

STATE OF CALIFORNIA
THE RESOURCES AGENCY
CENTRAL VALLEY FLOOD PROTECTION BOARD

RESOLUTION NO. 2012-17

DELEGATION OF AUTHORITY
TO THE EXECUTIVE OFFICER
FOR PERMITTING AND ENFORCEMENT

WHEREAS, the Central Valley Flood Protection Board (Board) is granted specific powers, duties, and authorities in the California Water Code to carry out the States primary and supreme interest to protect people and property from flooding along the Sacramento and San Joaquin Rivers, their tributaries, by-passes, overflow channels and basins; and

WHEREAS, the Board has established and does enforce standards for levees, channels, and other flood control works of an authorized project or an adopted plan, including but not limited to standards for encroachment, construction, vegetation and erosion control measures; and

WHEREAS, the California Water Code requires that every plan of reclamation, flood control, drainage, improvement, dredging or work, that includes the construction, enlargement, revetment or alteration of any levee, embankment, canal or other excavation near the banks of the Sacramento or San Joaquin Rivers or any of their tributaries, or upon any adjacent land, or within any overflow basins, or upon any land susceptible to overflow, shall be approved by the Board before construction is commenced; and

WHEREAS, the Board's permitting regulations are provided in the California Code of Regulations (CCR), Title 23, Division 1, which are used to consider applications for 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; and

WHEREAS, the Board's enforcement regulations are also provided in the California Code of Regulations (CCR), Title 23, Division 1 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. In addition, the Board has enforcement authority to issue Cease and Desist Orders, the violation of which may subject the violator to fines or penalties; and

WHEREAS, California Water Code section 8610.5 (a)(4) states “The Board may delegate approval of permits for encroachments that will not affect any element of the State Plan of Flood Control to the executive officer”; and

WHEREAS, California Water Code section 8709.5(a) states that the Board may delegate authority to the Executive Officer to issue cease and desist orders under certain circumstances; and

WHEREAS, California Water Code section 8709.4 (c) states the Board may delegate authority to the Executive Officer to take action to remove or modify encroachments on levees, channels, and other flood control works; and

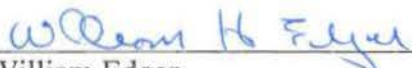
WHEREAS, the February 2012 publication of the California Code of Regulations Title 23 Division I, Section 5 defines the types of encroachments, when in compliance with Title 23 and the Board’s obligations to the U.S. Army Corps of Engineers, that will not significantly affect any element of the State Plan of Flood Control or other adopted plan of flood control and are thus delegated to the Executive Officer for review and approval; and

WHEREAS, the February 2012 publication of the California Code of Regulations Title 23 Division I, Article 4 defines the enforcement actions that may be taken by the Executive Officer including issuing notices of violation and cease and desist orders subject to conditions which are “necessary to avoid an unreasonable impact on public safety”; and

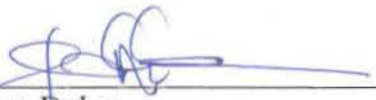
NOW, THEREFORE, BE IT RESOLVED THAT,

1. All previous delegations of duties and authorities to the Executive Officer listed in Resolution No. 06-08 General Delegation of Authority remain in effect with the exception of paragraph 3(N).;
2. The following additional delegations of duties and authorities are hereby made to the Executive Officer with the authority to re-delegate, except that there shall be no authority to re-delegate the duties and authorