cut	1
Outside Creek	Tulare	1
Owens Creek	Merced	2
Paddy Creek and South Paddy Creek	San Joaquin to Tully Road	2
Paradise Cut	San Joaquin	1
Paynes Creek	Tehama	2
Pixley Slough	San Joaquin — Eight mile Road to Bear Creek	2
Pleasant Grove Creek Canal	Sutter and Placer — to Union Pacific R.R.	2
Porter Slough	Tulare — Road 192 to Tule River	1
Putah Creek	Yolo, Solano — to Monticello Dam	2
Putah Creek, South Fork	Solano	2
Red Bank Creek	Tehama, only the reach that confluences with the Sacramento River designated floodway	2
Reeds Creek	Yuba	2
Sacramento Bypass	Yolo	2
Sacramento Deep Water Channel	Solano and Yolo	2
Sacramento River	Kenwick Dam — to west end of Sherman Island	2
Salt Creek	Shasta	2
Sand Creek	Tulare and Fresno	2
Sandy Gulch	Butte	2
San Joaquin River	Friant Dam to West End of Sherman Island	1
Scotts Creek	Lake	2
Secret Ravine	Placer	2
Shag Slough	Solano and Yolo	2
Sheep Hollow Creek	Butte	2
Smith Canal	San Joaquin — north levee only	2
Sevenmile Slough	Sacramento	2
Simmerly Slough	Yuba	2
Stanislaus River	San Joaquin, Stanislaus, Calaveras, Tuolumne, to Goodwin Dam	1
State Main Drain	Sutter	2
Steamboat Slough	Sacramento and Yolo	2
Stockton Diverting Canal	San Joaquin	2
Stony Creek	Tehama and Glenn	2
Sutter Bypass	Sutter	2
Sutter Slough	Solano, Sacramento & Yolo	2
Sycamore Creek	Butte	2
Sycamore Slough	Yolo	2
Sycamore Slough	Colusa	2
Thomes Creek	Tehama — within the Sacramento River floodway	2
Threemile Slough	Sacramento	2
Tisdale Bypass	Sutter	2
Tom Paine Slough	San Joaquin — Old River to W.P.R.R.	2
Tule River	Tulare, Road 192 to Success Dam	1
Tule River, North Fork	Tulare — confluence at Hickman Creek	1

Table 8.1—Regulated Streams and Nonpermissible Work Periods  
(Continued)

<i>Stream Title</i>	<i>County—Limits</i>	<i>Flood Season</i>
Tule River, Middle Fork	Tulare — confluence at Long Canyon	1
Tule River, South Fork	Tulare — confluence at Long Branch	1
Tuolumne River	Stanislaus and San Joaquin — to La Grange Dam	1
Ulatis Creek	Solano — to Cache Slough	2
Unionhouse Creek	Sacramento	2
Wadsworth Canal	Sutter	2
Wadsworth Intercepting Canal, East	Sutter — to Township Road south bank only	2
Wadsworth Intercepting Canal, West	Sutter — south bank only	2
Walker Slough	San Joaquin	2
Walthall Slough	San Joaquin	2
Western Pacific Interceptor Channel	Yuba	2
West Side Canal	Kern	1
Willow Creek	Glenn and Colusa	2
Willow Slough and Bypass	Yolo — to SPRR	2
Wright Cut	Solano — to confluence Cache and Shag Slough	2
Yankee Slough	Sutter and Placer	2
Yokohl Creek	Tulare	2
Yolo Bypass	Solano and Yolo	2
Yuba River	Yuba — to Daguerre Point Dam/Highway 70	2

**§ 113. Dwelling and Structures Within an Adopted Plan of Flood Control.**

(a) The following definitions apply to this section:

(1) Existing Dwelling — “Existing Dwelling” means a building used for human habitation constructed within a floodway prior to the adoption of the floodway as an authorized flood control project, as a plan of flood control, or as a designated floodway, or as otherwise permitted by the board.

(2) Existing Mobile Home — “Existing Mobile Home” means a mobile home that was positioned within a floodway prior to the adoption of the floodway as an authorized flood control project, as a plan of flood control, or as a designated floodway, or as otherwise permitted by the board.

(3) Existing Structure — “Existing Structure” means a building used for any purpose other than for human habitation constructed within a floodway prior to the adoption of the floodway as an authorized flood control project, as a plan of flood control, or as a designated floodway, or as otherwise permitted by the board.

(4) Human Habitation — “Human Habitation” means an improvement of real property used, or intended to be used, for residential purposes, including but not limited to living, sleeping, cooking, or eating.

(5) Seasonal Occupancy — “Seasonal Occupancy” means to occupy or reside in a dwelling only during the nonflood season.

(6) Residential Development — “Residential Development” means any development or subdivision where a subdivision map is required.

(b) Dwellings and structures within an adopted plan of flood control must comply with the following requirements:

(1) New dwellings, with the exception of dwellings for seasonal occupancy (nonflood season), are not permitted except as provided in subdivisions (d) and (e) of this section.

(2) New dwellings for seasonal occupancy and existing dwellings and structures constructed prior to adoption of the plan of flood control are permitted within the floodway under the following conditions:

(A) The dwelling or structure is not abandoned and is maintained in a condition suitable for the approved use;

(B) The dwelling or structure does not impede floodflows;

(C) The dwelling or structure is properly anchored to prevent flotation during periods of high water;

(D) The finished floor level of new dwellings for seasonal occupancy must be a minimum of two (2) feet above the design flood plane or two (2) feet above the 100-year flood elevation, whichever is higher; and

(E) New dwellings for seasonal occupancy may not be constructed on a levee section or within ten (10) feet of a levee toe.

(3) Any exterior remodeling, modifications, additions, or repairs to the dwelling, or structure, or property which modifies the footprint or consists of replacement of over fifty (50) percent of the structure must have prior approval by the board and meet the following conditions:

(A) Any remodeling, modifications, additions, or repairs may not place the dwelling or structure closer to the low water channel of the floodway; and

(B) The finished floor of any remodeling, modification, addition, or repair to the dwelling or structure must be a minimum of two (2) feet above the design flood plane or two (2) feet above the 100-year flood elevation, whichever is higher.

(4) If a dwelling or structure is damaged, due to any cause, to a cumulative extent of more than fifty (50) percent of its market value within a ten-year period, the dwelling or structure may not be reconstructed or replaced without the approval of the board;

(5) If a damaged dwelling or structure is not repaired or replaced, the entire dwelling or structure, including all stored materials, equipment, and debris, must be completely removed within a reasonable period of time, as determined by the board, and the area restored so that there is no interference with the adopted plan of flood control.

(6) Structures may be constructed within an adopted plan of flood control provided they conform to the following:

(A) Structures may not be constructed on a levee section or within ten (10) feet of a levee toe;

(B) Structures must be securely anchored and floodproofed to at least two (2) feet above the 100-year flood elevation or two (2) feet above the design flood plane, whichever is higher. The floodproofing must be consistent with the potential uses of the structure;

(C) Structures must be located and oriented to have minimal impact on floodflows; and

(D) The number of structures permitted is limited to the minimum reasonably necessary to accomplish an appropriate land use activity.



(c) Mobile homes within an adopted plan of flood control must comply with the following requirements:

(1) New mobile homes are not permitted unless the mobile homes are located within an existing mobile home park or as provided in subdivisions (d) and (e) of this section;

(2) Existing mobile homes, not located within a mobile home park, may remain and the requirements are the same as those for existing dwellings; and

(3) Owners of existing mobile homes which are not located within a mobile home park and which are not anchored in place must have an evacuation plan on record with the board; and

(4) If flood damage occurs to the mobile home due to failure of the evacuation plan or its execution, the mobile home may not remain or be replaced within the adopted plan of flood control without the approval of the board.

(d) Dwellings, structures, and mobile homes are permitted within shallow flooding areas designated as a "zone B" as shown on some designated floodway maps adopted by the board. The board's zone B designation is not to be confused with the Federal Emergency Management Agency's B-zone which relates to a different floodplain identification. In addition to the other standards in this section, the following conditions apply to dwellings, structures, and mobile homes within a designated zone B:

(1) The dwelling, structure, or mobile home is not permitted on a levee section or within ten (10) feet of a levee toe;

(2) Dwellings, structures, and mobile homes are permitted to within fourteen (14) feet of the top of a streambank provided the streambank is revetted to board standards;

(3) Dwellings, structures and mobile homes are not permitted within thirty (30) feet of an unrevetted streambank;

(4) The finished floor level of the dwellings and mobile homes must be a minimum of two (2) feet above the design flood plane or two (2) feet above the 100 year flood elevation, whichever is higher;

(5) Only the minimum floodway area necessary for the placement of the dwelling, structure, or mobile home shall be used. Generally not more than thirty (30) percent of the flood plain area may be used. Designated floodway maps, however, may be more restrictive;

(6) Sufficient area of the floodway must remain clear of the dwelling, mobile home, or structure to preserve the historical orientation of the floodway and to prevent an increase in streamflow stages and velocities.

(7) If a dwelling, structure, or mobile home is damaged due to any cause, cumulatively to the extent of more than fifty (50) percent of its market value, the dwelling, structure, or mobile home may not be reconstructed or replaced without the approval of the board.

(8) Except for approved mining activities, excavating or grading that would increase the depth of flooding within a zone B and which might interfere with the safe evacuation of the area during flooding is not permitted.

(9) New residential developments may be subject to a higher standard than the 100-year event up to and including the Standard Project Flood, (e.g., floor elevations required to be above the Standard Project Flood) or an equivalent rare flood.

(e) New dwellings, structures and mobile homes along an unleveed stream shall comply with the following requirements:

(1) Dwellings, structures, and mobile homes are permitted to within fourteen (14) feet of the top of the streambank provided the streambank is revetted.

(2) Dwellings, structures and mobile homes are not permitted within (30) feet of an unrevetted streambank.

(f) Upon abandonment of the permitted dwelling or structure, the property owner shall be responsible for removal of the dwelling or structure and all appurtenant structures, vehicles, equipment, stockpiles of materials, and debris within a reasonable time.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8608, 8609 and 8710, Water Code.

#### HISTORY

1. New section filed 9-30-96; operative 10-30-96 (Register 96, No. 40).

#### § 114. Mobile Home Parks and Recreational Vehicle Parks.

(a) The following definitions apply to this section:

(1) Existing Mobile Home Park — "Existing Mobile Home Park" means any area within a floodway on which two (2) or more mobile homes have been maintained prior to the adoption of the area as an authorized flood control project, as a plan of flood control, or as a designated floodway.

(2) Recreational Vehicle Park — "Recreational Vehicle Park" means any area within a floodway where two (2) or more recreational vehicles are maintained.

(b) Mobile home parks are subject to the following requirements:

(1) New mobile home parks are not permitted within an adopted plan of flood control except in floodway areas classified as zone B as described in subdivision (c), section 113, Dwellings and Structures Within an Adopted Plan of Flood Control.

(2) New mobile home parks are not permitted on a levee section or within ten (10) feet of a levee toe.

(3) Existing mobile home parks located within an adopted plan of flood control may remain if a permit from the board has been obtained, a current implementable evacuation plan is on file with the board, and the following criteria continue to be enforced:

(A) The locations of all structures, mobile homes, recreational vehicles, and appurtenances are shown on the evacuation plan.

(B) The location of the river staff gauge and the gauge height that will indicate an evacuation of a mobile home park are shown on the evacuation plan.

(C) The number of tow vehicles and the usual location of each tow vehicle to be used to evacuate a mobile home park are shown on the evacuation plan.

(D) The locations of emergency storage areas outside the floodway for the mobile homes, recreational vehicles, portable and floatable structures are shown on the evacuation plan.

(E) The route to be used to evacuate mobile homes from a mobile home park to the emergency storage area is shown on the evacuation plan.

(F) After the initiation of an evacuation, all mobile homes not anchored in place and all recreational vehicles, and portable and floatable structures are removed from the floodway within the time period specified in the evacuation plan.

(G) Existing multiple-wide mobile homes, unless specially designed for quick removal, are anchored in place with concrete deadmen.

(H) New multiple-wide mobile homes, unless specially designed for quick removal, are not permitted.

(I) A copy of the evacuation plan is provided to all residents of the mobile home park.

(J) The park permittee or the manager has a duplicate of all keys necessary to move a mobile home and a signed statement allowing the removal of an absentee owner's mobile home during an emergency evacuation.

(K) The permittee of a mobile home park accepts sole responsibility for initiating an evacuation of the park.

(L) Mobile homes not anchored in place, all portable structures, and recreational vehicles have axles, wheels, and any required tow hitch installed, and are in a readily movable condition at all times.

(M) Any related structures, such as laundry rooms or storage buildings, are securely anchored to prevent flotation during high water and are not utilized for human habitation.

(N) If significant flood damage occurs to any of the mobile homes or other park structures due to failure of the evacuation plan or its execution, the park may not continue operating without approval of the board.

(c) Recreational vehicle parks are subject to the following requirements:

(1) New and existing recreational vehicle parks are allowed within an adopted plan of flood control if a permit is obtained from the board, a cur-

rent implementable evacuation plan is on file with the board, and the following requirements are enforced:

(A) The locations of all recreational vehicle pads and appurtenances are shown on the evacuation plan.

(B) All recreational vehicles have axles, wheels, and any required tow hitch installed, and are in readily movable condition at all times.

(C) At the initiation of an evacuation, all recreational vehicles are removed from the floodway within the time period specified in the evacuation plan.

(D) At the initiation of the evacuation, all floatable and portable structures are removed from the floodway within the time period specified in the evacuation plan.

(E) The locations of emergency storage areas outside the floodway for recreational vehicles, and portable and floatable structures are shown on the evacuation plan.

(F) The location of the river staff gauge and the gauge height that will initiate an evacuation are shown on the evacuation plan.

(G) Permittees or managers of recreational vehicle parks accept sole responsibility for initiating an evacuation.

(H) Any related structures, such as laundry rooms or storage buildings, are securely anchored and are not utilized for human habitation.

(I) If significant flood damage occurs to any of the recreational vehicles or other park structures due to the failure of the evacuation plan or its execution, the park may not continue operating without the approval of the board.

(d) The following restrictions apply to recreational vehicles within an adopted plan of flood control that are not in a recreational vehicle park:

(1) The random use of recreational vehicles within an adopted plan of flood control does not require a permit from the board. Recreational vehicles are not permitted overnight within the floodway during the flood season. However, recreational vehicles may be stored in those limited areas where dwellings are permitted.

(2) It remains the sole responsibility of the property owner to ensure that recreational vehicles do not remain within the floodway overnight during the flood season.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8608, 8609 and 8710, Water Code.

#### HISTORY

1. New section filed 9-30-96; operative 10-30-96 (Register 96, No. 40).

### § 115. Dredged, Spoil, and Waste Material.

(a) Dredged, spoil, or waste materials, regardless of their composition, may not be deposited on the levee crown, levee slopes, or within the limits of a project floodway without specific prior approval of the board.

(b) Suitable dredged, spoil, or waste material may be deposited on or against the landside levee slope if the board determines that it is not detrimental to the safety of the levee.

(c) Dredged materials must be drained of excess moisture before being used as fill material.

(d) Dredged, spoil, or waste materials may not be deposited within the limits of the stream channel, project floodway, or within a bypass area without a determination by the board as to the effect of the deposition regarding (1) the flood-carrying capacity of the stream channel, floodway, or bypass; (2) recreational and environmental factors; and (3) fish and wildlife.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8608, 8609, 8708, 8709 and 8710, Water Code.

#### HISTORY

1. New section filed 9-30-96; operative 10-30-96 (Register 96, No. 40).

### § 116. Borrow and Excavation Activities—Land and Channel.

(a) The removal of earthen material and related activities within the limits of an adopted plan of flood control are subject to the provisions of this division. The board may limit borrow and excavation activities based on the area's hydraulics, hydrology, sediment transport, and history of the borrow sites. The board may waive specific requirements for borrow

or excavation activities if the permittee provides detailed studies which the board considers sufficient to justify the waiver.

Borrow and excavation activities may be allowed if:

(1) The activity will not cause an unplanned change of the stream's location;

(2) The sediment transport downstream will not change in a manner that produces or tends to produce increased flood or erosion problems in the area; and

(3) The activity is consistent with the overall flood control objectives for the area.

(b) General requirements for all borrow permits include the following, unless other specific provisions for a specific area or stream modify these requirements:

(1) Any levee crown or access ramp used to transport borrow material must be maintained by the permittee in the same or better condition as existed at the start of the borrow operation.

(A) A surveyed longitudinal profile of the existing levee crown roadway and access ramps to be utilized for access to the borrow area must be submitted to the board prior to any excavation.

(B) A surveyed longitudinal profile of the levee crown and access ramps utilized for access to the borrow area must be submitted yearly as well as upon abandonment of the borrow area.

(C) Upon order of the board, the permittee shall restore a damaged levee and/or access ramp to the original profile.

(2) Land and channel borrow material of any type may not be stored on a levee section or within ten (10) feet of either toe at any time.

(3) No land and channel borrow material may be stored in a manner that could destabilize a riverbank, e.g., within thirty (30) feet of the top of bank.

(4) Periodic topographic surveys of the active borrow area and vicinity may be required.

(5) All boundaries of an active borrow area must be delineated by steel posts or other permanent markers which are clearly visible.

(6) Stockpiles of materials or the storage of equipment, unless securely anchored, downed trees or brush, and floatable material of any kind are not allowed within a floodway during the flood season as defined in Table 8.1.

(7) Excavation is not permitted within one hundred (100) feet of a levee toe or property line within the floodway.

(8) Material may not be removed within fifty (50) feet of the toe of any spur levee. A spur levee is a levee that protrudes into the floodway for the purpose of directing the flow of floodwater.

(9) Channel or berm excavations are not permitted within a leveed floodway where there is active erosion unless an engineering study demonstrates that the borrow will not exacerbate the erosion.

(10) The side slopes of the perimeter of a borrow area may not exceed three (3) feet horizontal to one (1) foot vertical.

(11) The upstream and downstream ends of a borrow area connected to the low-water channel shall be transitioned into the channel to prevent an abrupt change in streamflow velocity or cause an obstruction to the flow.

(12) The bottom of a borrow area that is seasonally dry and located within two hundred (200) feet of a levee toe shall be graded to be reasonably uniform with the gradient sloping towards the low-water channel.

(13) When the borrow area is to be connected to the low-water channel, excavation must start at the riverward edge of the borrow area and progress uniformly landward.

(14) The bottom elevation of any berm excavation may not be lower than the adjacent channel bottom without adequate setback from the channel. Five hundred (500) feet is generally considered an adequate setback.

(15) Dredging of material from channel waterways generally must be confined to the area beyond one hundred (100) feet of the toe of the bank. The slope of the borrow perimeter nearest the toe of the bank may not ex-

ceed five (5) feet horizontal to one (1) foot vertical. Localized exceptions may require bank protection.

(16) Before any borrow operation, including suction dredging, is permitted within one (1) mile of a bridge, a study must be submitted to show that the borrow operation will not adversely affect any of the bridge footings, piers, or bents.

(17) Before any borrow operation, including suction dredging, is permitted within one thousand (1,000) feet of any pipeline or cable crossing beneath the channel, or within one thousand (1,000) feet of a project control structure, e.g., a weir, a study must be submitted to show that the borrow operation will not adversely affect that facility. A study may be required for distances greater than one thousand (1,000) feet where deemed appropriate by the board.

(18) Any proposed borrow operation within one mile of a state highway bridge must be approved by the California Department of Transportation.

(19) A geotechnical investigation is required before initiating any borrow activity within a leveed floodway. The investigation must determine if the proposed borrow activity would increase seepage beneath levees, or expose soils susceptible to erosion.

(c) If periodic inspections reveal that a borrow operation will adversely affect the adopted plan of flood control, additional permit conditions may be imposed, or the permit may be revoked.

(d) Excavations made within a floodway that are not an approved borrow or dredging activity must be backfilled in a manner consistent with local conditions. This requirement is generally satisfied by using suitable material and compacting to the density of the adjacent undisturbed material. Compaction tests by a certified soils laboratory may be required. These requirements may be waived for minor excavations that would have no impact on the floodway.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8608, 8609 and 8710, Water Code.

#### HISTORY

1. New section filed 9-30-96; operative 10-30-96 (Register 96, No. 40).

#### § 117. Supplemental Borrow Standards for the Yuba River.

Additional borrow standards have been established for the removal of material from the floodway of the Yuba River. These additional standards supplement and, where in conflict with, supersede standards in section 116, Borrow and Excavation Activities – Land and Channel.

(a) Material may not be removed within three hundred (300) feet of the centerline of project and local levees of the Yuba River.

(b) Material may not be removed within three hundred (300) feet of the perimeter of any bank or levee protection work.

(c) Between Daguerre Point Dam and Cenedella Bend (River Mile 4.1), material may not be removed within one thousand five hundred (1,500) feet of the top of the banks of the Yuba River.

(d) The elevation of the bottom of the borrow area nearest the bank of the river may be no lower than ten (10) feet above the normal low-water elevation of the Yuba River (see Graph 8.1).

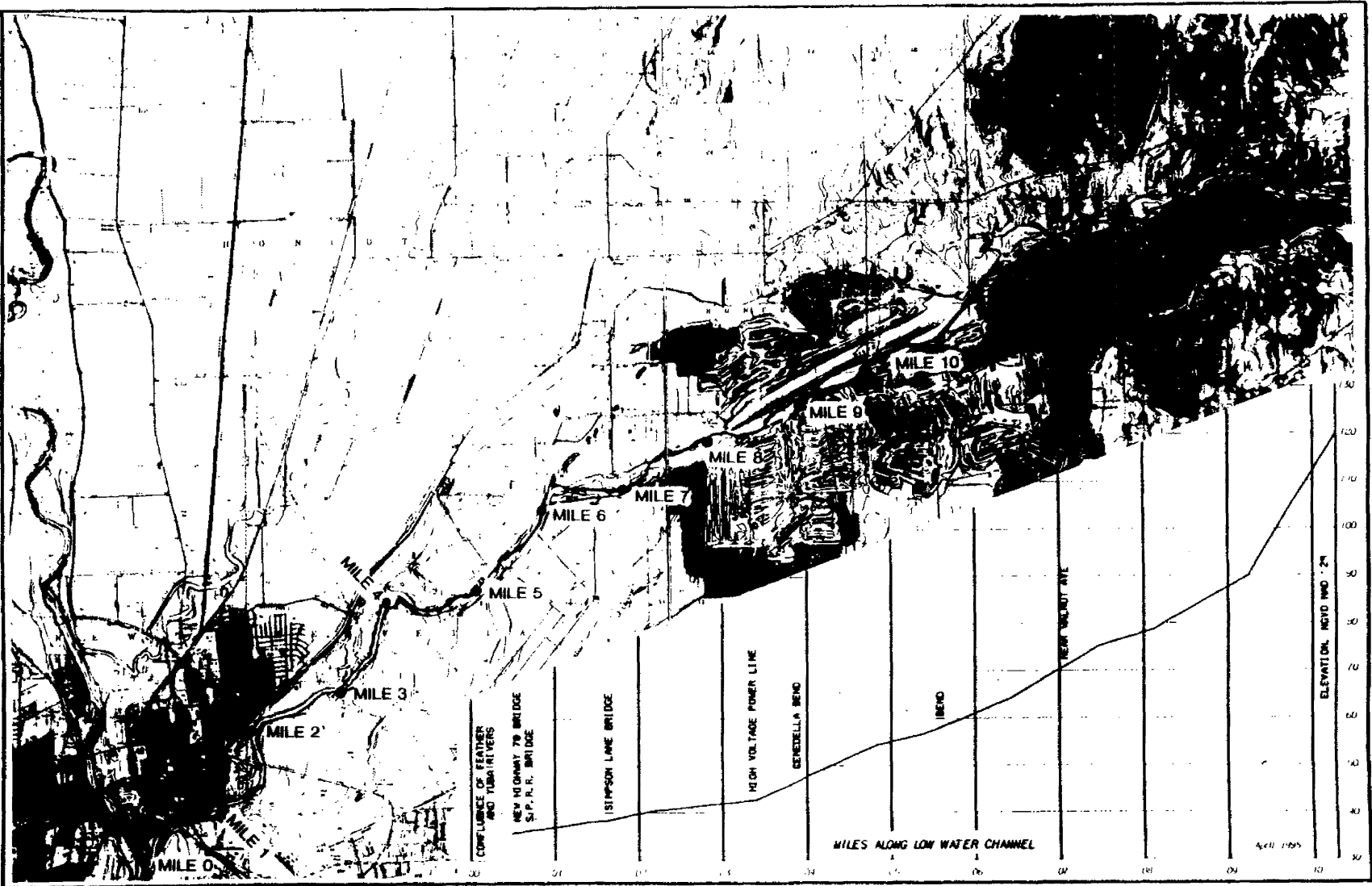
(e) Existing borrow pits or depressions between the levee and three hundred (300) feet landward of the levee centerline and adjacent to a proposed borrow area must be backfilled to within twenty (20) feet vertically of the levee crown by the permittee of the proposed borrow area. The backfill must be placed in the ratio of one (1) cubic yard placed in the low areas to ten (10) cubic yards removed from the floodway.

(f) Material may not be removed from the area between nine hundred (900) feet upstream of the Southern Pacific Railroad bridge and the confluence of the Yuba and Feather Rivers.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8608, 8609 and 8710, Water Code.

#### HISTORY

1. New section and graphic 8.1 filed 9-30-96; operative 10-30-96 (Register 96, No. 40).



Yuba River Low Water Profile

Graph 8.1

### § 118. Supplemental Borrow Standards for the Lower San Joaquin River Flood Control Project.

An additional borrow standard has been established for the removal of material from the floodways of the Lower San Joaquin River Flood Control Project. The additional standard supplements and, where in conflict with, supersedes standards in section 116, Borrow and Excavation Activities – Land and Channel. The supplemental standard requires that all berm excavations must connect to the channel, and the bottom of berm excavations must be sloped to drain away from the levee.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8608 and 8710, Water Code.

#### HISTORY

1. New section filed 9–30–96; operative 10–30–96 (Register 96, No. 40).

### § 119. Dams and Related Structures.

(a) Dams and structures that act as dams constructed in the channels of intermittent streams must meet the following criteria:

(1) A study shall be submitted to the board confirming that the installation of a dam will not increase flooding outside of the floodway or increase flood damages to third parties in the floodway.

(2) Erosion control may be required on the bank or levee slopes upstream and downstream of the proposed dam.

(3) Earthfill, including sand, and rockfill dams must be completely removed from the floodway prior to the beginning of flood season each year and may not be reinstalled prior to the end of flood season. (See Table 8.1.)

(4) All stanchions must be removed or lowered, and all flashboards and slide gates of a dam must be removed from the floodway prior to the beginning of flood season each year and may not be reinstalled prior to the end of flood season. (See Table 8.1.)

(5) The permittee must remove or lower all stanchions and must remove the flashboards and slide gates of a dam within twenty-four (24) hours after receiving written notification from the board.

(6) The permittee must remove an earthfill or rockfill dam within ninety-six (96) hours after receiving written notification from the board.

(7) Upon removal of an earthfill or rockfill dam, the material from the dam may not be stockpiled on the levee section or within the floodway.

(8) The permittee must provide warning signs upstream and downstream of a rockfill dam to protect boaters.

(b) Crop checks, ditch banks, ditch pads, road fills, and secondary levees installed within floodways and bypasses may not be reinforced or revetted and must be limited to a height that will not impair the floodway capacity. Crop checks, ditch banks and ditch pads are limited to a height of three (3) feet above the adjacent natural ground.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8608, 8609 and 8710, Water Code.

#### HISTORY

1. New section filed 9–30–96; operative 10–30–96 (Register 96, No. 40).

### § 120. Levees.

(a) Levees constructed, reconstructed, raised, enlarged, or modified within a floodway shall be designed and constructed in accordance with the U.S. Army Corps of Engineers manual, "Design and Construction of Levees" (EM 1110–2–1913 dated March 31, 1978, which is incorporated by reference) and as supplemented with the following standards:

(1) Levee construction or reconstruction shall be designed by a civil engineer.

(2) An engineering analysis that evaluates levee embankment and foundation stability shall be submitted to the board with the permit application. The analysis must verify that the levee is adequately designed and will be constructed to remain stable under loading conditions for "Case IV – Steady seepage from full flood stage" as defined in the Department of the Army manual, "Design and Construction of Levees" (EM 1110–2–1913), pp.6–6, 6–7.

(3) A detailed settlement analysis, using procedures such as those described in the Department of the Army manual, "Settlement Analysis" (EM 1110–1–1904, dated September 30, 1990, which is incorporated by reference), must be submitted to the board.

(4) A copy of all geotechnical studies and tests used in the design determination of the levee shall be provided to the board when applying for a permit.

(5) The applicant shall provide the board with a permanent easement granting the Sacramento and San Joaquin Drainage District all flood control rights upon, over, and across the property to be occupied by the proposed flood control works. The easement must include the area within the proposed floodway, the levee section, and the area at least ten (10) feet in width adjacent to the landward levee toe if the area is not presently encumbered by a board easement. The board may require an easement over a larger area and over any property when it is foreseeable that the proposed activities subject to a permit would be injurious to or interfere with the adopted plan of flood control.

(6) All drains and abandoned conduits shall be removed from the proposed construction site prior to start of construction.

(7) Prior to construction or enlargement of the embankment, all holes, depressions, and ditches in the foundation area shall be backfilled and compacted to a density equal to that of the adjacent undisturbed material.

(8) Prior to construction or enlargement of the embankment, all surface vegetation shall be removed from the area to receive fill to a depth of six (6) inches. Organic soil and roots one and one-half (1–1/2) inches in diameter or larger, shall be removed from the area to receive fill to a depth of three (3) feet.

(9) An inspection trench shall be excavated to a minimum depth of six (6) feet beneath levees being constructed or reconstructed to a height of six (6) feet or greater. If necessary to ensure a satisfactory foundation, the depth of the inspection trench may be required to exceed six (6) feet.

(A) The minimum depth of an inspection trench excavated beneath levees to be constructed or reconstructed less than six (6) feet in height must be equal to the height of the design water surface above natural ground adjacent to the levee.

(B) The inspection trench must have a minimum bottom width of twelve (12) feet, and the side slopes must be one (1) foot horizontal to four (4) feet vertical, or flatter.

(C) The centerline of the inspection trench shall be located approximately under the outer edge of the shoulder of the waterside levee crown.

(10) When subsurface explorations disclose a pervious substratum underlying a levee to be constructed or reconstructed, a cutoff trench must be excavated to an impervious stratum, where practical.

(11) Cutoff trenches shall have a minimum bottom width of twelve (12) feet and the side slopes shall be one (1) foot horizontal to four (4) feet vertical, or flatter.

(12) Impervious material, with twenty (20) percent or more of its passing the No. 200 sieve, and having a plasticity index of eight (8) or more, and having a liquid limit of less than (50), must be used for construction of new levees and the reconstruction of existing levees. Special construction details (e.g., 4:1 slopes) may be substituted where these soil properties are not readily attainable. Where the design of a new levee structure utilizes zones of various materials or soil types, the requirements of this subdivision do not apply.

(13) Fill material must be placed in four (4) to six (6) inch layers and compacted with a sheepsfoot roller, or equivalent, to a relative compaction of not less than ninety (90) percent per ASTM D1557–91, dated 1991, which is incorporated by reference and above optimum moisture content, or ninety-seven (97) percent per ASTM D698–91, dated 1991, which is incorporated by reference and at or above optimum moisture content.

(14) Fill material placed within two (2) feet of a structure must be compacted by appropriate hand operated compaction equipment.

(15) Levee fill material must be free of stones or lumps exceeding three (3) inches in greatest dimension, and must be free of vegetative matter or other unsatisfactory material.

(16) Fill material may only be placed within the area indicated on the submitted plans.

(17) Fill on levee slopes must be keyed into the existing levee section whenever there is substantial fill, as determined by the board.

(18) Each layer of fill material applied on a levee must be keyed into the levee section individually in four (4) to six (6) inch layers.

(19) Density tests by a certified soils laboratory will be required to verify compaction of levee fill and trench backfill.

(20) Ditches, power poles, standpipes, distribution boxes, and other above-ground structures located within ten (10) feet of the levee toe must be relocated a minimum distance of ten (10) feet beyond the levee toes.

(21) Pipelines located alongside and within ten (10) feet of the levee toe must be relocated a minimum distance of ten (10) feet beyond the levee toe.

(22) Construction work of any type may not be done on levees or within the floodway during the flood season (see Table 8.1) unless authorized by the Executive Officer.

(23) The areas adjacent to the levee must drain away from the levee toes for a minimum distance of ten (10) feet.

(24) The finished slope of any project levee construction or reconstruction must be three (3) feet horizontal to one (1) foot vertical, or flatter, on the waterside and two (2) feet horizontal to one (1) foot vertical, or flatter, on the landside of the levee.

(25) The finished slope of any bypass levee must be four (4) feet horizontal to one (1) foot vertical, or flatter, on the waterside and three (3) feet horizontal to one (1) foot vertical, or flatter, on the landside of the levee.

(26) An existing levee section being reconstructed, realigned, or otherwise altered, and having encroachments that are located within the levee that are to be replaced or changed, must have detailed plans of the proposed encroachment changes approved by the board prior to start of construction.

(27) The board may require the modification, as necessary, of existing pipelines within a levee section that is being raised to accommodate a higher design water surface elevation in order to prevent seepage along the pipeline and to prevent backflow through the pipeline during the design event.

(28) A set of "as constructed" drawings of any levee project shall be submitted to the board, the department and the Corps of Engineers upon completion of the project.

(29) Stone revetment may be required on levee slopes where turbulence, flow, or wave action may cause erosion.

(30) Grasses or other approved ground covers may be required on levee slopes.

(31) The minimum crown width of a levee is normally twelve (12) feet on minor streams and twenty (20) feet on major streams. The levee crown width for a levee on a specific stream is defined by the project document and/or operations manual in current use and must be consistent with minimum width requirements of existing levees on the specific stream.

(32) A levee having a crown width of fifteen (15) feet or less must have vehicular turnouts at approximately two thousand-five hundred (2,500) foot intervals if there is no existing access ramp within that distance.

(33) As used in this section, the term "approved risk-based analysis"

means an analysis which uses simulation modeling of river discharge versus probability of occurrence, river stage versus river discharge estimates, and river stage versus flood damage estimates and accounts for uncertainty in these functions to determine the performance of a proposed flood control feature.

(A) All levees constructed or reconstructed must have a minimum of three (3) feet of freeboard above the design flood plane, or a crown elevation no lower than designed using an approved risk-based analysis.

(B) Unless designed using an approved risk-based analysis, the design freeboard of a levee to be constructed or reconstructed must be appropriately increased when any of the following conditions exist:

(i) High velocity streamflow.

(ii) Excessive wave action.

(iii) Excessive hydrologic, hydraulic, or geotechnical uncertainty in the levee design parameters.

(C) Unless designed using an approved risk-based analysis, levees within one hundred (100) feet of a bridge, or other structure which may constrict floodflows, must have one (1) foot of additional freeboard.

(b) Unreinforced pavement is not permitted on levee slopes.

(c) Pavement for roadways and similar uses is permitted within ten (10) feet of the levee toe.

(d) Pavement within ten (10) feet of the landside levee toe must have appropriate features that intercept seepage and prevent particle migration.

(e) Levee seepage control facilities (e.g., toe drains and toe ditches) must meet the following requirements:

(1) The seepage control facilities must be designed by a civil engineer.

(2) All studies and calculations relating to design and maintenance of the seepage control facility must be submitted to the board with the permit application.

(3) The appropriate rights-of-way for the seepage control facilities must be included in the levee easements.

(f) See Figure 8.01 for illustrated details, dimensions, and terminology for levees and floodways.

(g) If a proposed project which includes levee improvements would result in substantial residential development within an area that without the levee improvements would be subject to the Federal Emergency Management Agency's regulatory 100-year flood plain constraints, the board may require the permittee to mitigate for any increased average annual flood damage by increasing the level of protection provided by the levee improvement project, up to and including the Standard Project Flood.

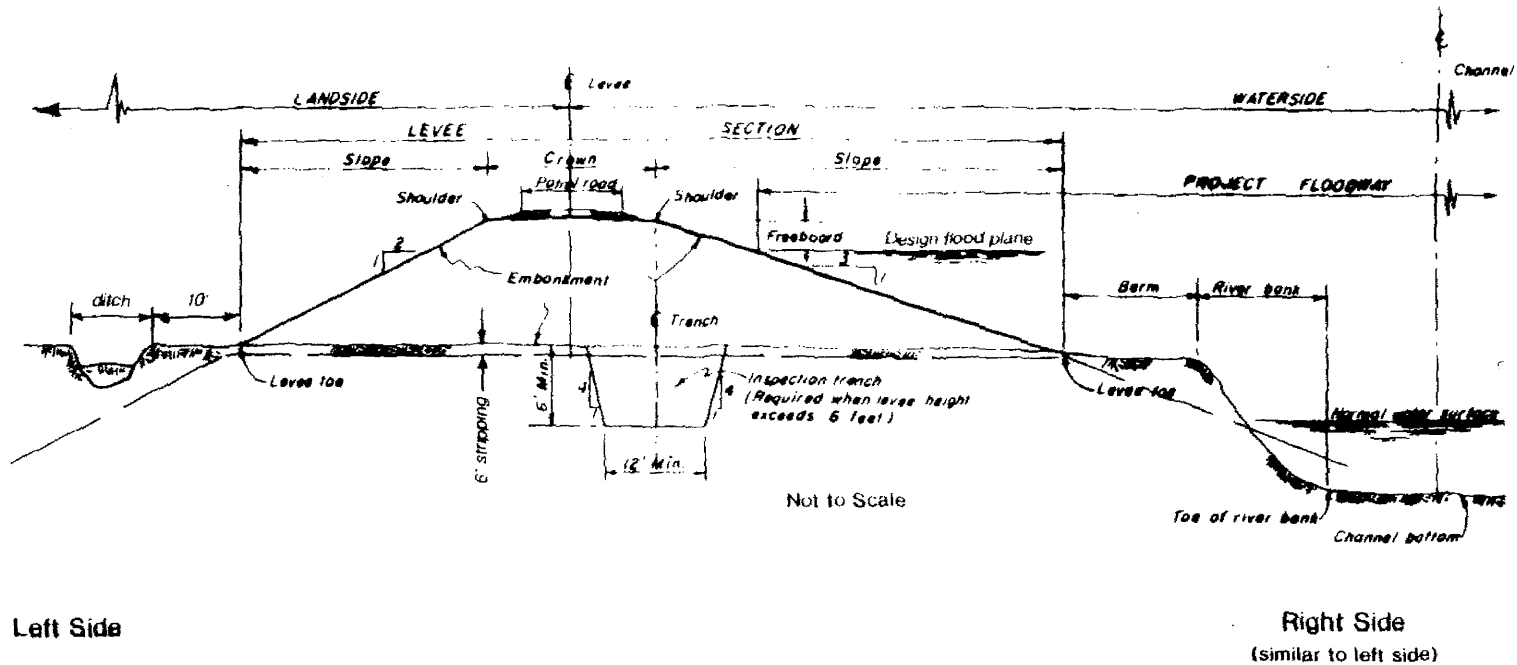
NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8608, 8609 and 8710, Water Code.

#### HISTORY

1. New section and figure 8.01 filed 9-30-96; operative 10-30-96 (Register 96, No. 40).

2. Amendment of subsections (a)(5) and (a)(22) filed 12-1-2009; operative 12-31-2009 (Register 2009, No. 49).

Typical Floodway Looking Downstream



Left Side

Right Side  
(similar to left side)

ITEM	MINIMUM DIMENSIONS OF STANDARD LEVEE SECTIONS			
	MAIN RIVER CHANNELS	MAJOR TRIBUTARIES	MINOR TRIBUTARIES	BY PASSES
CROWN WIDTH	20'	20'	12'	20'
LAND SLOPE	1 on 2	1 on 2	1 on 2	1 on 2
WATER SLOPE	1 on 3	1 on 3	1 on 3	1 on 3
FREEBOARD	3' (1)	3'	3'	4' to 6'
PATHOL ROAD WIDTH	12'	12'	10'	12'
NOTE (1) 5 Feet on Main Channel below Cache Slough (Sacramento River)				

Figure 8.01

§ 121. Erosion Control.

(a) Quarry stone, cobblestone, or their equivalent may be used for erosion control along rivers and streams if the material meets the criteria below. Typical sections delineating methods of placement and dimensions of revetment using rock and sacked concrete are shown in Figures 8.02 and 8.03.

(1) Bedding materials must be placed under the stone protection at locations where the underlying soils require such material for stabilization, considering such factors as tidal fluctuation, wave action, and streamflow velocity.

(2) Cobblestone protection must be placed on prepared slopes of three (3) feet horizontal to one (1) foot vertical or flatter.

(3) Cobblestone protection, having acceptable cobblestone gradations, may be used where streamflow velocities ten (10) feet from the bank do not exceed eight (8) feet per second.

(4) Quarry stone protection must be placed on prepared slopes steeper than three (3) feet horizontal to one (1) foot vertical.

(5) Quarry stone protection, meeting required gradations and sizes, may be used at locations where streamflow velocities ten (10) feet from the bank do not exceed twelve (12) feet per second.

(6) Required gradations of cobblestone and quarry stone are as follows:

<i>Cobblestone</i>		<i>Quarry stone</i>	
<i>Stone Size</i>	<i>Percent Passing</i>	<i>Stone Size</i>	<i>Percent Passing</i>
15"	100	15"	100
10"	55 to 95	8"	80 to 95
8"	35 to 65	6"	45 to 80
6"	10 to 35	4"	15 to 45
3"	1 to 5	2"	0 to 15

(7) Graded cobblestone and quarry stone must be placed in a manner which avoids segregation.

(8) Where streamflow velocities ten (10) feet from the bank exceed twelve (12) feet per second, special cobble or quarry stone gradation is required. Flow retarding structures, such as retards, wing dams, and rock groins may be permitted at these high streamflow velocity sites.

(9) Alternative bank protection materials may be permitted by the board. Possible alternatives include but are not limited to: sacked concrete; broken concrete free of projecting steel; reinforced concrete; precast concrete cribbing; and stone-filled gabion baskets.

(10) Broken concrete used for levee revetment may be no larger than sixteen (16) inches at its maximum dimension.

(11) Asphalt or other petroleum-based products may not be used as fill or as erosion control on a levee section or within a floodway.

(12) The minimum thickness of revetment is eighteen (18) inches perpendicular to the bank or levee slope below the usual water surface and twelve (12) inches above the usual surface.

(13) Revetment must be uniformly placed and properly transitioned into the bank, levee slope or adjacent revetment.

(b) When revetment is proposed by an applicant but not required by the board, the standards relating to revetment bedding, gradation, size, shape and thickness are recommended but not required.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8608, 8609 and 8710, Water Code.

HISTORY

1. New section and figures 8.02 and 8.03 filed 9-30-96; operative 10-30-96 (Register 96, No. 40).



### Erosion Control - Rock

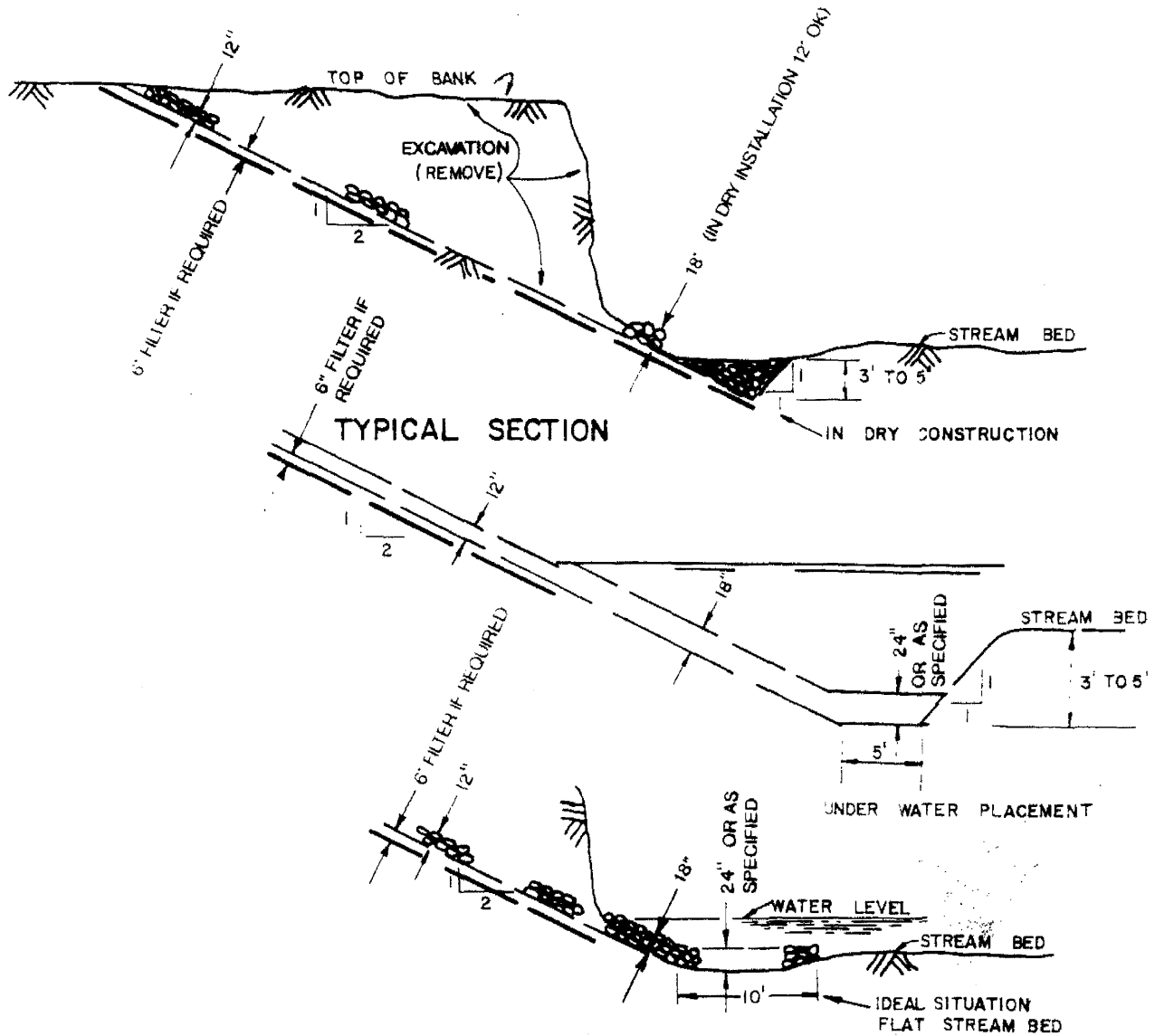


Figure 8.02

### Sacked Concrete

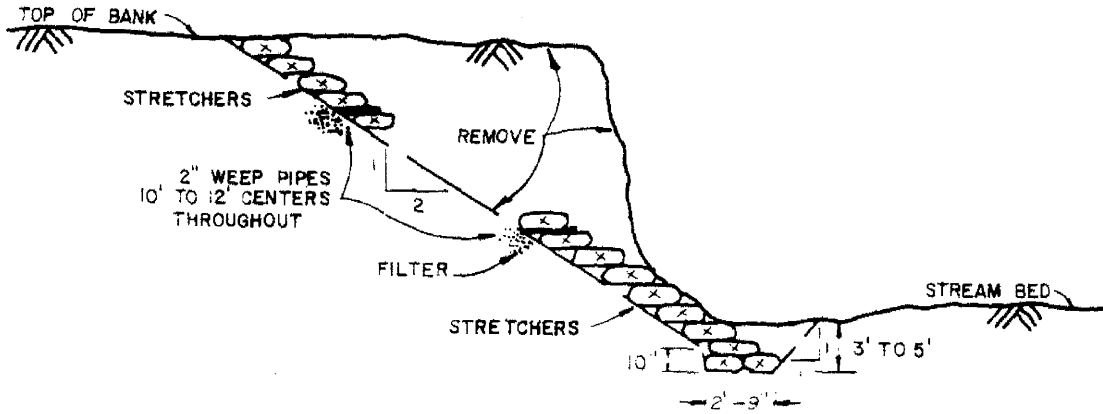


Figure 8.03

### § 122. Irrigation and Drainage Ditches, Tile Drains, and Septic Systems.

(a) Irrigation ditches, drainage ditches, and similar facilities must satisfy the following criteria:

- (1) All ditches must be located at least ten (10) feet from the levee toe.
- (2) The bottom of any agricultural ditch must be located above the projected levee slope. Accordingly, a deep ditch may need to be located farther than the minimum ten (10) feet from the levee toe. (See Figure 8.01.)

(b) Tile drains, septic systems, and similar facilities must satisfy the following criteria:

- (1) All tile drains, septic tanks, or leach fields must be located at least ten (10) feet from the levee toe.
- (2) The bottom of any tile drain, septic tank, or leach field must be located above the projected levee slope.
- (3) Positive closure valves may be required on a tile drain pipeline to prevent backflow.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8608 and 8710, Water Code.

#### HISTORY

1. New section filed 9-30-96; operative 10-30-96 (Register 96, No. 40).

### § 123. Pipelines, Conduits, and Utility Lines.

(a) The following definitions apply to this section:

(1) Delta Lowlands. "Delta Lowlands" means those lands within the Sacramento-San Joaquin Delta that are approximately at the five- (5) foot contour and below as shown in Figure 8.04.

(2) Delta Uplands. "Delta Uplands" means those lands within the Sacramento-San Joaquin Delta that are above the five- (5) foot contour as shown in Figure 8.04.

(b) Pipelines, conduits, utility lines, and appurtenant structures must conform to the following criteria:

(1) Pipelines, conduits, utility lines, utility poles, and appurtenant structures may not be installed within the levee section, within ten (10) feet of levee toes, or within the floodway during the flood season unless authorized by the General Manager based on reservoir levels, stream levels, and forecasted weather conditions on a case-by-case basis, pursuant to section 11.

(2) Appurtenant structures such as standpipes, utility poles, distribution boxes, guy wires, and anchors, but not including siphon breakers, are generally not permitted in or below the levee crown, on the levee slopes, or within ten (10) feet of the levee toes. Appurtenant structures may be permitted where they will not interfere with levee maintenance or flood fight activities.

(3) Appropriate, visible markers acceptable to the local maintaining agency may be required to identify the location of buried pipelines, conduits, and utility lines. A siphon breaker or other visible appurtenance may be considered an acceptable marker for the attached buried line. Markers must be made of durable, long lasting, fire-resistant material, and must be maintained by the permittee until the pipeline, conduit or utility line is properly abandoned.

(4) Pipelines, conduits, and utility lines that pose a threat or danger to levee maintenance or flood fight activities, such as high-voltage lines, gas lines, and high pressure fluid lines, must be distinctively labeled to identify the contents.

(5) Buried high-voltage lines of greater than twenty-four (24) volts are required to be protected with schedule 40 PVC conduit, or equivalent.

(6) Overhead electrical and communication lines must have a minimum vertical clearance above the levee crown and access ramps of twenty-one (21) feet for lines carrying 750 volts or less, and twenty-five (25) feet for lines carrying higher voltage.

(7) Fluid- or gas-carrying pipelines installed parallel to a levee must be a minimum distance of ten (10) feet from the levee toe and, where practical, may not encroach into the projected levee slope.

(8) Low-voltage electrical or communication lines of twenty-four (24) volts or less may be installed parallel to a levee and within ten (10) feet of the levee toe when it is demonstrated to be necessary and to not interfere with the integrity of levee, levee maintenance, inspection, or flood fight procedures.

(9) The board may require the applicant to have any pipelines, conduits, utility lines and appurtenant structures designed by a registered civil engineer.

(c) Pipelines, conduits, and utility lines installed within the floodway must conform to the following additional conditions:

(1) Pipelines, conduits, and utility lines installed within the floodway must have a minimum cover of five (5) feet beneath the low-water channel, and a minimum of two (2) feet in the remaining area of the floodway. A greater depth of cover may be required based upon the feasibility of achieving the required cover or local soil stability and channel hydraulics.

(2) Open-trench backfill to cover pipes must be placed in a manner consistent with floodway characteristics such as erosion, deposition, and streamflow velocities. This requirement is generally ensured by using suitable material and compacting to the density of adjacent undisturbed material. Compaction tests by a certified soils laboratory may be required.

(3) In general, any standard material may be used for pipelines or conduits to be installed within the floodway ten (10) feet or more from the levee toe or the projected levee slope.

(4) All debris that accumulates around utility poles and guy wires within the floodway must be completely removed following the flood season and immediately after major accumulations.

(5) Pipelines and conduits which are open to the waterway and which could cause flood damage from uncontrolled backflow during the design flood event shall have a readily accessible positive closure device. A flap gate is not a positive closure device.

(d) Pipelines, conduits, and utility lines installed through a levee must conform to the following additional conditions:

(1) The installation of a fluid- or gas- carrying pipeline in a levee section or within ten (10) feet of the toe parallel to the centerline is not permitted.

(2) Pipelines, conduits, and utility lines must be installed through a levee as nearly at a right angle to the levee centerline as practical.

(3) Buried pipelines, conduits, and utility lines that do not surface near the levee toes must have location markers near both levee toes.

(4) Buried pipelines, conduits, and utility lines that cross the levee at right angles must have a location marker located on the levee slope adjacent to either shoulder.

(5) Buried pipelines, conduits, and utility lines that cross the levee at other than right angles must have location markers on the levee slopes adjacent to each shoulder.

(6) Pipelines carrying gas or fluids under pressure must be confirmed free of leaks during construction by pressure tests, X-ray, or equivalent methods, and must be tested anytime after construction upon request of the board.

(7) Pipelines carrying gas or fluids under pressure must have a readily accessible rapid closure device located within ten (10) feet of the landside levee toe.

(8) Pipelines and conduits open to the waterway must have a readily accessible positive closure device unless it can be demonstrated it is not necessary. A flap gate is not a positive closure device.

(9) The side slopes of trenches excavated for the installation of pipelines, conduit, or utility lines may be no steeper than one (1) foot horizontal to one (1) foot vertical. The following are exceptions to this maximum slope requirement:

(A) For shallow installations above the flood plane, e.g., twelve (12) inches, vertical side slopes may be allowed.

(B) For that portion of the trench above the design freeboard, vertical side slopes may be allowed.

(10) The bottom width of trenches excavated for the installation of a pipeline, conduit, or utility line must be two (2) feet wider than the diameter of the pipeline or conduit, or two (2) times the pipe diameter, whichever is greater.

(11) The minimum cover for pipelines, conduits, and utility lines installed through the levee crown is twenty-four (24) inches. If it becomes necessary to raise a levee crown to provide minimum cover, the longitudinal slope of the crown must be a minimum of ten (10) feet horizontal to one (1) foot vertical. Where twenty-four (24) inches of cover is not practical, a concrete or other engineered cover is required.

(12) The minimum cover for pipelines, conduits, and utility lines installed within the levee slope is twelve (12) inches. Where the installation will not interfere with levee maintenance or flood fight activities, it may not be necessary to bury the line within the levee slopes.

(13) When practical, pipelines, conduits, and utility lines installed within a levee section must be separated from parallel pipelines, conduits, and utility lines by a minimum of twelve (12) inches, or the diameter of the largest pipeline, conduit, or utility line, whichever is larger, to a maximum of thirty-six (36) inches.

(14) When practical, pipelines, conduits, and utility lines must have a minimum vertical spacing of six (6) inches when crossing other pipelines, conduits, or utility lines.

(15) A siphon breaker with a protective housing may be required and must be installed off the levee crown roadway where it will not interfere with levee maintenance.

(16) Electrical and communication lines installed through a levee or within ten (10) feet of a levee toe must be encased in schedule 40 PVC conduit or equivalent. Low-voltage lines (24 volts or less) and fiber optic cable may be allowed without conduit if properly labeled.

(17) A standard reinforced concrete U-wall for levee erosion protection is required at the outlet end of a pipeline or conduit discharging within ten (10) feet of a levee toe. See Figures 8.05 and 8.06 for U-Wall design criteria.

(18) Existing levee erosion protection must be restored by the permittee if it is damaged during the installation of a pipeline, conduit, or utility line.

(19) The permittee must replant or reseed levee slopes to restore sod, grasses or other nonwoody ground covers that are destroyed or damaged during the installation of a pipeline, conduit, or utility line.

(20) Within the levee or within ten (10) feet of levee toes, any excavation for the installation of a pipeline, conduit, or utility line must be back-filled in four (4) to six- (6) inch layers with approved material and compacted to a relative compaction of not less than ninety (90) percent, per ASTM D1557-91, dated 1991, which is incorporated by reference and above optimum moisture content or ninety-seven (97) percent, per ASTM D698-91, dated 1991, which is incorporated by reference and at or above optimum moisture content. Compaction tests by a certified soils laboratory will be required to verify compaction of backfill within a levee.

(21) Boring a pipeline or conduit through a levee is permitted if the following additional conditions are met:

(A) The invert of the pipeline or conduit must be located at least three (3) feet above the design flood plane.

(B) The pipeline or conduit must be butt-welded. Polyethylene pipes may be used as provided in subdivisions (f)(4)(A), (f)(4)(B), and (f)(4)(C) of this section.

(C) The pipeline or conduit must be installed by the bentonite boring method or equivalent. The bentonite boring method uses an auger followed by a pipe with multiple port openings through which a bentonite slurry is pumped to ensure sealing of any voids resulting from the boring process.

(e) Pipelines, conduits, and utility lines may be installed by the open cut-method through a levee below the design flood plane, or within the levee foundation under the following conditions:

(1) One or more of the following conditions must apply:

(A) The pipeline, conduit, or utility line will be maintained by a public agency with a history of good maintenance based upon annual maintenance or inspection reports.

(B) The levee is designed to withstand a depth of less than six (6) feet of water measured with respect to the elevation of the landside levee toe.

(C) The levee is designed to withstand a depth of less than twelve (12) feet of water measured with respect to the elevation of the landside levee toe and provides flood protection for a rural area, or an area where the board anticipates little future urban development.

(2) Pipelines open to the waterway must be a minimum of thirty (30) inches in diameter, and must have a readily accessible positive closure device installed on the waterward side.

(3) Seepage along pipelines, conduits, and utility lines must be prevented by either of the following methods:

(A) The pipeline, conduit, or utility line is encased in reinforced concrete cast against firm undisturbed earth.

(B) The conduit has reinforced concrete battered walls at an inclination of one (1) foot horizontal to four (4) feet vertical or flatter.

(4) The work must commence and be completed prior to the flood season.

(5) Levees located within the Sacramento-San Joaquin Delta lowlands may only be cut below the design flood plane after appropriate engineering studies are performed and approved.

(f) Pipelines, conduits, and utility lines may be installed under a levee or stream channel by tunneling, jacking, or boring, if the following conditions are met:

(1) The pipeline, conduit, or utility line is at least thirty (30) feet under the levee.

(2) The pipeline, conduit, or utility line is verified to have the required cover. A greater depth of cover may be required based upon the feasibility of achieving the required cover or on local soil stability and channel hydraulics.

(3) If the installation is to be more than fifty (50) feet below the levee and the entire floodway and streambed, the board may waive the requirement for a permit provided a letter of intent is filed with the board prior to commencement of the project.

(4) The portal and outlet of a tunnel, jacking, or boring must be a minimum distance of ten (10) feet beyond the projected levee slope without an approved stability and seepage analysis.

(5) Installation may occur during the flood season and when the water surface elevation in the floodway is expected to be above the elevation of the landside levee toe if adequate containment cells are constructed at the portal and outlet.

(6) The installation of a pipeline, conduit, or utility line under levees in the Sacramento-San Joaquin Delta lowlands requires adequate containment cells at the portal and outlet when the installation is less than fifty (50) feet below the streambed and levee toes.

(7) Pipelines carrying gas or fluids under pressure below a levee must have provision for rapid closure.

(8) Pipelines and conduits open to the waterway and below a levee must have a positive closure device which is accessible at all times unless it is demonstrated to be unnecessary. A flap gate is not a positive closure device.

(g) The following pipe materials are allowed within a levee section when designed to resist all anticipated loading conditions and properly installed:

(1) Galvanized iron pipe is allowed if all joints are threaded. Galvanized iron pipe joints must be corrosion protected with PVC tape or polyethylene tape wrapped to a thickness of thirty (30) mils or equivalent.

(2) Schedule 80 polyvinyl chloride (PVC) pipe is allowed if it is entirely buried, all joints are threaded and the components were continually protected from ultraviolet radiation damage or were newly manufactured.

(3) Polyvinyl chloride (PVC) plastic pipe schedule 40, or better, may be used as a conduit for power or communication cables.

(4) High-density polyethylene pipe may be used for pipeline or conduit installations provided the following conditions are met:

(A) High-density polyethylene pipeline or conduit joints must be heat or electrofusion welded (ASTM Standard F1055-93, dated 1993 or D3261-93, dated 1993 which is incorporated by reference).

(B) High-density polyethylene pipelines and conduits must be designed to resist all anticipated loading conditions, and the design calculations must be submitted to the board.

(C) High-density polyethylene pipelines and conduits must be ultraviolet radiation protected.

(5) Cast-in-place reinforced concrete pipes and box culverts may be used above and below the design flood plane if the concrete is at least six (6) inches thick.

(6) Precast reinforced concrete pipes and box culverts and concrete cylinder pipes may be used above and below the design flood plane if the following conditions are met:

(A) Precast reinforced concrete pipe meets ASTM Specification C76-90, dated 1990 which is incorporated by reference.

(B) Precast reinforced concrete pipe joints and precast box culvert joints are encased in reinforced concrete cast-in-place against firm undisturbed earth.

(C) The cylinders of concrete cylinder pipes are welded and corrosion protected internally and externally.

(D) When installed below the design flood plane, precast reinforced concrete pipe and concrete cylinder pipe must be encased below the springline in concrete cast against undisturbed earth.

(7) Steel pipe may be used for all types of pipeline or conduit installations through a levee above the design flood plane if the pipe meets the following requirements:

(A) The steel pipe is resilient and not materially reduced in quality due to weathering, prior use or other deteriorating conditions.

(B) The steel pipe joints are butt-welded or threaded.

(C) The steel pipe installations are corrosion-proofed externally with a coating of material such as coal-tar enamel, asphalt-dipped wrap, mortar, PVC tape, or polyethylene tape wrapped to a thickness of thirty (30) mils, high solids epoxy, or equivalent.

(D) Unless a continuous internal lining of cement, mortar, or equivalent is provided, as appropriate for the fluid to be conveyed, new steel pipe installations may convey only non-corrosive material, and water is considered corrosive.

(E) Steel pipe installations must be designed to resist all anticipated loading conditions, and the design calculations must be submitted to the board. Steel pipe meeting the following criteria may be used without submittal of design calculations to the board:

(i) Twelve- (12) inches in diameter or less ten- (10) gauge steel pipe.

(ii) Greater than twelve- (12) inches and a maximum of thirty- (30) inches in diameter seven- (7) gauge steel pipe.

(iii) Greater than thirty- (30) inches and a maximum of forty-eight (48) inches in diameter three- (3) gauge steel pipe.

(h) The following materials are not allowed for pipelines or conduits used to carry natural gas or fluids:

(1) Aluminum pipe within a levee section or within ten (10) feet of levee toes.

(2) Cast iron pipe within a levee section or within ten (10) feet of levee toes.

(3) Pipe with flanges, flexible couplings, or other mechanical couplings within a levee section or within ten (10) feet of levee toes.

(4) Prestressed concrete pipe within a levee section or within ten (10) feet of levee toes.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8608, 8710 and 8712, Water Code.

#### HISTORY

1. New section and figures 8.04, 8.05 and 8.06 filed 9-30-96; operative 10-30-96 (Register 96, No. 40).

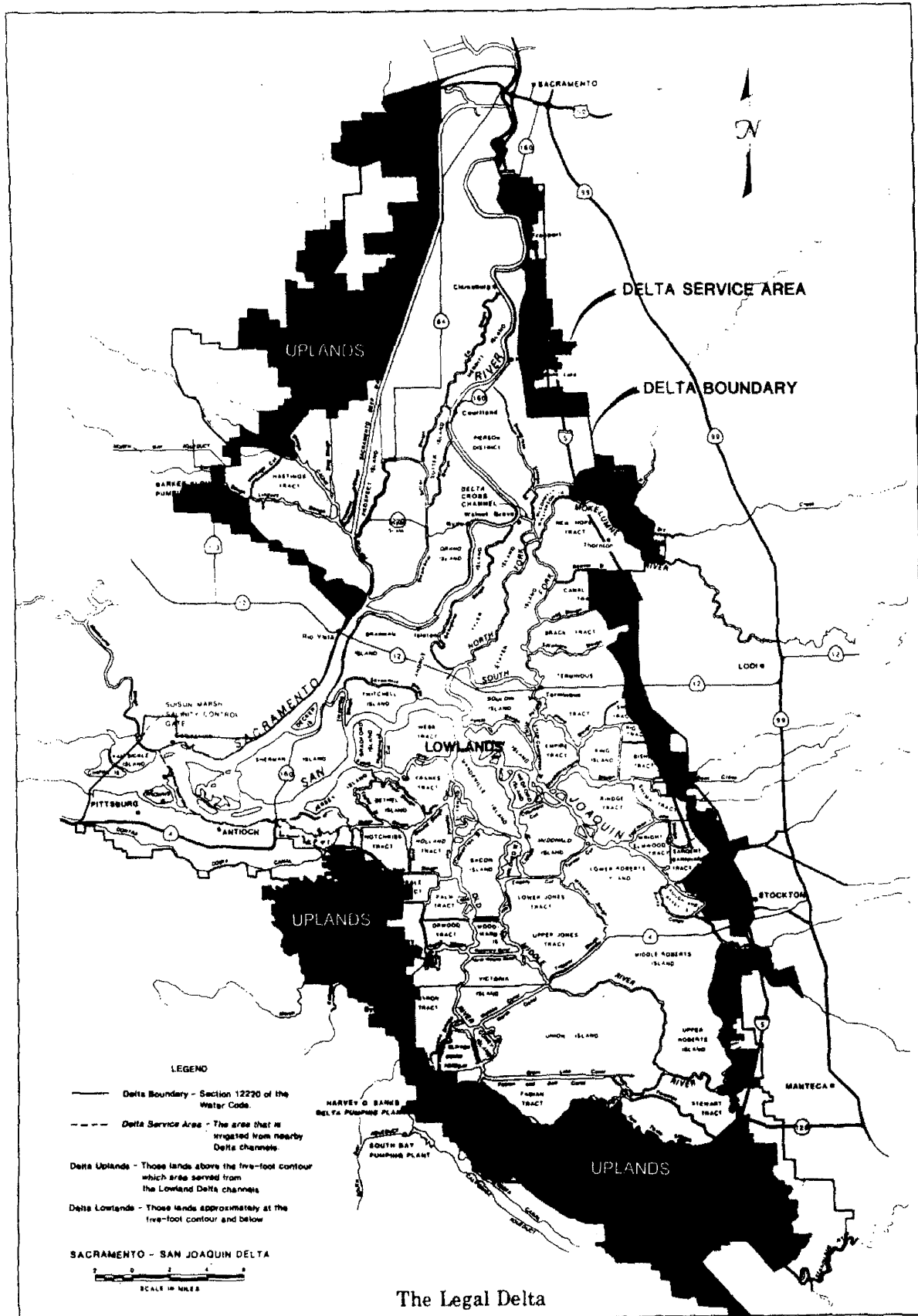
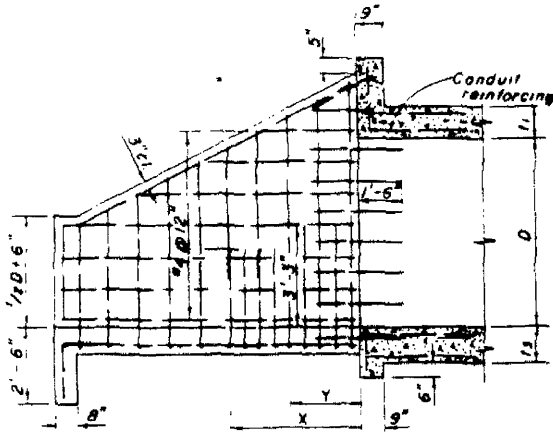


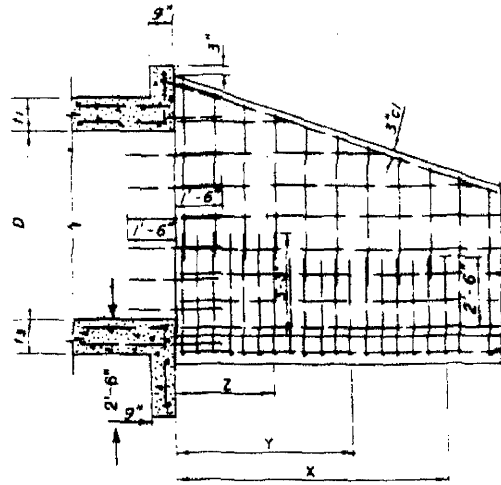
Figure 8.04



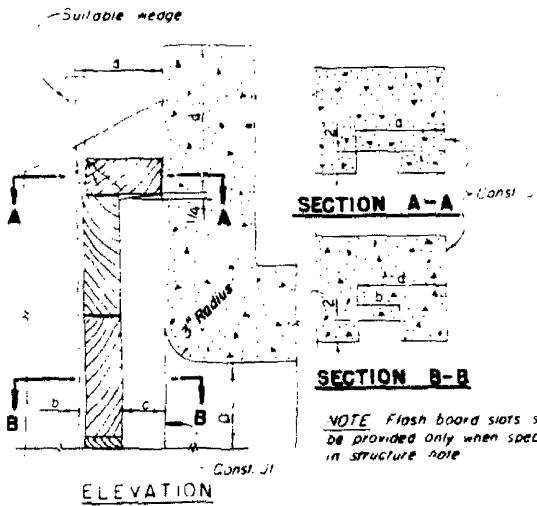
**"U" Wall Reinforcing, Gate Riser and Flashboard Detail  
Below Flood Plane - Reinforced Concrete Box**



LANDSIDE "U" WALL REINFORCEMENT

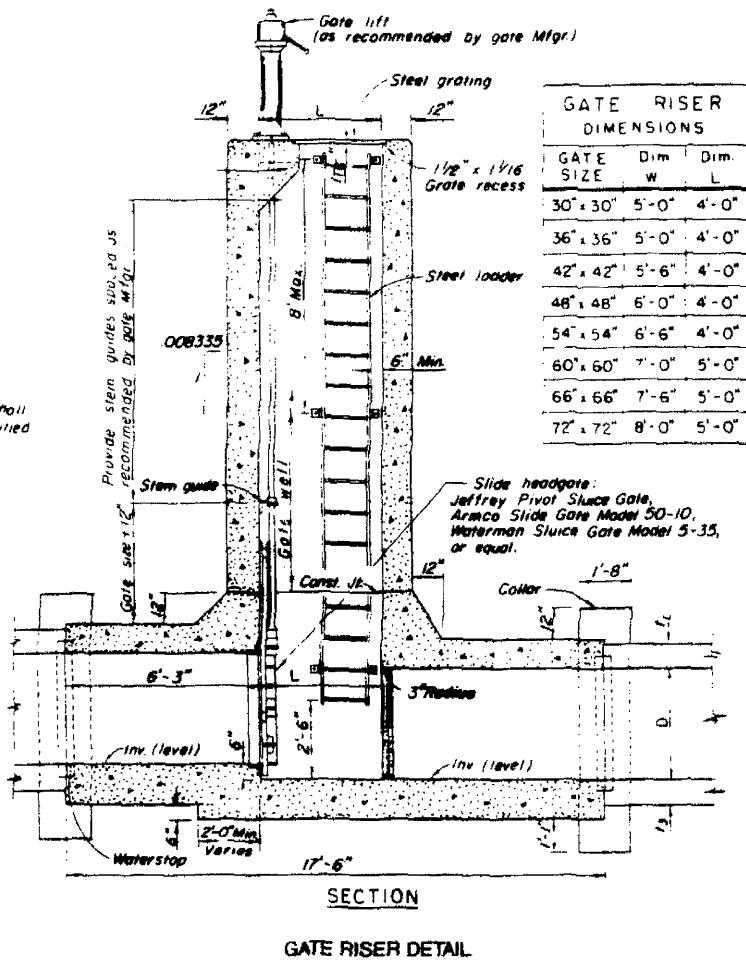


WATERSIDE "U" WALL REINFORCEMENT



FLASHBOARD SLOT DETAILS

FLASH BOARD SLOT AND BOARD DIMENSIONS						
D	a	b	c	d	Furnish Boards	Length
30"	6 1/2"	2 1/8"	4 3/8"	1'-2"	4'-2" x 12" and 1'-2" x 6"	3'-9 1/2"
36"	6 1/2"	2 1/8"	4 3/8"	1'-2"	4'-2" x 12", 1'-2" x 10", 1'-2" x 8", 1'-2" x 6"	4'-3 1/2"
42"	6 1/2"	2 1/8"	4 3/8"	1'-2 1/2"	5'-2" x 12" and 1'-2" x 6"	4'-9 1/2"
48"	8 3/8"	4 1/8"	4 1/2"	1'-1"	5'-4" x 12" and 2'-4" x 8"	5'-3 1/2"
54"	8 3/8"	4 1/8"	4 1/2"	1'-3"	6'-4" x 12" and 1'-4" x 8"	5'-9 1/2"
60"	8 3/8"	4 1/8"	4 1/2"	1'-1 1/2"	6'-4" x 12" and 2'-4" x 8"	6'-3 1/2"
66"	8 3/8"	4 1/8"	4 1/2"	1'-3"	7'-4" x 12" and 1'-4" x 8"	6'-9 1/2"
72"	8 3/8"	4 1/8"	4 1/2"	1'-2"	7'-4" x 12" and 2'-4" x 8"	7'-3 1/2"



SECTION  
GATE RISER DETAIL

GATE RISER DIMENSIONS			
GATE SIZE	Dim W	Dim L	Dim. L
30" x 30"	5'-0"	4'-0"	
36" x 36"	5'-0"	4'-0"	
42" x 42"	5'-6"	4'-0"	
48" x 48"	6'-0"	4'-0"	
54" x 54"	6'-6"	4'-0"	
60" x 60"	7'-0"	5'-0"	
66" x 66"	7'-6"	5'-0"	
72" x 72"	8'-0"	5'-0"	

Figure 8.08



**§ 124. Abandoned Pipelines and Conduits.**

(a) Abandoned pipelines, conduits, and all appurtenances (such as pumps, standpipes, or positive closure structures) that are located within a levee section, within the projected levee section, or within ten (10) feet of the levee toes shall be completely removed, when practical, and disposed of outside the floodway.

(1) When the invert of an abandoned pipeline or conduit within a levee is above the design flood plane elevation, the pipeline or conduit must be removed.

(2) An abandoned pipeline or conduit located within one (1) foot of the surface of the levee slope shall be removed.

(3) When the invert of an abandoned pipeline or conduit within a levee is six (6) feet or less below the design flood plane elevation, the board may require the removal of the pipeline or conduit.

(4) The side slopes of an excavation to remove an abandoned pipeline or conduit from within a levee must be one (1) foot horizontal to one (1) foot vertical or flatter.

(5) After any pipeline, conduit, or appurtenance is removed from a levee, approved backfill shall be keyed into the levee section with each lift and compacted in four- (4) to six- (6) inch layers with a relative compaction of not less than ninety (90) percent, per ASTM D1557-91, dated 1991, which is incorporated by reference and above optimum moisture content.

(6) Compaction tests by a certified soils laboratory will be required to verify compaction of backfill within a levee or within the projected levee section.

(b) Abandonment of pipelines and conduits within a floodway must be in a manner consistent with the following:

(1) After any pipeline, conduit or appurtenance is removed from a floodway, open-trench backfill must be placed in a manner consistent

with the local conditions. Erosive stream reaches will require methods that compact the backfill to at least the density of that of adjacent soils. Compaction tests by a certified soils laboratory may be required to verify compaction within the floodway.

(2) Abandoned pipelines or conduits within the berm and within thirty (30) feet of the top of the streambank must not be filled with concrete but may be removed if exposed by bank erosion.

(c) If it is determined by the board that it is impractical or detrimental to the levee to remove an abandoned pipeline or conduit from a levee section, the pipeline or conduit must be completely filled with concrete.

(1) Concrete to be used to fill an abandoned pipeline or conduit must be a three- (3) sack cement mix, or equivalent, with aggregate having a maximum size of three-eighths (3/8) inch, and a water content sufficient to produce a six- (6) to eight- (8) inch slump.

(2) A detailed plan for filling an abandoned pipeline or conduit with concrete may be required to be submitted for approval by the board prior to start of work.

(3) A pipeline or conduit to be filled with concrete must have a minimum cover of three (3) feet below the waterward levee slope.

(4) See Figure 8.07 for illustrated details on sealing abandoned pipelines and conduits.

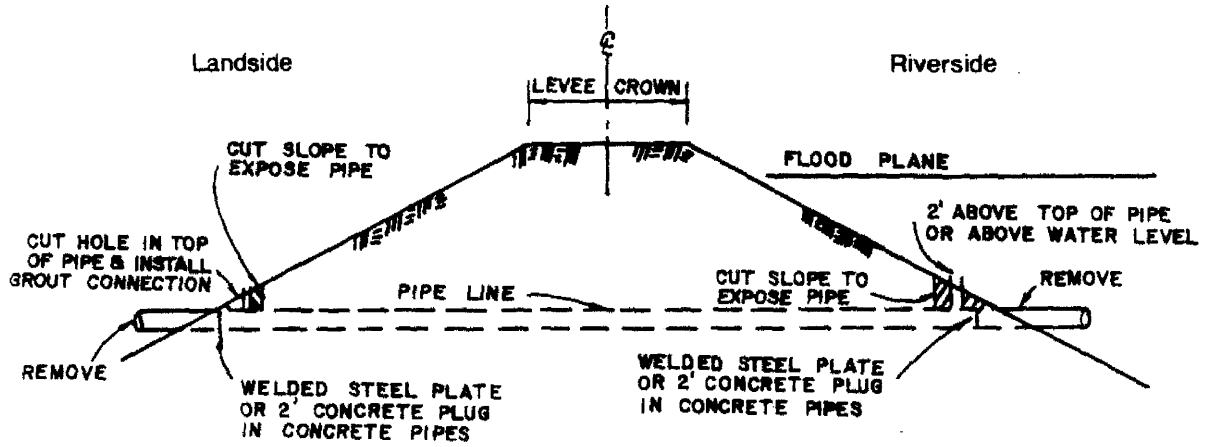
(d) Concrete pipes may be plugged with concrete at each end as an alternative to complete filling. The length of each plug shall be a minimum of two (2) feet or twice the diameter of the pipe, whichever is greater.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8608 and 8710, Water Code.

**HISTORY**

1. New section and figure 8.07 filed 9-30-96; operative 10-30-96 (Register 96, No. 40).

### Sealing Abandoned Pipes



Grouting or concrete fill of abandoned pipes below flood plane

Figure 8.07

**§ 125. Retaining Walls.**

(a) Retaining walls within an adopted plan of flood control must comply with the following requirements:

- (1) Retaining walls greater than three (3) feet in height must be designed by a licensed civil engineer.
- (2) Retaining walls may be of reinforced concrete, concrete gravity section, or of equivalent material and durability.
- (3) Retaining walls in the landside levee slope must have appropriate features that intercept seepage and prevent particle migration.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8606, 8609 and 8710, Water Code.

**HISTORY**

1. New section filed 9-30-96; operative 10-30-96 (Register 96, No. 40).

**§ 126. Fences and Gates.**

(a) Fences within a floodway, on a levee, or near a levee must conform to the following:

(1) Fences, walls, and similar structures are permitted within floodways if they do not obstruct floodflows or cause the accumulation of debris that would obstruct floodflows.

(A) Fences firmly anchored and constructed parallel to the streamflow are normally permitted.

(B) Fences not parallel to the streamflow shall be designed and constructed to not adversely affect stages and velocities.

(2) All fences parallel to a levee must be located a minimum distance of ten (10) feet off the levee toe.

(3) Fences crossing a levee, where permitted, must be installed at a right angle across the levee.

(4) Fences crossing a levee crown must have an opening a minimum of fourteen (14) feet in width or a suitable gate installed on the levee crown.

(5) After January 1, 1998, new fences that are designed to give way during high water events shall not be allowed on the water side of a levee. Fences proposed to be constructed after January 1, 1998 on the water side of a levee that are partially or wholly under water during high water events, and that are located within state maintenance areas within city limits under the jurisdiction of the board, shall be constructed so as to be removable by the permittee in segments during times of high water events as the water level rises up the levee. The permittee shall remove fence segments at its own expense during high water events so that no part of any fence on the water side levee slope is submerged.

(6) Where the distance between fences would be so close as to interfere unreasonably with levee inspection, maintenance and flood fight activities, the board may deny approval for additional fences.

(7) If, in the opinion of the board, a fence becomes unnecessary due to changes in location of public access points or construction of other fences, the permittee must remove the fence at the request of the board.

(b) Gates within a floodway or on a levee must conform to the following:

(1) The gate width on a levee crown must match or exceed the width of the levee crown with a minimum gate width of fourteen (14) feet. A gate width exceeding twenty (20) feet is normally not required. A gate width of twelve (12) feet may be allowed on levees within urban areas if the levee maintenance equipment and any agricultural equipment which must use the gates is less than twelve feet in width.

(2) Cable or chain gates are not permitted across a levee crown or across a levee access ramp.

(3) Gates shall be hinged, and constructed to provide for ease of operation, maximum longevity, and public safety.

(4) Gates may be opened by authorized Department of Water Resources and maintenance personnel and must remain open when required for levee inspections, maintenance, construction, high water patrol, and flood fight activities.

(5) Where the distance between gates would be so close as to unreasonably interfere with levee inspection and maintenance, the board may deny approval for additional gates.

(6) If, in the opinion of the board, a gate becomes unnecessary due to changes in location of public access points or construction of other gates, the permittee must remove the gate at the request of the board.

(7) Keys shall be provided to local the maintaining agency and the Department of Water Resources for all locks on gates providing access to the floodway, levee ramp, levee toe, and along the levee crown.

(c) If the board approves an activity or encroachment that directly or indirectly may result in future unauthorized encroachments (e.g., approving levee modifications associated with a new residential development adjacent to the levee), the board may require the permittee to construct a fence parallel to the levee at a distance of ten (10) feet from the landside levee toe. If a fence is required, it must conform to board standards.

(d) No fence, wall or other barrier may interfere with or preclude legal public access.

NOTE: Authority cited: Sections 8571 and 8709.3, Water Code. Reference: Sections 8608, 8609, 8709.3 and 8710, Water Code.

**HISTORY**

1. New section filed 9-30-96; operative 10-30-96 (Register 96, No. 40).
2. New subsection (a)(5), subsection renumbering, and amendment of NOTE filed 2-13-98 as an emergency; operative 2-13-98 (Register 98, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-15-98 or emergency language will be repealed by operation of law on the following day.
3. New subsection (a)(5), subsection renumbering, and amendment of NOTE refiled 6-11-98 as an emergency; operative 6-11-98 (Register 98, No. 24). A Certificate of Compliance must be transmitted to OAL by 10-9-98 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 6-11-98 order transmitted to OAL 10-2-98 and filed 11-16-98 (Register 98, No. 47).

**§ 127. Boating Facilities.**

(a) The standards for construction of wharves, piers, docks, boat houses, ramps, and similar boating facilities, are as follows:

(1) Boat ramps may not be cut into the levee section, but may be cut into a berm or placed on a fill.

(2) Boating facilities must be properly anchored to prevent breakaway during floodflows. Acceptable anchoring methods are as follows:

(A) Driven piling must meet the following criteria:

(i) Timber piles must be a minimum of twelve (12) inches in diameter and must be pressure treated.

(ii) The elevation of the top of each pile must be a minimum of two (2) feet above the design flood plane.

(B) Concrete deadmen must meet the following criteria:

(i) The concrete deadman must be of sufficient size to restrain the boating facility and be a minimum of one (1) cubic yard of concrete.

(ii) The concrete deadman must be attached to the floating facility with a steel cable, or equivalent, of sufficient size to restrain the facility.

(3) All appurtenant facilities, including utilities and walkways, installed on or through a levee section to provide service to wharves, piers, or docks, must conform to the appropriate section of the standards.

(b) After each period of high water, all debris caught by a boating facility must be cleared and disposed of outside the limits of the floodway and levee section.

(c) In the event that levee or bank erosion injurious to the adopted plan of flood control occurs at or adjacent to a boating facility, the permittee of the boating facility is responsible for the repair of the eroded area, and for the placement of adequate revetment to prevent further erosion.

(d) Any existing levee revetment or bank revetment damaged during the construction or operation of a boating facility must be restored to its original condition by the permittee of the boating facility.

(e) The levee crown may not be used for parking boat trailers or motor vehicles except where there is adequate crown roadway width to provide twenty (20) feet of unobstructed clearance for two-way vehicular traffic.

(f) Boating materials, equipment or accessories may not be stored on levee slopes.

(g) Floatable boating materials, equipment, or accessories must be securely anchored when stored in the floodway during the flood season.

(h) Boating materials, equipment, or accessories may be stored on the levee crown if storage does not prevent adequate inspection and maintenance of the levee, does not obstruct flood fight procedures, and the following additional requirements are met:

(1) There is adequate levee crown roadway width to provide a minimum of twenty (20) feet of unobstructed clearance for two-way vehicular traffic.

(2) Where a public road or highway is on the levee crown, the design width of the roadway, including the roadway shoulders, must remain clear.

(3) Boating materials, equipment, or accessories may not be stored within fourteen (14) feet of the landward levee shoulder.

(4) Boating materials, equipment or accessories may be stored to within fourteen (14) feet of the waterward levee shoulder provided the waterward levee slope is revetted to the standards in section 121.

(5) Boating materials, equipment, or accessories may not be stored within thirty (30) feet of the waterward levee shoulder of a levee having an unrevetted waterward slope.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8608, 8609 and 8710, Water Code.

HISTORY

1. New section filed 9-30-96; operative 10-30-96 (Register 96, No. 40).

**§ 128. Bridges.**

(a) The standards for construction or modification of bridges within an adopted plan of flood control are as follows:

(1) Any excavation within the levee section or near bridge supports within the floodway must be backfilled in four- (4) inch to six- (6) inch layers with approved material. The levee section must be compacted to a relative compaction of not less than ninety (90) percent per ASTM D1557-91, dated 1991, which is incorporated by reference and above optimum moisture content. Compaction within the floodway must be to the density of the adjacent undisturbed material.

(2) Compaction tests by a certified soils laboratory may be required to verify compaction.

(3) Bridge piers and bents within the floodway must be constructed parallel to the direction of streamflow.

(4) Bridge piers and bents placed within a floodway to support a widened portion of an existing bridge must be constructed in line with existing bents and piers.

(5) Erosion control may be required on the channel banks or levee slopes upstream and downstream of a proposed bridge.

(6) Drainage from a bridge or highway may not be discharged onto a levee section or streambank.

(7) Plans showing all construction facilities (such as temporary staging, coffer dams, and falsework) which will remain in a floodway during flood season, must be submitted to the board for approval prior to installation of these facilities.

(8) All construction facilities (such as temporary staging, coffer dams, and falsework) must be designed to prevent bank erosion during normal flows and to maintain maximum channel capacity during the flood season.

(9) Stockpiled material, temporary buildings, construction equipment, and detours that obstruct streamflows must be removed from floodways prior to the flood season.

(10)(A) The bottom members (soffit) of a proposed bridge must be at least three (3) feet above the design flood plane. The required clearance may be reduced to two (2) feet on minor streams at sites where significant amounts of stream debris are unlikely.

(B) When an existing bridge being widened does not meet the clearance requirement above the design flood plane, the bottom structural members of the added section may be no lower than the bottom structural members of the existing bridge, except as may be caused by the extension of existing sloped structural members.

(C) When the clearance requirement above design flood plane would result in bridge approach ramp fill in the floodway, the clearance require-

ment may be reduced to the extent that reasonably balances clearance and fill that would obstruct flow, so as to maintain maximum channel capacity.

(11)(A) Vehicular access from the roadway to the levee crown may be required at each end of a bridge.

(B) Vehicular access from the levee crown to the floodway and/or the landside levee toe beneath the bridge may be required. Ramps may slope upstream as necessary to provide the access required by this subdivision.

(12) Approved gates must be installed at right angles across the levee crown at all points of access to the levee from each end of a bridge.

(13) Any bridge abandoned or being dismantled must be completely removed, and must be disposed of outside the limits of the levee section and floodway.

(14) Pilings, piers, bents, and abutments of bridges being dismantled must be removed to at least one (1) foot below the natural ground line and at least three (3) feet below the bottom of the low water channel.

(15) Any bridge that is damaged to the extent that it may impair the channel or floodway capacity must be repaired or removed prior to the next flood season.

(16) Replacement railroad bridges must have the soffit members no lower than those of the replaced bridge, but are not required to have a specified amount of clearance above the design flood plane.

(17) Bridge replacements and new bridges shall be built at an elevation so that there is no depression in the crown of the levee.

(b) The standards for maintenance of bridges within an adopted plan of flood control are as follows:

(1) The area in and around a bridge site must be kept clear to maintain the design flow capacity.

(2) Trees, brush, sediment, and other debris must be kept cleared from the bridge site and be disposed of outside the limits of the floodway prior to the flood season.

(3) Any accumulation of debris during high flows must be immediately removed from a bridge site and disposed of outside the floodway.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8608, 8609 and 8710, Water Code.

HISTORY

1. New section filed 9-30-96; operative 10-30-96 (Register 96, No. 40).

**§ 129. Water, Oil, and Gas Wells.**

(a) Water wells and any appurtenant structures must be located a minimum distance of ten (10) feet from a levee toe.

(b) Oil wells, gas wells, and any appurtenant structures must be located a minimum distance of thirty-five (35) feet from a levee toe.

(c) Access roads, foundation pads, and stockpiled excavated material within a floodway are normally limited to an elevation of three (3) feet above the natural ground. However, if it is determined by the board that such facilities constructed to the normal elevation would have an adverse effect on the flood-carrying capacity of the floodway, the allowable elevation shall be lower.

(d) Structures and fencing at well sites within the floodway are not permitted without approved hydraulic studies demonstrating that the proposed structure or fence would not impair the floodway.

(e) Permits for water wells require that a survey monument and a permanent bench mark must be installed at the waterside levee toe, as near to the well site as practical, to serve as a vertical control to monitor subsidence.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8608, 8609 and 8710, Water Code.

HISTORY

1. New section filed 9-30-96; operative 10-30-96 (Register 96, No. 40).

**§ 130. Patrol Roads and Access Ramps.**

(a) The following definitions apply to this section:

(1) Access Ramps – “Access Ramps” mean those ramps that provide access to the levee crown from adjacent property and roads.

(2) Patrol Roads – “Patrol Roads” means those roads that provide vehicular access along levee crowns and flood channels for inspection, maintenance, and flood fighting.

(b) Patrol roads must meet the following criteria:

(1) Patrol roads must be surfaced with a minimum of four (4) inches of compacted, class 2 aggregate base (Caltrans Spec. 26–1.02A, July 1992) which is incorporated by reference, or equivalent.

(2) Patrol road surfacing material must be compacted to a relative compaction of not less than ninety (90) percent per ASTM D1557–91, dated 1991, which is incorporated by reference with moisture content sufficient to obtain the required compaction.

(3) Compaction tests by a certified soils laboratory may be required to verify compaction.

(4) Paved patrol roads must meet the design requirements for paved bicycle trails, section 132.

(5) Levee crown surfacing must meet the following additional requirements:

(A) Where the crown width is less than sixteen (16) feet, the minimum surfacing width must be ten (10) feet with a smoothly tapered transition to the edge of the levee shoulder.

(B) Where the crown width is sixteen (16) feet or more, the minimum surfacing width must be twelve (12) feet with a two (2) foot-wide taper at each edge of the surfacing.

(C) The crown roadway must be sloped a minimum of two– (2) percent.

(6) Any patrol road which has been excavated or damaged must be restored to its original condition.

(c) Access ramps are of two common types, head-on or side approach, and must meet the following criteria:

(1) Access ramps must be constructed of approved imported material.

(2) The surfacing for all access ramps must be the same as for patrol roads. Subdivisions (b)(1), (b)(2) and (b)(3) of this section also apply to access ramps.

(3) Any excavation made in a levee section to key the ramp to the levee must be backfilled in four– (4) to six– (6) inch layers with approved material and compacted to a relative compaction of not less than ninety (90) percent per ASTM D1557–91, dated 1991, and above optimum moisture content.

(4) Compaction tests by a certified soils laboratory may be required to verify compaction.

(5) All access ramps must be constructed in such a manner so as to direct all surface drainage away from the levee section.

(6) Approved gates must be installed across access ramps at locations where vehicular access by the public is possible.

(7) Side approach ramps must be used on the waterside levee slope.

(8) Side approach ramps on the waterward slope of the levee must slope downstream.

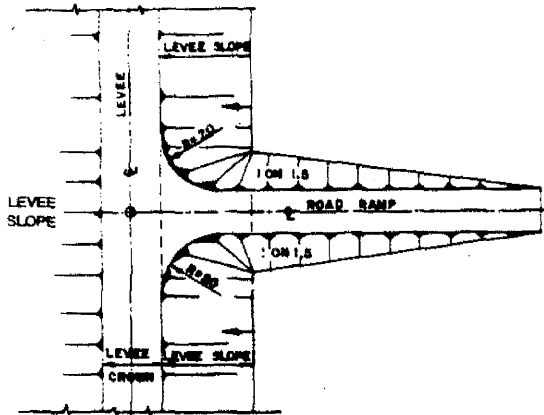
(9) Typical plans for each type of approach ramp with restrictions and requirements are shown on Figures 8.08 and 8.09.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8608 and 8710, Water Code.

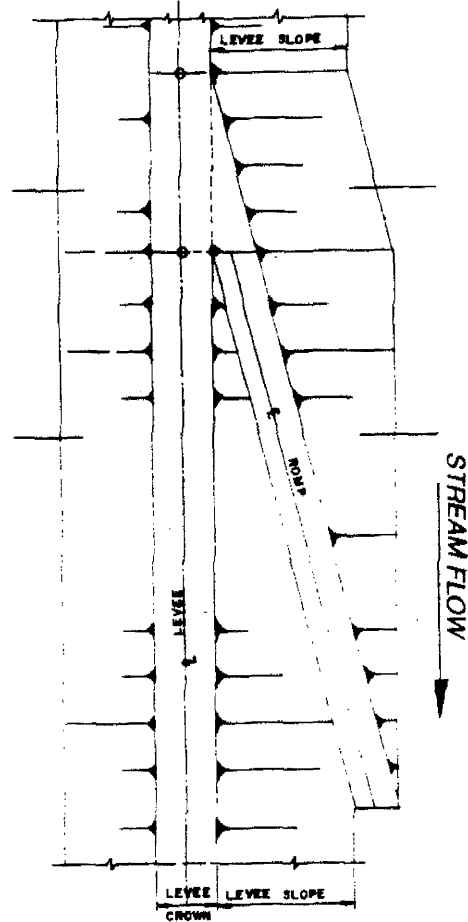
#### HISTORY

1. New section and figures 8.08 and 8.09 filed 9–30–96; operative 10–30–96 (Register 96, No. 40).

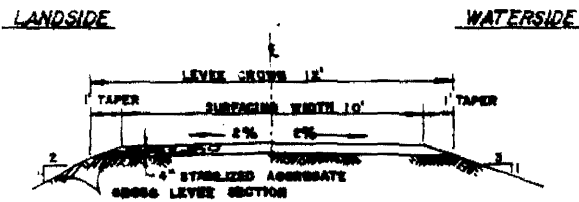
### Access Ramps



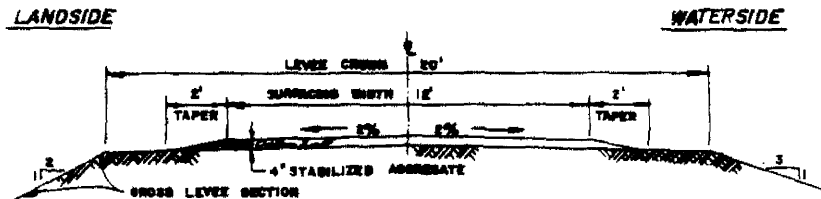
**HEAD-ON APPROACH ROAD RAMP**



**SIDE APPROACH ROAD RAMP**



**LEVEE SURFACING FOR 12' PATROL ROAD**



**LEVEE SURFACING FOR 20' PATROL ROAD**

1. VERTICAL CURVE AT TOP & BOTTOM OF RAMP
2. VERTICAL CURVE TO BE 100 FOOT RADIUS
3. SLOPE OF RAMP TO BE A MINIMUM GRADE OF 5 PERCENT AND A MAXIMUM GRADE OF 10 PERCENT
4. RAMP TO BE SURFACED WITH 4 INCHES OF CLASS 2 AGGREGATE BASE. (CALTRANS SPEC. 26-1.02B)
5. ALL RAMPS GRADED TO DRAIN AWAY FROM LEVEE SECTION

Figure 8.08

### Access Ramp Grading Requirements

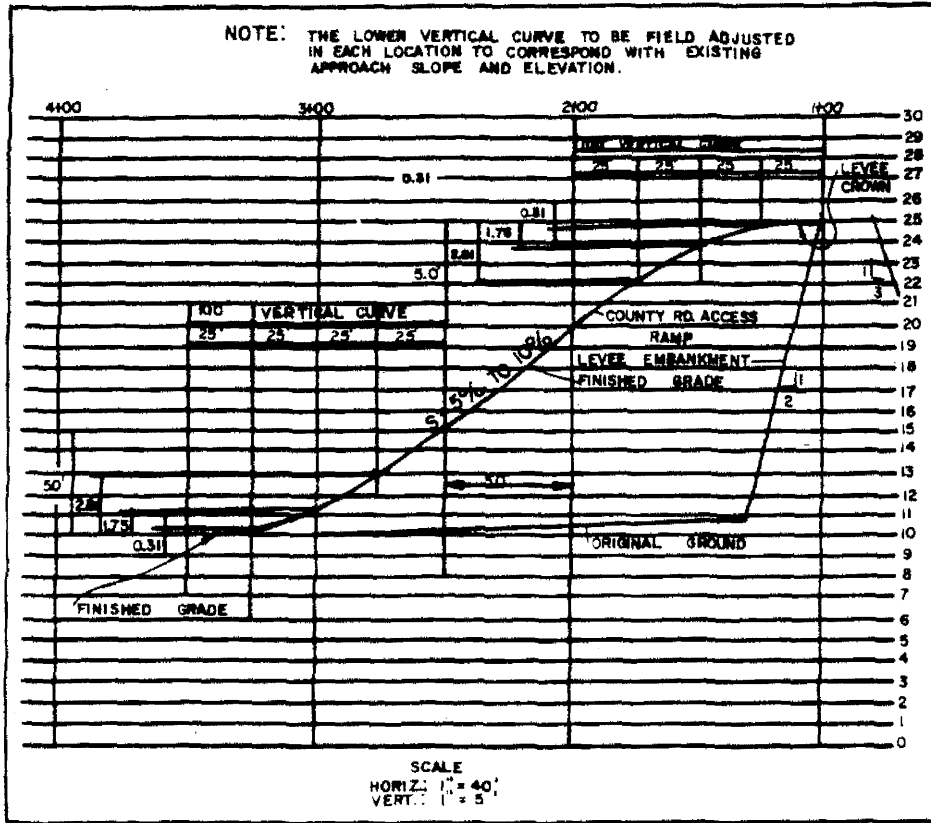


Figure 8.09

**§ 131. Vegetation.**

(a) The following definitions apply to this section:

(1) Oversize levee. "Oversize levee" means a levee which encompasses the minimum oversized levee cross-section which has a width of thirty (30) feet at design freeboard elevation and standard levee slopes. (See Figure 8.10.)

(2) Standard size levee. "Standard size levee" means a levee which does not meet the requirements for an oversize levee.

(3) Standard levee slopes. "Standard levee slopes" means the landside levee slope is two (2) horizontal feet to one (1) vertical foot and the water-side levee slope is three (3) horizontal feet to one (1) vertical foot.

(b) Suitable vegetation, if properly maintained, is permitted within an adopted plan of flood control.

(c) Vegetation must not interfere with the integrity of the adopted plan of flood control, or interfere with maintenance, inspection, and flood fight procedures.

(d) With the exception of naturally occurring vegetation which the owner of the underlying land has no responsibility to maintain, any vegetation which interferes with the successful execution, functioning, maintenance or operation of the adopted plan of flood control, must be removed by the owner. If the owner does not remove such vegetation upon request, the board reserves the right to have the vegetation removed at the owner's expense.

(e) Tables 8.3 through 8.6 indicate common types of vegetation considered suitable and unsuitable for planting on levees. Other types of vegetation, not listed in Tables 8.3 through 8.6, may be approved if determined to be similar to listed suitable species or not detrimental to the integrity, operation, or maintenance of the adopted plan of flood control.

(f) Vegetation and vegetation maintenance standards for levees are as follows:

(1) Vegetation is not permitted on the levee crown roadway. Only properly maintained grasses or suitable ground covers are permitted on other portions of the levee crown.

(2) Vegetation growing on levee slopes but infringing onto the levee crown must be trimmed or sprayed to prevent interference with flood fight, maintenance, or inspection activities.

(3) Tree branches extending above the levee crown or above the area within ten (10) feet of the levee toe, must be pruned to maintain a minimum of twelve (12) feet vertical clearance above the levee crown and above the area within ten (10) feet of the levee toe.

(4) Tree branches above levee slopes must be pruned and maintained so that the distance from the levee slope to the lowest branches, measured normal to the levee slope, is a minimum of five (5) feet.

(5) Trees are not permitted on the crown or slopes of a standard size levee or within ten (10) feet of the toe of a standard or oversize levee. Planted trees must be set back a sufficient distance from the levee toe to conform with the requirements of subdivision (f)(3) of this section throughout the life of the tree.

(6) Trees are permitted on oversize levee slopes according to the following additional criteria:

(A) Trees considered suitable and unsuitable for oversize levees are listed in Tables 8.3 and 8.4 respectively.

(B) Trees which will exceed fifty (50) feet in height when mature are not permitted.

(C) Trees are permitted on the waterside levee slope of oversize levees up to a point five (5) vertical feet below the design flood plane.

(D) Trees that, in the judgment of the board, threaten to disturb revetment on levee slopes or interfere with maintenance must be removed.

(E) Fruit and nut trees are not allowed.

(7) Trees, vines, bushes, shrubs, or any other form of woody or herbaceous vegetation that grow in a dense form and prevent visual inspection of the levee slope and toe, produce fruit or nuts that attract burrowing rodents, or are thorny and could interfere with flood fight efforts, are not permitted on the levee or within ten (10) feet of the levee toe.

(8) Sod, grasses, perennial flowers, and other nonwoody ground covers are permitted on levee slopes and within ten (10) feet of the levee toe if the height of the vegetation does not exceed twelve (12) inches. Ground covers considered suitable and unsuitable on levee slopes and within ten (10) feet of the levee toe are listed in Tables 8.5 and 8.6, respectively. In areas where vehicular access is maintained along the levee toe, ground covers are generally not permitted.

For ground covers with specific maintenance requirements (see Table 8.5):

(A) The permittee is responsible for maintaining the ground cover at a height less than one (1) foot;

(B) The maintaining agency reserves the right to mow the groundcover without prior notification if the height exceeds one (1) foot;

(C) Any irrigation system for the ground cover must be designed to not interfere with mowing;

(D) Ground covers that are required by this subdivision to be mowed are generally allowed only on the upper twenty (20) feet of levee slope.

(9) Thick-stemmed, extremely dense or woody ground covers are not permitted on levee slopes or within ten (10) feet of the levee toe.

(10) Flower gardens where the height of the vegetation does not exceed twelve (12) inches and which are compatible with flood fight procedures, maintenance, and inspection programs are permitted within ten (10) feet of the levee toe.

(g) Vegetation and vegetation maintenance standards for floodways and bypasses are as follows:

(1) Vegetation is permitted within revetment on streambanks unless, in the judgment of the board, it becomes a threat to the integrity of the revetment.

(2) Invasive or difficult-to-control vegetation, whether naturally occurring or planted, that impedes or misdirects floodflows is not permitted to remain on a berm or within the floodway or bypass.

(3) The board may require clearing and/or pruning of trees and shrubs planted within floodways in order to minimize obstruction of floodflows.

(4) Trees and brush that have been cut down must be burned or removed from the floodway prior to the flood season.

(h) Orchards are not permitted within bypasses but may be planted within other floodways in accordance with the following criteria:

(1) If an orchard is abandoned, all trees must be removed and burned or disposed of outside the floodway prior to flood season.

(2) Trees or brush cut prior to planting an orchard must be removed and burned or disposed of outside the floodway prior to flood season.

(3) Orchard cuttings and any debris that may accumulate in the orchard during the flood season must be removed from the floodway, or must be disposed of in such a manner as to leave no floatable debris within the floodway. Cuttings and other debris must regularly be burned or removed and disposed of outside the floodway throughout pruning activities so as to leave no floatable debris within the floodway.

(4) Dead trees, stumps, prunings, or other agricultural debris may not be placed on the levee section or within ten (10) feet of the levee toe.

(5) Tree rows must be parallel to the direction of the overbank flow and may not direct the flow toward the levee.

(6) The spacing between rows must be a minimum of sixteen (16) feet perpendicular to the overbank flow of the stream. The row spacing must be increased if, in the judgment of the board, additional space is necessary for the passage of floodflows.

(i) Vegetable gardens are not permitted on the levee slope. Vegetable gardens may be permitted within ten (10) feet of the levee toe where they will not interfere with maintenance and inspection and meet the following conditions:

(1) No large bushy plants such as corn, tomatoes, grapes and peas are within ten (10) feet of the levee toe;

(2) There is not a maintenance access road along the levee toe;

(3) The adjacent levee slope is not sprayed with herbicide by the maintaining agency; and



(4) The levee is not experiencing burrowing rodent activity. If there is burrowing rodent activity in the immediate vicinity, the vegetable garden permittee shall control the rodents to the satisfaction of the Board or remove the garden.

(j) Irrigation of vegetation on levee slopes must conform to the following criteria:

(1) Permanently installed irrigation systems are permitted on both slopes of oversize levees and on the landside slope of standard size levees.

(2) Surface low pressure drip irrigation systems may be used on either the landside or waterside levee slope.

(3) Any water applied to vegetation on the levee slope by any means must be controlled to prevent erosion of the levee slope.

(4) Ditches may not be dug in the levee section, within ten (10) feet of the levee toe, or within the projected levee section for irrigation or drainage.

(5) Watering basins around trees must be limited to a maximum depth of twelve (12) inches.

(6) Permanently installed irrigation pipes may be buried but may be no deeper than eight (8) inches into the levee slope.

(7) A readily accessible shutoff or control valve is required in the supply line of all irrigation systems. The valve must be located a minimum of ten (10) feet landward of the levee toe and must be clearly identified for levee maintenance or flood fight personnel.

(8) Pipes supplying water to permanently installed sprinkler heads must be of approved material such as galvanized iron, schedule 40 polyvinyl chloride (PVC), class L copper, or equivalent. Aluminum pipe is not permitted.

(k) The board may permit, with appropriate conditions, existing non-conforming vegetation after considering a number of factors, including but not limited to:

(1) Age of vegetation;

(2) Type of vegetation;

(3) Location of vegetation;

(4) Size of vegetation;

(5) Physical condition of vegetation;

(6) Whether the vegetation was planted or is naturally occurring;

(7) Condition of the adopted plan of flood control;

(8) Environmental value of the vegetation; and

(9) Ability to inspect and maintain the levee around the vegetation.

(l) Trees removed from the levee and from within ten (10) feet of the levee shall have all roots larger than one- and one-half (1-1/2) inches in diameter removed for a distance of at least three (3) feet from the tree trunk at ground level and the hole filled with impervious soil compacted in four- (4) to six- (6) inch lifts. Compaction within the levee section shall be a relative compaction of not less than ninety percent (90%), per ASTM D1557-91, dated 1991, which is incorporated by reference. Outside of the levee section, the soil shall be compacted to at least the density of adjacent undisturbed material.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8608, 8609 and 8710, Water Code.

#### HISTORY

1. New section, figure 8.10 and tables 8.2 through 8.5 filed 9-30-96; operative 10-30-96 (Register 96, No. 40).

Oversize Levee Section

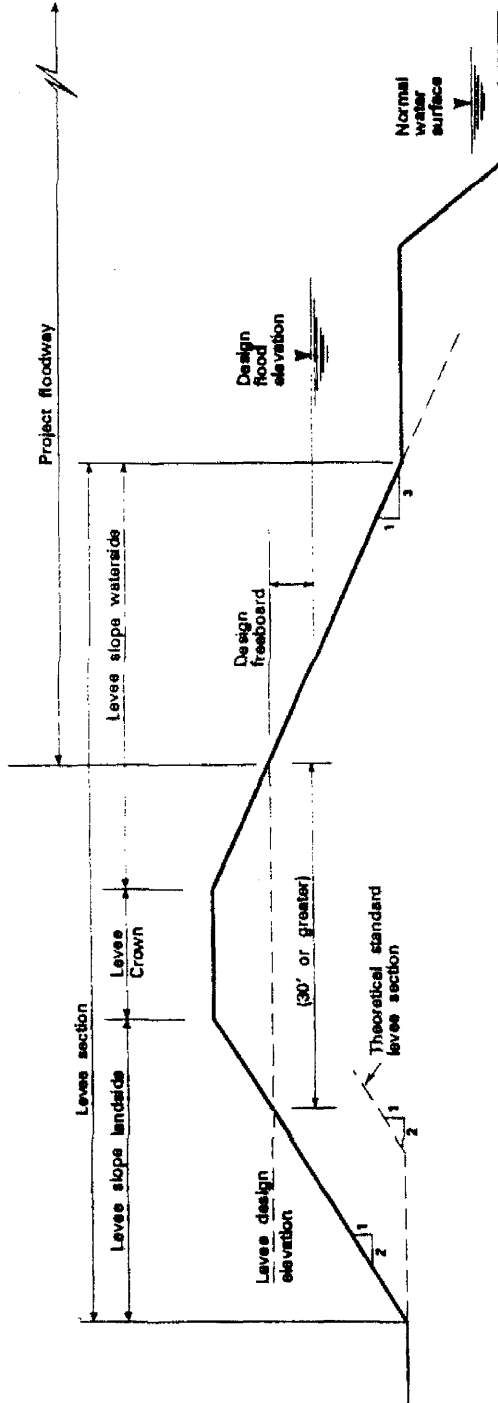


Figure 8.10

Table 8.2  
Partial List of Trees *Suitable* for Oversize Levees

Alder, white	<i>Alnus rhombifolia</i>
Box Elder	<i>Acer negundo</i>
California pepper tree (male only)	<i>Schinus molle</i>
Carob tree (male only)	<i>Ceratonia siliqua</i>
China-berry	<i>Melia azedarach</i>
Chinese pistache	<i>Pistacia chinensis</i>
Coast beefwood	<i>Casuarina stricta</i>
Common catalpa	<i>Catalpa bignonioides</i>
Crape myrtle	<i>Lagerstroemia indica</i>
Dogwood, giant	<i>Cornus controversa</i>
Dogwood, Western	<i>Cornus nuttallii</i>
Fremont cottonwood (male only)	<i>Populus fremontii</i>
Goldenrain tree	<i>Koelreuteria paniculata</i>
Hackberry, Chinese	<i>Celtis sinensis</i>
Hackberry, common	<i>Celtis occidentalis</i>
Hackberry, European	<i>Celtis australis</i>
Maidenhair tree (male only)	<i>Ginkgo biloba</i>
Mayten tree	<i>Maytenus boaria</i>
Montezuma cypress	<i>Taxodium mucronatum</i>
Oak	<i>Quercus spp.*</i>
Pagoda tree	<i>Sophora japonica</i>
Redbud, western	<i>Cercis occidentalis</i>
Redbud, eastern	<i>Cercis canadensis</i>
Sawleaf zelkova	<i>Zelkova serrata</i>
Silk tree	<i>Albizia julibrissin</i>
Strawberry tree	<i>Arbutus unedo</i> or <i>Arbutus "marina"</i>
Tallow tree	<i>Sapium sebiferum</i>
Tupelo	<i>Nyssa sylvatica</i>

\*spp. = species

Table 8.3  
Partial List of Trees *Unsuitable* on Levees

Acacia, Bailey	<i>Acacia baileyana</i>
Acacia, kangaroo thorn	<i>Acacia armata</i>
Almond	<i>Prunus dulcis</i>
Apple, crabapple	<i>Malus spp.*</i>
Apricot	<i>Prunus armeniaca</i>
Ash, Arizona	<i>Fraxinus velutina</i>
Ash, flowering	<i>Fraxinus ornus</i>
Ash, Modesto	<i>Fraxinum velutina "Modesto"</i>
Blue gum	<i>Eucalyptus globulus</i>
Cedar**	<i>Cedrus spp.*</i>
Cherry	<i>Prunus avium</i>
Chinese jujube	<i>Zizyphus jujube</i>
Chinese wingnut	<i>Pterocarya stenoptera</i>
Citrus	<i>Citrus spp.*</i>
Coast redwood	<i>Sequoia sempervirens</i>
Colorado spruce	<i>Picea pungens</i>
Cypress**	<i>Cupressus spp.*</i>
Date palm	<i>Phoenix spp.*</i>
Elm	<i>Ulmus spp.*</i>
Fan palm	<i>Washingtonia spp.*</i>
Fig	<i>Ficus carica</i>
Fir**	<i>Abies spp.*</i>
Giant sequoia	<i>Sequoiadendron giganteum</i>
Grape	<i>Vitis spp.*</i>
Hawthorn	<i>Crataegus spp.*</i>
Incense cedar**	<i>Calocedrus decurrens</i>
Locust	<i>Robinia spp.*</i>
Loquat	<i>Eriobotrya spp.*</i>
Olive	<i>Olea europaea</i>
Osage orange	<i>Maclura pomifera</i>
Peach and nectarine	<i>Prunus perica</i>
Pecan	<i>Carya illinoensis</i>
Persimmon	<i>Diospyros spp.*</i>
Pine**	<i>Pinus spp.*</i>
Plum and prune	<i>Prunus domestica, salicina</i>
Pomegranate	<i>Punica granatum</i>
Quince	<i>Cydonia oblonga</i>
Russian olive	<i>Elaeagnus augustifolia</i>
Salt Cedar	<i>Tamarisk gallica</i>
Tree of heaven	<i>Ailanthus altissima</i>
Walnut	<i>Juglans spp.*</i>

\*spp. = species

\*\*Conifers whose normal mature height is 50 feet or less may be considered desirable under maintenance conditions that (1) protect the tree from drought, and (2) will assure proper pruning of the lower branches.

Table 8.4  
Partial List of Ground Covers *Suitable* on Levees

Aaron's Beard***	<i>Hypericum calycinum</i>
Alyssum	<i>Alyssum spp.*</i>
Basket-of-gold	<i>Aurinia saxatile</i>
Bermuda Grass	<i>Cynodon dactylon</i> "tifgreen" <i>Cynodon dactylon</i> "coastal" <i>Cynodon dactylon</i> "Tufcote"
Blue-eyed grass	<i>Sisyrinchium bellum</i>
California Poppy	<i>Eschscholzia californica</i>
Cape weed	<i>Arctotheca calendula</i>
Creeping wild rye***	<i>Elymus triticoides</i>
English Ivy, miniature***	<i>Hedera helix, hahnii</i>
Garden lippia	<i>Phyla nodiflora</i> <i>Lippia nodiflora</i>
Gazania, trailing***	<i>Gazania spp.*</i>
Green carpet	<i>Herniaria glabra</i>
Lupine, dwarf	<i>Lupinus bicolor</i>
Mexican evening primrose***	<i>Oenothera berlandieri</i>
Palestine orchardgrass	<i>Dactylis glomerata</i> "Palestine"
Salt grass	<i>Distichlis spicata</i>
Spring Cinquefoil	<i>Potentilla tabernaemontanii</i>
Stonecrop	<i>Sedum spp.*</i>
Trailing African daisy	<i>Osteospermum fruticosum</i>
Verbena	<i>Verbena peruviana</i>
Yellow-eyed grass	<i>Sisyrinchium californicum</i>

Table 8.5  
Partial List of Ground Covers and Miscellaneous  
Species *Unsuitable* on Levees

Bamboo	<i>Bambusa spp.*</i>
Blackberry/Raspberry	<i>Rubus spp.*</i>
Broom	<i>Cytisus spp.*</i>
Cactus	<i>Cactaceae spp.*</i>
Century Plant	<i>Agave americana</i>
False Bamboo, Common Reed	<i>Phragmites communis</i>
Freeway Iceplant	<i>Carpobrotus spp.*</i>
Grape	<i>Vitus spp.*</i>
Honeysuckle	<i>Lonicera spp.*</i>
Horsetail	<i>Equisetum hyemale</i>
Ice Plant, Rosea	<i>Drosanthemum floribundum</i>
Ice Plant, trailing	<i>Lampranthus, spectabilis</i>
Ivy, Algerian	<i>Hedera canariensis</i>
Ivy, Persian	<i>Hedera colchica</i>
Ivy, English except miniature or dwarf varieties	<i>Hedera helix</i>
Pampas grass	<i>Cortaderia selloana</i>
Periwinkle	<i>Vinca spp.*</i>
Perla Grass	<i>Phalaris tuberosa</i> var. <i>hirtiglumis</i>
Rose	<i>Rosa spp.*</i>

\*spp. = species

\*spp. = species

\*\*These species have specific requirements for being cut back or otherwise maintained on a regular basis depending on the species.

**§ 132. Bicycle Trails.**

(a) It is the board's policy to permit the construction of paved and unpaved bicycle trails by public agencies on levees and within floodways under the board's jurisdiction, provided that the flood control purpose of the floodway facilities remains primary. Bicycle trails must meet the following general conditions:

- (1) Where feasible, the bicycle trail must be located off of the levee.
- (2) Repair or replacement of the bicycle trail that is damaged during an emergency flood fight procedure, routine maintenance, or any required improvement activity within an adopted plan of flood control must be made by, and at the sole expense of, the permittee or in accordance with an agreement for maintenance between the permittee and a public agency.
- (3) The board and the local flood control maintaining agency retain the right to temporarily close the bicycle trail for improvement, maintenance, or during emergency flood fight activities.
- (4) Bicycle trails within an adopted plan of flood control must be maintained to a level safe for bicycle traffic and acceptable to the local flood control maintaining agency and the Department of Water Resources.

(b) Bicycle trails on a levee section are permitted under the following conditions:

- (1) The permittee shall defend, hold harmless, and indemnify the State of California and the local maintaining agency, and each of their boards, elected officials, officers, employees, and agents against all damages and claims of liability of whatever nature which arise from the use of the levee as a bicycle trail.
- (2) The permittee must submit proposed use restrictions for the bicycle trail, and a plan for enforcement of the restrictions satisfactory to the board, prior to commencing construction. The restrictions, at a minimum, must restrict public access to the trail and to designated adjacent areas only, and must prohibit equestrian and motorized vehicle traffic, except as may be necessary for maintenance, restriction enforcement, and providing for public safety.
- (3) The permittee must agree to bear the cost of any repairs to a flood control project facility that are made necessary by the presence or use of the bicycle trail.
- (4) Paved bicycle trails constructed on the levee crown must have a minimum pavement width of twelve (12) feet and a minimum shoulder width of one (1) foot on each side of the pavement. The outer edges of the finished pavement may be no higher than the adjacent shoulders and the cross-section must be shaped and trimmed to produce a smooth transition from pavement to shoulder.
- (5) Paved bicycle trails on the levee crown must be designed and paved to withstand a maximum load of 68,000 pounds from two consecutive sets of tandem axles. Soil tests may be required to determine design of the trail.
- (6) The structural section of paved bicycle trails must consist of a minimum of six (6) inches of aggregate base beneath two (2) inches of asphalt concrete pavement, or equivalent, on a well compacted levee crown.
- (7) The aggregate base shall extend beyond the pavement to allow drainage.
- (8) The bicycle trail and all bicycle access ramps must be sloped to drain away from the levee crown.
- (9) Bicycle access ramps on levee slopes must conform to the criteria set forth in the standards for access ramps in section 130.
- (10) The bicycle trail may not be cut into the levee section but may be placed on fill along the levee slope provided it will not interfere with maintenance.
- (11) The permittee must maintain the bicycle trail or provide evidence of agreement with a public agency for that agency to provide maintenance.
- (12) The permittee may be required to prevent unauthorized vehicular access to bicycle trails by physical barriers, which must be removable to allow access for maintenance, inspection, and emergency vehicles. Vehicular access barriers will be secured by locks. Keys shall be provided

to the Department of Water Resources and the local flood control maintaining agency.

(13) The permittee shall install permanent safety signs at all bicycle access points and at periodic intervals along the trail containing such language as:

Levee Maintenance Road  
Watch for Patrolling Vehicles.

(14) The permittee shall install permanent signs at all bicycle access points to control unauthorized use of bicycle trails.

(c) Bicycle trails within a leveed floodway are permitted under the following conditions:

(1) The permittee must submit proposed use restrictions for the bicycle trail and a plan for enforcement of such restrictions satisfactory to the board, prior to commencing construction. The restrictions, at a minimum, must restrict public access to the trail and to designated adjacent areas only, and shall prohibit equestrian and motorized vehicle traffic, except as may be necessary for maintenance, restriction enforcement, and providing for public safety.

(2) The permittee must agree to bear the cost of any repairs to a flood control project facility that are made necessary by the presence or use of the bicycle trail.

(3) Bicycle trails must be constructed at natural ground level wherever possible, and all fills greater than three (3) feet in height must be supported by appropriate engineering studies.

(4) The permittee must maintain the bicycle trail or provide evidence of an agreement with a public agency for that agency to provide maintenance.

(5) The permittee is required to prevent unauthorized vehicular access to bicycle trails by physical barriers, which must be removable to allow access for maintenance, inspection, and emergency vehicles. Vehicular access barriers will be secured by locks. Keys shall be provided to the Department of Water Resources and the local flood control maintaining agency.

(6) The permittee must install permanent signs at all bicycle access points to control unauthorized use of bicycle trails.

(d) Paved bicycle trails within ten (10) feet of the landside levee toe must have appropriate features that intercept seepage and prevent particle migration.

NOTE: Authority: Section 8571, Water Code. Reference: Sections 8608, 8609 and 8710, Water Code.

**HISTORY**

1. New section filed 9-30-96; operative 10-30-96 (Register 96, No. 40).

**§ 133. Supplemental Standards for Control of Residential Encroachments in Reclamation District 1000.**

These standards apply only to the construction, reconstruction, or repair of dwellings and associated improvements on the left bank waterward berm and waterward levee slope of the Sacramento River between levee miles 0.00 and 18.60, Unit 1, Reclamation District 1000. These standards supplement and, where in conflict with, supersede the standards in section 111 through section 137. While these standards are not specifically for commercial construction, in general, the principles in this section will apply to commercial development.

(a) The owner or permittee must maintain the waterward slope of the levee and the utilized area within the floodway of the Sacramento River in the manner required by Reclamation District 1000 or any other agency responsible for maintenance.

(b) The area between the waterward levee shoulder and the riverbank may be filled, provided the fill does not extend more than one hundred fifty (150) feet waterward from the centerline of the levee crown.

(c) Within the area located between the waterward levee shoulder and a point sixty-five (65) feet waterward from the centerline of levee, the following conditions apply:

(1) Where the area is less than one (1) foot above the design flood plane, driveways and ramps may be constructed at any orientation to the levee.

(2) Where the area is less than one (1) foot above the design flood plane, fences parallel to the levee must be an open type and constructed to provide for the unobstructed visual inspection of the levee slope and toe from the levee crown roadway.

(3) Where the entire area is at least one (1) foot above the design flood plane, no restrictions apply to fences, walls, and similar structures.

(4) Elevated walkways and driveways are permitted without elevation restrictions.

(d) Within the area beginning at a point sixty-five (65) feet waterward from the centerline of the levee and extending waterward a maximum of one hundred and fifty (150) feet from the centerline of the levee, the following conditions apply:

(1) Securely anchored fences and structures are permitted.

(2) Dwellings are permitted, if the finished floor level is at least two (2) feet above the design flood plane or two (2) feet above the 100-year flood elevation, whichever is higher.

(3) The finished floor level of any addition to an existing dwelling shall be at least two (2) feet above the design flood plane or two (2) feet above the 100-year flood elevation, whichever is higher.

(4) Dwellings and appurtenant structures are permitted within fourteen (14) feet of the top of the riverbank, provided the riverbank is revetted to board standards.

(5) Dwellings and appurtenant structures are not permitted within thirty (30) feet of the top of an unrevetted riverbank.

(e) Within the area beginning at a point one hundred and fifty (150) feet waterward from the centerline of the levee and extending waterward to the top of riverbank, the following conditions apply:

(1) Dwellings and fences are not permitted.

(2) Securely anchored structures that do not protrude above natural ground level may be allowed.

(3) Additions may be made to existing dwellings if the addition extends no farther into the floodway than the original dwelling.

(4) The finished floor level of any addition to an existing dwelling shall be at least two (2) feet above the design flood plane or two (2) feet above the 100-year flood elevation, whichever is higher.

(f) Materials or equipment stored within the floodway must be securely anchored or removed prior to the flood season.

(g) Downed trees or brush and other floatable material of any kind are not permitted to remain within the floodway during the flood season.

(h) The board permit approving the construction of a dwelling shall run with the land, pursuant to a recorded document executed pursuant to section 16(f).

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8370, 8608 and 8710, Water Code.

#### HISTORY

1. New section filed 9-30-96; operative 10-30-96 (Register 96, No. 40).

### § 134. Supplemental Standards for the Yuba River—Daguerre Point Dam to Confluence with the Feather River.

These standards are for dwellings and structures within the Yuba River

floodway between Daguerre Point Dam and the confluence with the Feather River. These standards supplement and, where in conflict with, supersede the standards in sections 111 through 137.

(a) The following definition applies to this section:

(1) Permanent Dwelling – “Permanent Dwelling” means a dwelling that may be occupied throughout the year.

(b) The lower Yuba River flood channel is divided into Areas A, B, and C, as delineated on Figure 8.11. Area A is the flow area required to carry one hundred fifty thousand (150,000) cubic feet per second (cfs). Area A and Area B combined is the flow area required to carry two hundred thirty-five thousand (235,000) cfs. Area C is the remainder of the floodway within the flood control project levees. A map identifying the exact locations of Areas A, B and C, entitled “1995 Designated Floodway, Yuba River” is incorporated by reference into this regulation. The full-size map is available for inspection at the office of the board in Sacramento.

(c) Encroachments in Area A must conform to the general standards of this title, except that new dwellings for seasonal occupancy (as defined in section 113) and structures are not permitted.

(d) Encroachments in Area B must conform to the general standards of this title except that dwellings, structures, and mobile homes may be permitted in substantial areas of shallow flooding (water depth one (1) foot or less in a hundred-year flood) if they satisfy the requirements of subdivision (e) of this section and the requirements of section 113(d).

(e) Area C is considered a “zone B” as provided in section 113. Encroachments in Area C must conform to the general standards of this division, and in addition, meet the following requirements:

(1) The design flood plane for construction of permanent dwellings must correspond to the two hundred thirty-five thousand (235,000) cfs flow line or 100-year flood elevation, whichever is higher.

(2) New permanent dwellings are not permitted in Area C unless a safe evacuation route, satisfactory to the board, is available for the dwelling’s residents.

(3) Roads that would be used to evacuate residents must be constructed to at least the one hundred fifty thousand (150,000 cfs flow line elevation, 100-year flood elevation, or at natural ground elevation, whichever is highest and may not unreasonably obstruct floodflows.

(4) The board may require the owner of a dwelling, pursuant to section 16, to execute an agreement in which the owner agrees to evacuate all residents and guests upon order of an authorized government official when flooding is forecasted for the area.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8608, 8609, and 8710, Water Code.

#### HISTORY

1. New section and figure 8.11 filed 9-30-96; operative 10-30-96 (Register 96, No. 40).

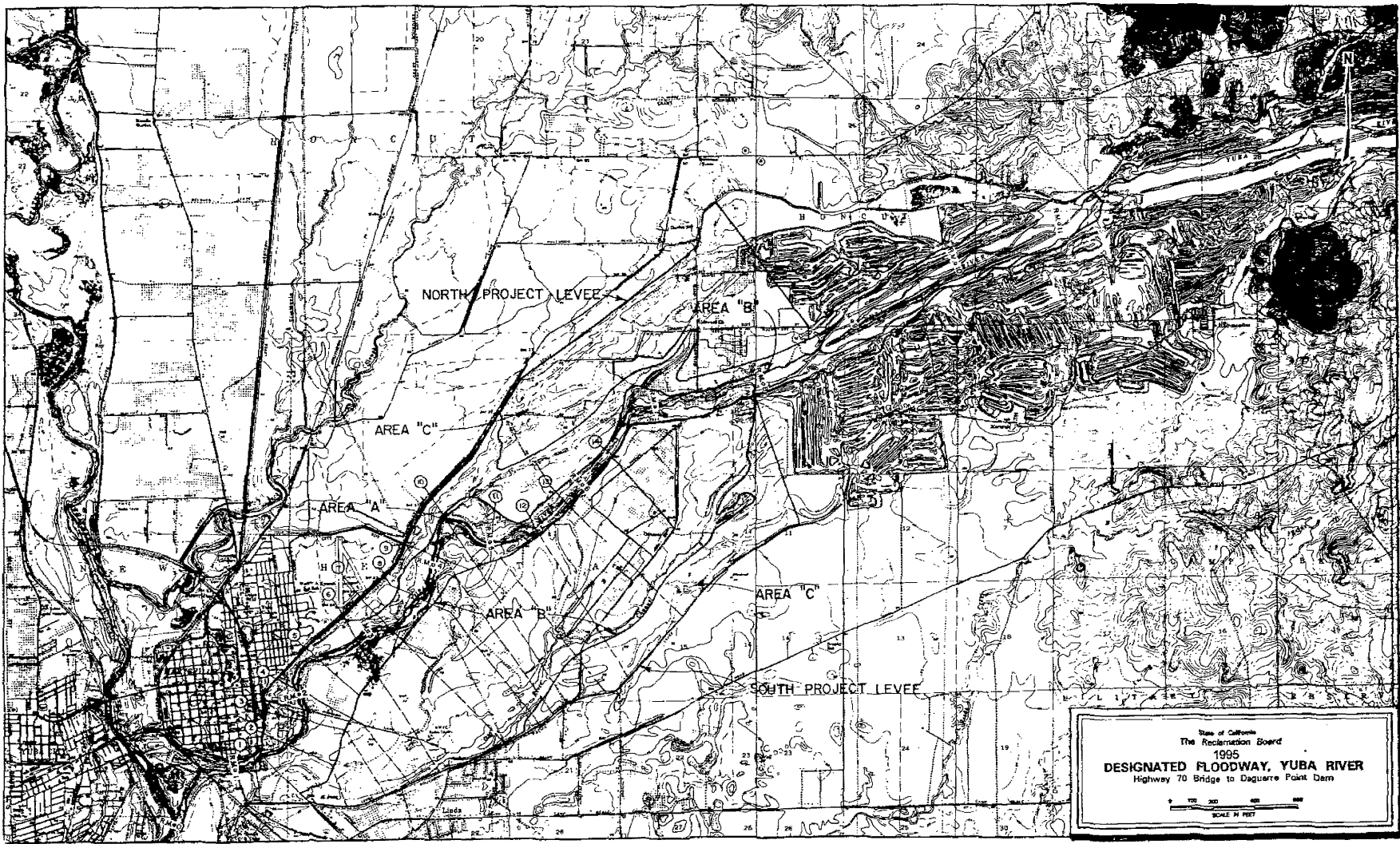


Figure 8.11

### § 135. Supplemental Standards for Butte Basin.

The standards apply to Butte Basin, as delineated on Figure 8.12 and partitioned into designated Areas B, C, D, E, and Reclamation District 1004. The basin's west boundary is the Sacramento River east bank project levee, and above the Ord Ferry area where there is no project levee, the boundary is the designated floodway of the Sacramento River adopted November 29, 1988. The east boundary is based on the wetted area of the 1970 flood. The north boundary is the Sacramento River designated floodway in the proximity of Murphy Slough and Golden State Island, and the south boundary is the Sacramento River between the city of Colusa and the Butte Slough outfall gates, a section of the Butte Slough levee in both Colusa and Sutter Counties, and Pass Road in Sutter County. These standards supplement and, where in conflict with, supersede the standards in section 111 through section 137.

(a) Approval from the board is required for any encroachment that could reduce or impede floodflows, or would reclaim any of the floodplain within Butte Basin.

(1) Encroachments in Reclamation District 1004 are not regulated by the board.

(2) The supplemental standards do not apply to that portion of Area E located north of the Butte-Sutter County line and its extension westward into Colusa County, and situated adjacent to the Sacramento River project levee where the natural ground level is higher than the 100-year flood elevation.

(3) Except where the activity would potentially affect a project levee or other project feature, the standards within sections 116, 122, 123, 124, 126, 127, 129, 130, 131, 132, and 137 do not apply to that portion of Area E located south of the Butte-Sutter County line and its extension westward into Colusa County.

(b) Approval from the board is not required for crop checks less than thirty-six (36) inches in height. In Areas B, C and D, all crop checks must be removed prior to flood season, unless they comply with the requirements of subdivisions (d), (e), and (f), respectively.

(c) Except where the activity would potentially affect a project levee or other project feature, approval from the board is not required for land leveling or grading, or for drainage and irrigation improvements in Areas C, D, and E that have a localized impact only and comply with subdivisions (e), (f), and (g) of this section.

(d) Within Area B, approval from the board is not required for any encroachment that is less than eighteen (18) inches in height above the natural ground level. However, any proposed encroachment within a slough or swale must be approved by the board. Area B extends southerly from Butte Basin's northerly boundary to a line located one thousand (1,000) feet southeasterly and lying parallel to the Parrott Grant line.

(e) Within Area C, approval from the board is not required for any encroachment less than thirty-six (36) inches in height above the natural ground level, and having a crest elevation less than seventy and one tenth (70.1) feet (NGVD). Area C is the area enclosed within a three- (3) mile radius measured from the center of Moulton Weir and limited by the southeasterly extensions of the north and south training levee alignments to the three- (3) mile arc.

(f) Within Area D, approval from the board is not required for any encroachment less than thirty-six (36) inches in height above the natural ground level and having a crest elevation less than fifty-four and nine tenths (54.9) feet (NGVD). Area D encompasses the Colusa Weir together with its outflow channel enclosed by training levees, and an overflow area extending to Butte Creek.

(g) Within Area E, approval from the board is not required for any encroachment less than thirty-six (36) inches in height above the natural ground level. The northern boundary of Area E is a line located one thousand (1,000) feet southeasterly of the south Parrott Grant line, and the southern boundary is formed by the Sacramento River between the city of Colusa and the Butte Slough outfall gates, a section of the Butte Slough levee in both Colusa and Sutter Counties, and Pass Road in Sutter County.

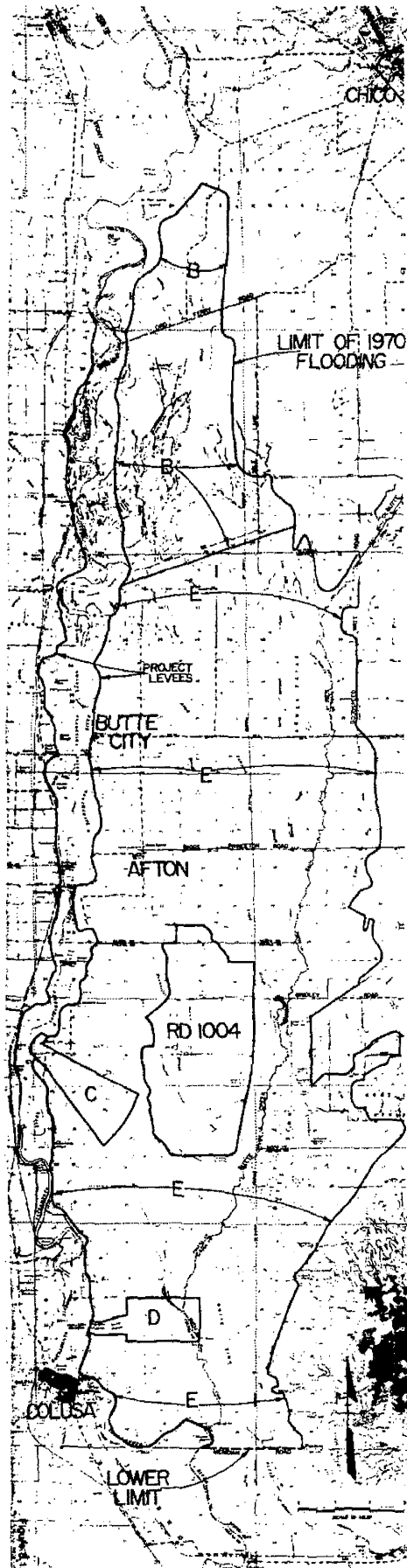
(h) Within that portion of Area E located south of Gridley Road, new and existing recreational structures, including caretaker, security, and dwellings for seasonal occupancy (as defined in section 113) may be permitted provided the finished floor level of the structure is at least two (2) feet above the design flood plane or two (2) feet above the 100-year flood elevation, whichever is higher.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8608, 8609 and 8710, Water Code.

#### HISTORY

1. New section and figure 8.12 filed 9-30-96; operative 10-30-96 (Register 96, No. 40).





### § 136. Supplemental Standards for Yolo Bypass and Sutter Bypass.

It is the board's policy to permit agricultural land use and the development of suitable wetlands within the Yolo Bypass and Sutter Bypass. The supplemental standards protect the flood control functions of the Yolo and Sutter Bypasses, safeguard existing agricultural land use, and control the development of proposed wetlands.

(a) Final detailed plans for all construction, grading and planting must be submitted to and approved by the board prior to the start of work.

(b) A detailed operation and maintenance plan must be submitted to and approved by the board prior to the start of work.

(c) A profile of the existing levee crown roadway and access ramps that will be utilized for access to and from the construction area must be submitted to the board prior to the start of work.

(d) Any damage to the levee crown roadway or access ramps attributable to the construction or maintenance of croplands or wetlands must be promptly repaired by the permittee.

(e) The planting of vegetation or the impoundment of water is not permitted within one thousand (1,000) feet of the Fremont Weir structure.

(f) The planting of vegetation or the impoundment of water shall not be permitted in any area where there could be an adverse hydraulic impact.

(g) Irrigated and nonirrigated pastures and croplands are allowed without permit from the board when consistent with the board's flowage easements.

(h) The planting of vegetation is generally permitted for the development of native marsh, riparian vegetation, and wetlands.

(i) Rooted vegetation and aquatic beds of floating (nonrooted) or submerged vegetation are generally permitted to be established in ponded water.

(j) The depth of ponded water must be controlled to prevent the growth of unauthorized vegetation that could adversely affect the operation of the flood control project.

(k) No permanent berms or dikes are permitted above natural ground elevation without a detailed hydraulic analysis except where otherwise expressly provided for in reservations contained in easement deeds to the Sacramento and San Joaquin Drainage District.

(l) Required maintenance may include removal, clearing, thinning, and pruning of all vegetation directly or indirectly resulting from the permitted project.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8608 and 8710, Water Code.

#### HISTORY

1. New section filed 9-30-96; operative 10-30-96 (Register 96, No. 40).

### § 137. Miscellaneous Encroachments.

The following standards are to be used as a guide in making application to the board for miscellaneous encroachments. Not all possible miscellaneous encroachments, the number being unlimited, are listed. Those listed are typically the type proposed by residents within an adopted plan of flood control, and those necessary because of governmental requirements.

(a) Tanks used for storage of water or other liquids are not permitted within a levee section or within ten (10) feet of the levee toe. If placed within the floodway, or if placed in the projected levee section and within twenty-five (25) feet of the levee toe, a permit is required.

(b) Landside water retention basins must be located outside of the projected levee section and a minimum distance of twenty-five (25) feet from the levee toe plus any additional distance that may be determined to be required to control seepage.

(c) Steps for access on levee slopes must conform to the following criteria:

(1) Steps must be constructed of material resistant to deterioration. Acceptable materials include, but are not limited to, concrete, masonry, stone, pressure treated lumber, iron, and steel.

(2) Steps constructed on the waterward levee slope must be properly anchored to prevent movement during high water.

(3) Excavation in the levee slope made for the construction of steps may not exceed twelve (12) inches in depth.

(4) Steps must be constructed flush with the levee slope.

(5) Handrails are not permitted on steps if they interfere with levee maintenance unless they are required by law.

(6) Handrails, where permitted on waterward levee slopes, shall be designed to give way when subjected to debris loading.

(7) The permittee is responsible for the maintenance of steps and handrails.

(8) Revetment on a levee slope or streambank that is destroyed or disturbed during the construction of steps must be restored to its original condition by the permittee.

(d) Horizontal (elevated) access ways, with or without handrails, are permitted above the landside and waterward slopes of the levee if they do not interfere with levee maintenance and conform to the following criteria:

(1) Horizontal access ways may not exceed four (4) feet in width unless the levee slope immediately beneath the access way is revetted to board standards.

(2) The bottom of the stringers of horizontal access ways above the waterward levee slope must be a minimum of three (3) feet above the design flood plane elevation.

(3) Handrails on access ways may not extend onto the levee crown.

(4) On a levee where the crown is less than fourteen (14) feet in width, handrails must be a minimum of seven (7) feet from the centerline of the levee.

(5) Access way supports, or piers, must be constructed so as to minimize the possibility of trapping and accumulating floating debris.

(6) Revetment on a levee slope or streambank that is destroyed or disturbed during the construction of a walkway must be restored to its original condition by the permittee.

(7) Maintenance of an access way and the adjacent levee slope is the responsibility of the permittee, and any erosion of the levee slope must be promptly repaired.

(e) Mailboxes, when required by the U.S. Postal Service, are permitted on a levee section and must be placed at the extreme outer edge of the levee crown. If the levee crown is less than fourteen (14) feet in width, the mailbox must be a minimum of seven (7) feet from the centerline of the levee.

(f) Traffic control signs, directional or informational signs, and signs providing for public safety are permitted on a levee slope or on the edge of a levee crown.

(g) Bus shelters are permitted on a levee section where sufficient area is available for safe operation of vehicles, and the bus shelter is at least seven (7) feet from the centerline of the levee.

(h) Livestock grazing on levee slopes shall be controlled to prevent overgrazing and the development of livestock trails.

(i) The storage of materials or equipment, unless securely anchored, downed trees or brush, and floatable material of any kind are not allowed within a floodway during the flood season as defined in Table 8.1.

(j) Structures and the storage of material or equipment are not permitted on levee slopes.

(k) Structures, materials, and equipment may be placed on the levee crown if they do not prevent inspection and maintenance of the levee, obstruct floodfight procedures, and the following additional requirements are met:

(1) There is adequate levee crown width to provide a minimum of twenty (20) feet of unobstructed clearance for two-way vehicular traffic.

(2) Where a public road or highway is on the levee crown, the design width of the roadway including the roadway shoulders must remain clear.

(3) Materials or equipment may not be stored within fourteen (14) feet of the landward levee shoulder.

(4) Materials or equipment may be stored to within fourteen (14) feet of the waterward levee shoulder provided the waterward levee slope is revetted to board standards.

(5) Materials or equipment may not be stored within thirty (30) feet of the waterward levee shoulder of an unrevetted levee.

(l) Seismic surveys near a levee or within a floodway must meet the following criteria:

(1) Horizontal shear energy sources may not be used on any levee section or within fifty (50) feet of the levee toe. In areas having soils especially susceptible to damage, a more stringent control may be required.

(2) Energy charges for surveys must be a minimum distance of two hundred (200) feet from the levee toe.

(3) Energy charges for surveys must not exceed one (1) pound of charge per one hundred (100) feet of distance from the levee toe.

(4) Electrical cables used in seismic surveys may not interfere with periodic inspections and maintenance of flood control facilities or with flood fight procedures.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8608, 8609 and 8710, Water Code.

#### HISTORY

1. New section filed 9-30-96; operative 10-30-96 (Register 96, No. 40).

### § 138. Identification of Limits of Flood Control Works.

(a) The board may identify the limits of the adopted plan of flood control or flood control works for purposes of establishing the area within the board's jurisdiction that it actively regulates when:

(1) The point of intersection of the levee slope and natural ground cannot readily be determined, therefore, the existing levee toe cannot otherwise be defined in accordance with Title 23 Cal Code Regs. Section 4(s).

(2) Features or facilities are proposed to be added that may interfere with the integrity or proper functioning of the adopted plan of flood control.

NOTE: Authority cited: Section 8571, Water Code. Reference: Sections 8608, 8609 and 8710, Water Code.

#### HISTORY

1. New section filed 12-1-2009; operative 12-31-2009 (Register 2009, No. 49).

## Article 9. Regulations for Implementation of the California Environmental Quality Act

### § 190. Purpose and Authority.

These regulations are adopted by The Reclamation Board pursuant to Public Resources Code section 21082 to implement, interpret, and make specific those provisions of the California Environmental Quality Act which supplement the requirements of the regulations promulgated by The Secretary of the Resources Agency (Title 14, California Code of Regulations, commencing with Section 15000, hereinafter referred to as the "CEQA Guidelines").

NOTE: Authority cited: Section 21082, Public Resources Code; Section 8571, Water Code. Reference: Section 21082, Public Resources Code.

#### HISTORY

1. New article 9 (sections 190 through 193) and section filed 9-30-96; operative 10-30-96 (Register 96, No. 40).

### § 191. Incorporation of California Environmental Quality Act Guidelines.

(a) The CEQA Guidelines are hereby incorporated by reference as if fully set forth in this subchapter.

(b) The words used in this subchapter have the same meaning given them in the CEQA Guidelines, unless the context clearly requires a different meaning.

NOTE: Authority cited: Section 21082, Public Resources Code; Section 8571, Water Code. Reference: Section 21082, Public Resources Code.

#### HISTORY

1. New section filed 9-30-96; operative 10-30-96 (Register 96, No. 40).

### § 192. Fees for Preparation of Negative Declaration or EIR.

(a) The board may charge and collect a reasonable fee from an applicant proposing a project for which the board must prepare an environmental impact report (EIR) or initial study and negative declaration. The fee will be an amount which will cover the costs incurred by the board or the department in preparing such EIR or initial study or negative declaration, and for procedures necessary to comply with CEQA.

(b) Where the board will charge a fee for the preparation of an EIR or initial study and negative declaration, it shall collect a deposit as provided in Section 503 of this title which is incorporated by reference.

(c) The board shall separately account for the deposit collected and the charges thereto. The status of the account shall be provided to the project proponent at regular periodic intervals established by mutual agreement. A final accounting shall be rendered by the board after the final EIR or negative declaration is considered and adopted or when the environmental review is otherwise terminated.

(d) If the final accounting shows that the deposit exceeds the actual costs incurred by the board, the excess shall be refunded. If the actual costs exceed the amount of the deposit, the project proponent shall be billed and pay the difference.

(e) The board may adjust or waive deposits or fees for minor projects.

NOTE: Authority cited: Section 21082, Public Resources Code; Section 8571, Water Code. Reference: Section 21089, Public Resources Code.

#### HISTORY

1. New section filed 9-30-96; operative 10-30-96 (Register 96, No. 40).

### § 193. Categorically Exempt Activities.

In compliance with the requirements of the CEQA Guidelines, the following list of categorically exempt activities of the board has been established. This list is subject to the limitations on categorical exemptions set forth in the provisions of the state CEQA Guidelines. This list does not preclude categorical exemptions for other activities pursuant to CEQA or the CEQA Guidelines.

(a) Class 1 consists of operation, maintenance, or minor alteration of the following facilities where there is negligible or no expansion beyond that previously existing:

(1) Project works and related facilities;

(2) Nonproject levees and related facilities;

(3) Other flood control works which are the statutory responsibility of the department or which are the responsibility of the department as a "maintenance area;

(4) Flood control works of agencies with which the board has a local cooperation agreement, local cost sharing agreement or similar agreement;

(5) Existing encroachments.

(b) Class 2 includes replacement or reconstruction of existing structures and facilities where necessary at the facilities listed in Class 1.

(c) Class 3 includes the location and construction of minor accessory structures and the installation of new equipment where necessary at the facilities listed in Class 1.

(d) Class 4 includes approval of minor public or private alterations to land, or vegetation not involving the removal of mature and scenic trees, where necessary at the facilities listed in Class 1.

(e) Class 5 includes the approval of minor encroachment permits, licenses, board designation of floodways pursuant to Water Code section 8609, and any board approval of existing encroachments.

(f) Class 6 includes the collection of basic data, research and experiments carried out by the board or Department, their officers and employees, which are necessary for planning and feasibility studies, investigations and preparation of environmental documents.

(g) Class 9 includes the inspection of the facilities listed in Class 1 and other approved encroachments or existing nonconforming encroachments.

(h) Class 12 includes the sale or exchange of surplus property, as limited by the CEQA Guidelines. Class XII also includes the issuance or grant of a license, lease, easement, or agreement pursuant to section 19.

(i) Class 13 includes acquisition of land for fish and wildlife conservation or mitigation purposes where the land will be preserved in its natural condition or where the habitat will be enhanced for fish and wildlife purposes.

(j) Class 14 includes acquisition, sale, or transfer of land for park or similar purposes as limited by the CEQA Guidelines.

(k) Class 21 includes the enforcement of the orders, terms, or conditions of approvals or permits of the board.

(l) Class 25 includes acquisition or transfer of land that will preserve open space as limited by the CEQA Guidelines.

NOTE: Authority cited: Section 8571, Water Code; and Section 21082, Public Resources Code. Reference: Section 21080.1 and 21082, Public Resources Code; Sections 8361 and 12878.21, Water Code; Title 14, California Code of Regulations, Sections 15300.4, 15301, 15302, 15303, 15304, 15305, 15306, 15309, 15312, 15313, 15314, 15321, 15325.

#### HISTORY

1. New section and appendix A filed 9-30-96; operative 10-30-96 (Register 96, No. 40).
2. Amendment relocating appendix A to new article 10 filed 12-1-2009; operative 12-31-2009 (Register 2009, No. 49).

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## Article 10. Appendices

### Appendix A

STATE OF CALIFORNIA  
THE RESOURCES AGENCY

THE CENTRAL VALLEY FLOOD PROTECTION BOARD  
3310 El Camino Avenue, Room LL40  
Sacramento, California 95821  
Telephone: (916) 574-0609  
FAX (916) 574-0682

#### *GENERAL INFORMATION REGARDING APPLICATIONS FOR ENCROACHMENT PERMITS*

These instructions will provide you with information on how to prepare your application for a Central Valley Flood Protection Board encroachment permit.

Approval by the Board is required for projects or uses which encroach into rivers, waterways, and floodways within and adjacent to federal and State authorized flood control projects and within designated floodways adopted by the Board. You must obtain Board approval before you begin certain uses or construction work on any proposed project within these areas.

The Board exercises jurisdiction over the levee section, the waterward area between project levees, a strip of land adjacent to the landward levee toe which is at least 10 feet wide, areas within 30 feet of the top of the banks of unleveed project channels, and within designated floodways adopted by the Board. Activities outside of these limits which could adversely affect the flood control project are also under Board jurisdiction. Maps of designated floodways are available for inspection at the Board's office in Sacramento, city and county planning or public works departments, and county recorders' offices. Questions relative to proposed projects or uses which may require Board approval should be directed to The Central Valley Flood Protection Board, 3310 El Camino Avenue, Room LL40, Sacramento, California 95821, or telephone (916) 574-0609.

Four copies of the completed application and drawings, one completed copy of the Environmental Questionnaire, and any other environmental documents must be submitted. The application must be made on forms provided by the Board and must contain the following information:

1. A concise description of the proposed project or use.
2. The county, section, township, range, and the base and meridian in which the proposed project or uses are located.
3. The name, address, telephone number, and FAX number (if any) of the applicant.
4. An endorsement must be obtained from the reclamation, levee, or flood control agency responsible for levee maintenance. Special conditions may be added to the permit at the request of the agency. If the maintaining agency delays or declines to endorse the application, it may be submitted to the Board without endorsement with a written explanation as to why the application was not endorsed by the maintaining agency.
5. A current list of the names and addresses of all the adjacent property owners.
6. If applicable, provide the name and address of the Lead Agency responsible for preparing environmental documentation regarding the proposed project as required by the California Environmental Quality Act of 1970. The environmental questionnaire provided by the Board must be completed and submitted as part of your application.
7. Four copies of exhibits and drawings depicting the project or use.
8. At least two color photographs (polaroids or snapshots are acceptable) showing different views of the project site. Include captions which explain what the photograph is depicting.
9. The name and address of the owner of the proposed project or use if different from the person filing the application.
10. The name and address of the owner of the property on which the proposed project is located.

You should include with your application any additional information that would be helpful in evaluating your proposed project or use.

The application must be signed and dated.

Your completed application may be mailed or delivered in person to:

The Central Valley Flood Protection Board  
Attention: Floodway Protection Section  
3310 El Camino Avenue, Room LL40  
Sacramento, California 95821

The Board has adopted standards for work which encroaches into the area under its jurisdiction. Copies of the standards are available upon request. A typical levee cross section and terminology are presented in Exhibit 1.

*Minimum Requirements and Format for Drawings*

1. The following information is required to evaluate the work described in your application. Additional information may be required depending upon the nature of the project.
  - A. The title block of each sheet should identify the proposed activity and include the name of the applicant, number of the sheet, total number of sheets in the set, and date the drawing was prepared.
  - B. The name of the stream, river mile, scale, north arrow, datum reference, and other information as required.
  - C. The exact location of the proposed project in relation to identifiable landmarks.
  - D. Plan and elevation views of the proposed project or use and the proximity of the proposed project or use in relation to existing facilities, property lines, levees, streams, etc.
  - E. Drawings of levee cross sections or profiles must indicate the elevations of levee crowns, toes, low-water surface, and design flood plane. These drawings should include horizontal and vertical scales and must be referenced to a known elevation datum.
2. Please use the following format:
  - A. Prepare the drawings on 8-1/2-by-11-inch sheets (when possible) in accordance with the general format depicted in Exhibits 2, 3, and 4.
  - B. Allow a 1-inch binding margin on the top side of each sheet.
  - C. Because additional copies of the drawings may have to be reproduced photographically, color shading cannot be used. Drawings must show shading as dot shading, cross hatching, or similar graphic symbols.

*Application Processing*

Upon receipt of an application, a general review is made to determine if it is adequately complete to begin processing. If the application is found to be complete, it will be assigned a number and a letter will be sent to the applicant acknowledging receipt of the application. The Board will send a notice of the pending application to the adjacent property owners. If, during the review process, the application is found to be incomplete, it will be returned or the applicant will be advised by letter of the deficiencies in the application. If these deficiencies are not corrected within a reasonable time limit, processing of the application will be terminated.

The applicant may be notified of a need for additional studies.

A copy of the application is sent to the U.S. Army Corps of Engineers for review and comment.

The Board staff performs some level of environmental review of the potential impacts of the proposed project or use.

The project or use described in the permit issued on each approved application is subject to 12 general conditions. A number of special conditions may be added to the approved permit depending on the nature of the proposed activity.

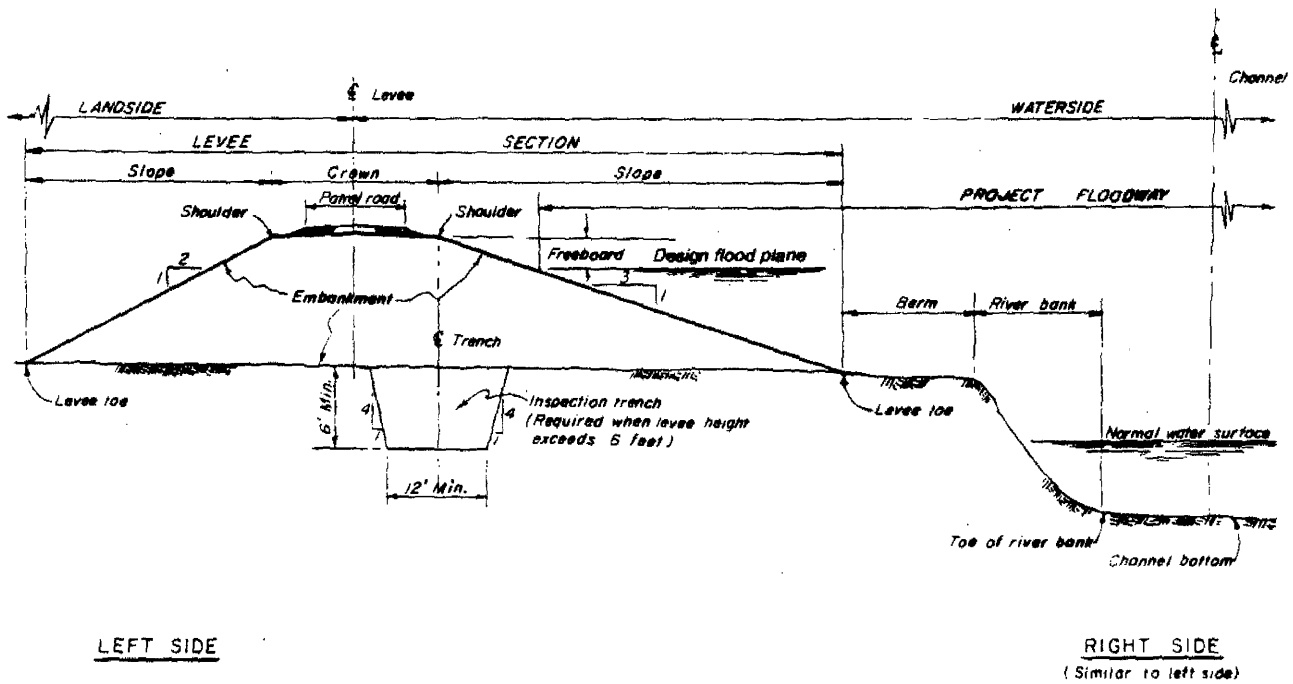
Applications which must be considered by the Board are placed on the agenda of the next regular Board meeting. The applicant and all interested parties are notified of the meeting and may appear and present their views to the Board for its consideration. After an application has been approved by the Board, any requests for revisions to the proposed or completed project which have not been approved by the Board must be submitted in writing to the Board for approval. Revised applications are processed in the same manner as new applications.

*Acceptance of a Permit*

You must notify the Department of Water Resources fourteen (14) calendar days before construction begins by mailing the pre-addressed start card furnished by the Board when the permit is issued. This card will contain the current address and telephone number of the Department of Water Resources' Flood Project Inspection Section which provides inspection services on behalf of the Board. The beginning of any work described in the permit constitutes acceptance by the applicant that work will be done in compliance with the general and special conditions listed in the permit.

Inquiries about procedures or other details may be made in person or by correspondence to The Central Valley Flood Protection Board, Attention: Permitting Section, 3310 El Camino Avenue, Room 151, Sacramento, California 95821; phone: (916) 574-0609, website: [www.cvfpb.ca.gov](http://www.cvfpb.ca.gov), and email: [cvfpbquestions@water.ca.gov](mailto:cvfpbquestions@water.ca.gov). Please include the Board's application number when inquiring about an application.

**Exhibit 1**  
**Project Levee Standards and Terminology**



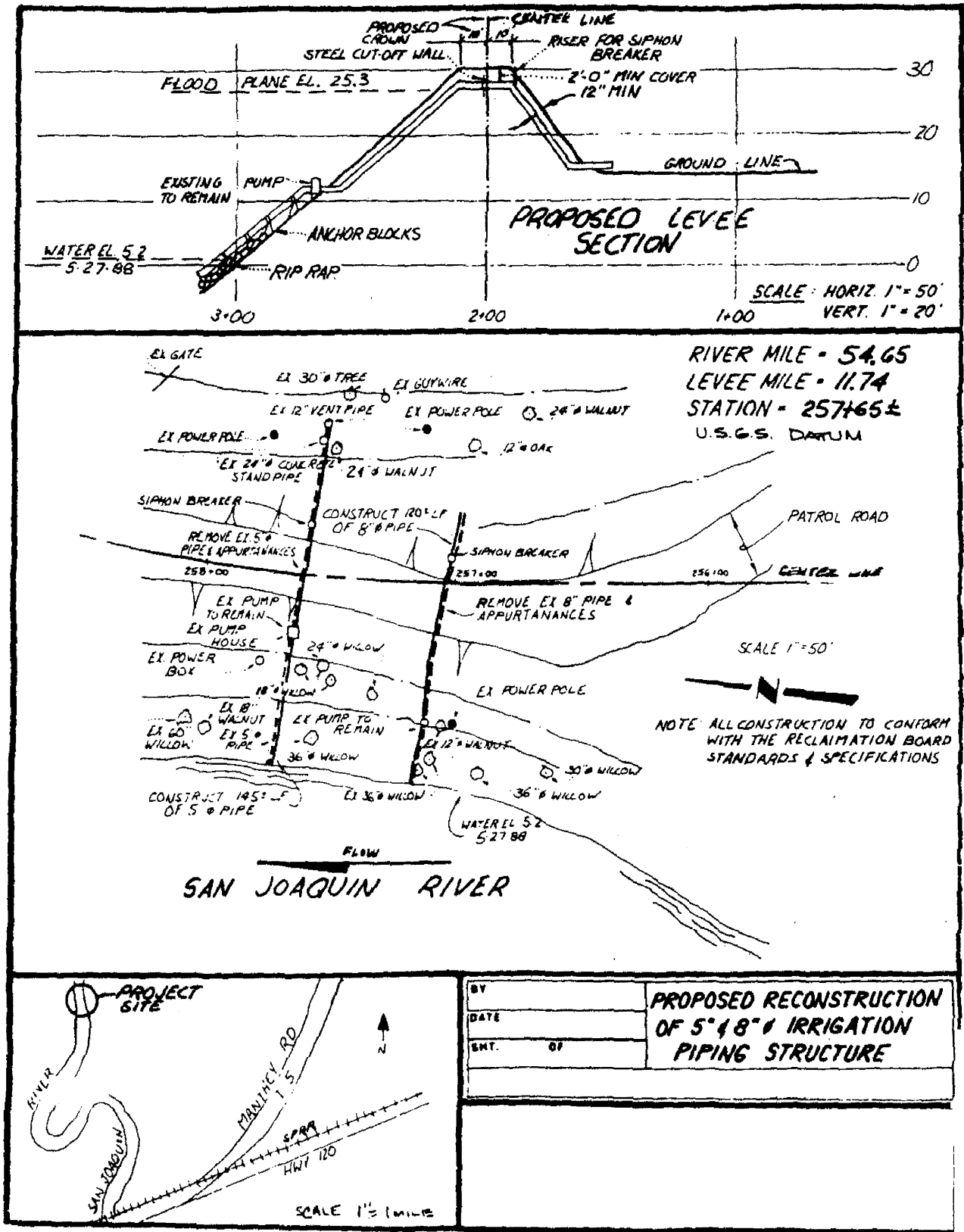
TYPICAL FLOODWAY  
LOOKING DOWNSTREAM  
NOT TO SCALE

ITEM	MINIMUM DIMENSIONS OF STANDARD LEVEE SECTIONS			
	MAIN RIVER CHANNELS	MAJOR TRIBUTARIES	MINOR TRIBUTARIES	BY PASSES
CROWN WIDTH	20'	20'	12'	20'
LAND SLOPE	1 on 2	1 on 2	1 on 2	1 on 2
WATER SLOPE	1 on 3	1 on 3	1 on 3	1 on 3
FREEBOARD	3' (1)	3'	3'	4' to 6'
PATROL ROAD WIDTH	12'	12'	10'	12'

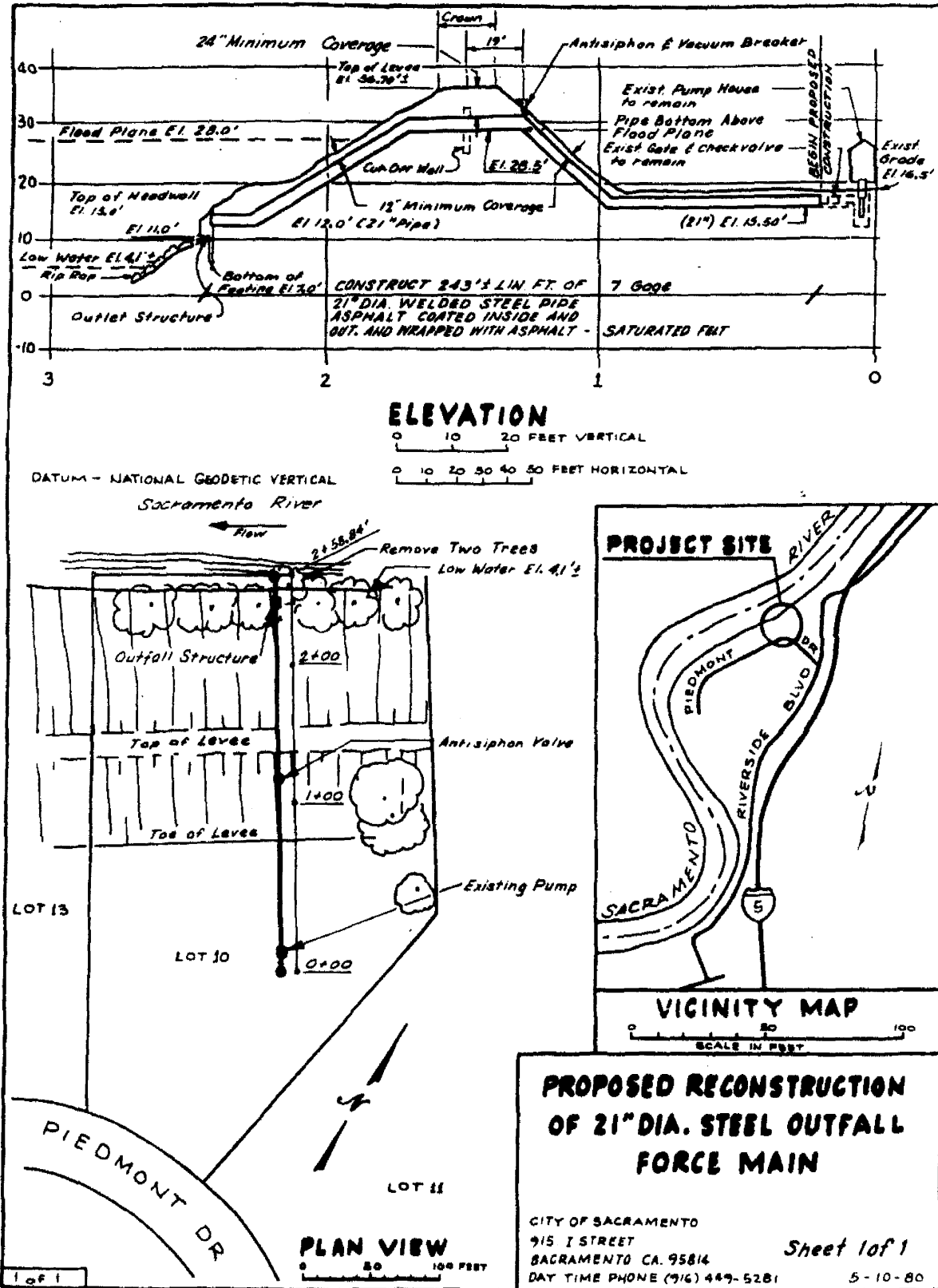
NOTE (1) 5 Feet on Main Channel below Cache Slough (Sacramento River)



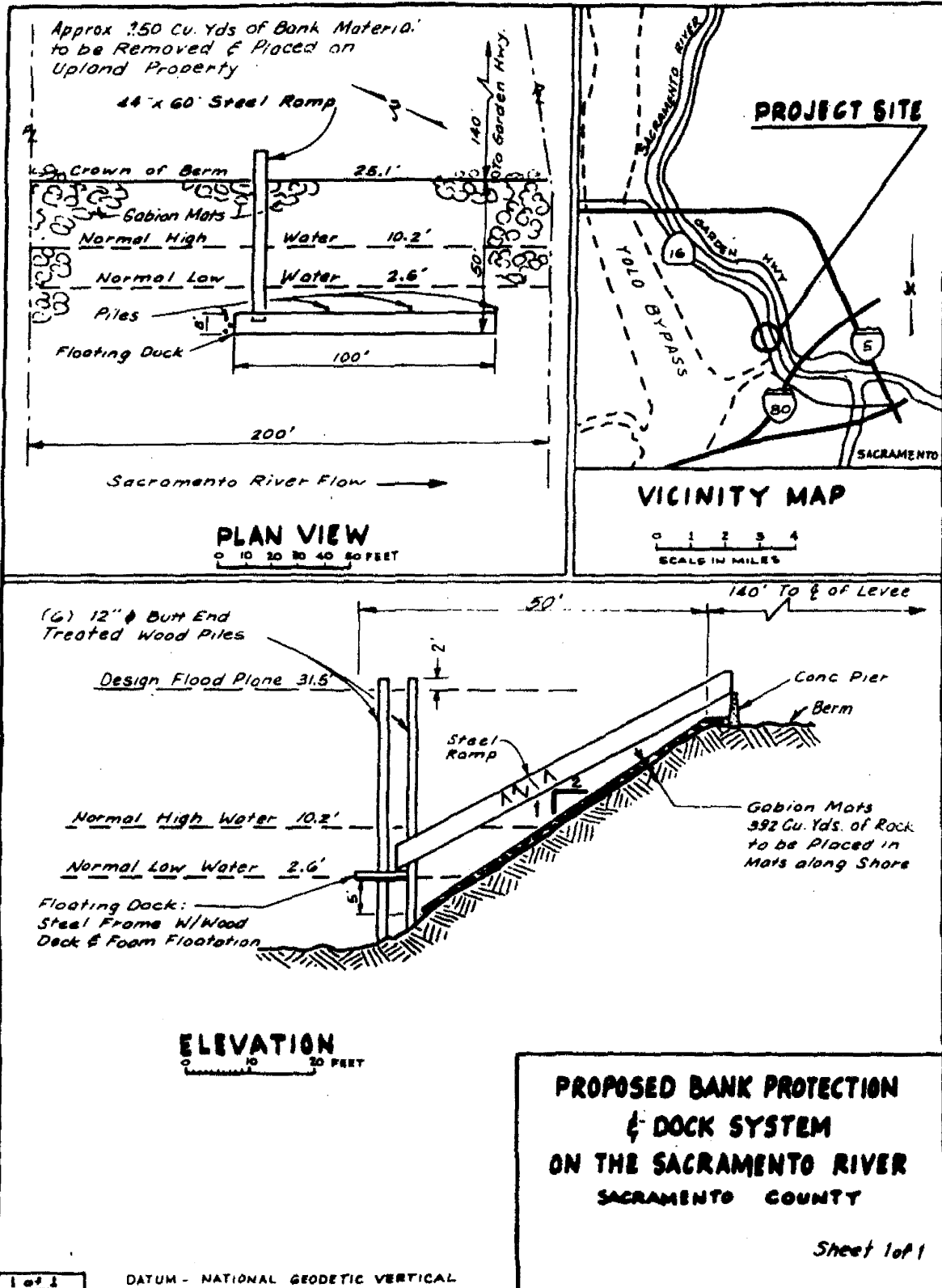
# EXHIBIT 2



# EXHIBIT 3



# EXHIBIT 4



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

*SAMPLE*

PERMIT NO. 00000 GM

*SAMPLE*

This Permit is issued to:

Mr. John Doe  
John Doe Irrigation District  
1234 Any Street  
Anywhere, California 00000

To install a 60-inch-diameter water pipeline within a 78-inch-diameter casing and a 24-inch-diameter water pipeline within a 42-inch-diameter casing under Any Stream. The project is located in the City of Anywhere approximately 1,400 feet upstream from The Road. Section 00, TOS, ROOE, M.D.B.&M., Any Stream, Sacramento County

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

The Central Valley Flood Protection Board, on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, approved this application and the plans attached thereto. Permission is granted to proceed with the work described in this application, which is incorporated herein by reference, subject to the following General and Special Conditions.

(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 fifteen (15) calendar 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.

(over)

**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:**

**THIRTEEN:** That all work shall be in accordance with the submitted drawings and specifications dated December 1991 except as modified by special permit conditions herein. No further work, other than that covered by this permit, shall be done in the area without the prior approval of The Central Valley Flood Protection Board.

**\*FOURTEEN:** That in the event trees and brush are cleared, they shall be completely burned or otherwise removed from the overflow area of Dry Creek, and no downed trees or brush shall be allowed to remain in the floodway during the flood season between November 1 and April 15.

**\*FIFTEEN:** That no excavation shall be made or allowed to remain in the creek banks between November 1 and April 15.

**SIXTEEN:** That the backfill material for the bore pit and receiving pit excavation shall be placed in layers and compacted to a density equal to that of the adjacent undisturbed material.

**SEVENTEEN:** That the work area shall be restored to at least the same condition that existed prior to commencement of work.

**EIGHTEEN:** That the permittee shall assume all responsibility for protection, relocation, or removal of the permitted project works if required by the Board.

**NINETEEN:** That the applicant shall provide inspection services acceptable to the Board. A civil engineer registered in the State of California shall certify that all work was thoroughly inspected and performed in accordance with the submitted plan drawings, specifications, and permit conditions.

\*November 1 to July 15 depending on location of stream.

State of California  
Agency

The Resources

**THE CENTRAL VALLEY FLOOD PROTECTION BOARD**

**Application No.** \_\_\_\_\_

(For Office Use Only)

**APPLICATION FOR A PERMIT**

1. Description of proposed work: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Location: \_\_\_\_\_ County, in Section \_\_\_\_\_  
(N) (E)  
Township: \_\_\_\_\_ (S), Range \_\_\_\_\_ (W), M.D.B.&M.

3. \_\_\_\_\_ of \_\_\_\_\_  
Name of Applicant Address  
\_\_\_\_\_  
City State ZIP Code Telephone Number  
FAX Number

4. Endorsement: (of Reclamation District/Department of Water Resources)  
We, the Trustees of/DWR Representatives \_\_\_\_\_  
District Name and Number

approve this plan, subject to the following conditions:

Conditions listed on back of this form  Conditions Attached  No Conditions

Trustee \_\_\_\_\_ Date \_\_\_\_\_ Trustee \_\_\_\_\_ Date \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Names and addresses of adjacent property owners sharing a common boundary with the land upon which the contents of this application apply. If additional space is required, list names and addresses on back of the application form or an attached sheet.

\_\_\_\_\_  
Name Address ZIP Code  
\_\_\_\_\_  
\_\_\_\_\_

6. Has an environmental determination been made of the proposed work under the California Environmental Quality Act of 1970?  Yes  No  Pending

If yes or pending, give the name and address of the lead agency and State Clearinghouse Number:

\_\_\_\_\_  
SCH NO. \_\_\_\_\_

7. When is the project scheduled for construction? \_\_\_\_\_

8. Please check exhibits accompanying this application.

- A.  Map showing the location of the proposed work.
- B.  Drawings showing plan and elevation views of the proposed work, scale, materials of construction, etc.
- C.  Drawings showing the cross section dimensions and elevations of levees, berms, stream banks, flood plain, low flow, etc.
- D.  Drawings showing the profile elevations of levees, berms, flood plain, low flow, etc.
- E.  Photograph depicting the project site.

9. Is the applicant acting for the owner of the proposed works?  Yes  No

If yes, the name, address and telephone number of the owner is

\_\_\_\_\_



Signature of Applicant

Date

For additional information:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**ENVIRONMENTAL ASSESSMENT QUESTIONNAIRE  
FOR APPLICATIONS FOR CENTRAL VALLEY FLOOD PROTECTION BOARD ENCROACHMENT PERMITS**

This environmental assessment questionnaire must be completed for all Central Valley Flood Protection Board applications. Please provide an explanation where requested. Incomplete answers may result in delays in processing permit applications. Failure to complete the questionnaire may result in rejection of the application.

1. Has an environmental assessment or initial study been made or is one being made by a local or State permitting agency in accordance with the California Environmental Quality Act?

Yes \_\_\_\_\_ No \_\_\_\_\_. If yes, identify the Lead Agency, type of document prepared or which will be prepared, and the State Clearinghouse number:

2. Will the project require certification, authorization or issuance of a permit by any local, State, or federal environmental control agency?

Yes \_\_\_\_\_ No \_\_\_\_\_. List all other governmental permits or approvals necessary for this project or use, including U.S. Army Corps of Engineers' 404 and Section 10 permits, State Water Quality Certification, Department of Fish and Game 1600 agreement, etc. Attach copies of all applicable permits.

3. Give the name and address of the owner of the property on which the project or use is located.

4. Will the project or use require issuance of a variance or conditional use permit by a city or county?

Yes \_\_\_\_\_ No \_\_\_\_\_. Explain:

5. Is the project or use currently operating under an existing use permit issued by a local agency?

Yes \_\_\_\_\_ No \_\_\_\_\_. Explain:



6. Describe all types of vegetation growing on the project site, including trees, brush, grass, etc.
7. Describe what type of wildlife or fish may use the project site or adjoining areas for habitat, food source, nesting sites, source of water, etc.
8. Has the Department of Fish and Game, U.S. Fish and Wildlife Service, or National Marine Fisheries Service been consulted relative to the existence of, or impacts to, threatened or endangered species on or near the project site?
- Yes \_\_\_\_\_ No \_\_\_\_\_. Explain:
9. Will the project or use significantly change present uses of the project area?
- Yes \_\_\_\_\_ No \_\_\_\_\_. Explain:
10. Will the project result in changes to scenic views or existing recreational opportunities?
- Yes \_\_\_\_\_ No \_\_\_\_\_. Explain:
11. Will the project result in the discharge of silt or other materials into a body of water?
- Yes \_\_\_\_\_ No \_\_\_\_\_. Explain:

12. Will the project involve the application, use, or disposal of hazardous materials?

Yes \_\_\_\_\_ No \_\_\_\_\_. If yes, list the types of materials, proposed use, and disposal plan. Provide copies of all applicable hazardous material handling plans.

13. Will construction activities or the completed project generate significant amounts of noise?

Yes \_\_\_\_\_ No \_\_\_\_\_. Explain:

14. Will construction activities or the completed project generate significant amounts of dust, ash, smoke, fumes, or odors?

Yes \_\_\_\_\_ No \_\_\_\_\_. Explain:

15. Will the project activities or uses involve the burning of brush, trees, or construction materials, etc.?

Yes \_\_\_\_\_ No \_\_\_\_\_. Explain, and identify safety and air pollution control measures:

16. Will the project affect existing agricultural uses or result in the loss of existing agricultural lands?

Yes \_\_\_\_\_ No \_\_\_\_\_. Explain:

17. Have any other projects similar to the proposed project been planned or completed in the same general area as the proposed project?

Yes \_\_\_\_\_ No \_\_\_\_\_. Explain and identify any other similar projects:

18. Will the project have the potential to encourage, facilitate, or allow additional or new growth or development?

Yes \_\_\_\_\_ No \_\_\_\_\_. Explain:

19. Will materials be excavated from the floodplain?

Yes \_\_\_\_\_ No \_\_\_\_\_.

THE REMAINING QUESTIONS MUST ONLY BE ANSWERED IF THE ANSWER TO QUESTION NO. 19 WAS "YES." IF THE ANSWER TO QUESTION NO. 19 WAS "NO," YOU DO NOT NEED TO COMPLETE THE REMAINING QUESTIONS.

A. What is the volume of material to be excavated?

Annually \_\_\_\_\_ Total \_\_\_\_\_

B. What types of materials will be excavated?

C. Will the project site include processing and stockpiling of material on site?

Yes \_\_\_\_\_ No \_\_\_\_\_. Explain:

D. What method and equipment will be used to excavate material?

E. What is the water source for the project?

F. How will waste materials wash water, debris, and sediment be disposed of?

G. What is the proposed end land use for the project site?

H. Has a reclamation plan been prepared for this site in accordance with the Surface Mining and Reclamation Act of 1975?

Yes \_\_\_\_\_ No \_\_\_\_\_. If yes, please attach a copy.

HISTORY

1. Amendment relocating appendix A from following section 193 to new article 10 filed 12-1-2009; operative 12-31-2009 (Register 2009, No. 49).

2. Amendment of General Information Regarding Applications for Encroachment Permits and Sample Permit filed 2-15-2012; operative 2-15-2012 pursuant to Government Code section 11343.4 (Register 2012, No. 7).

\* \* \*

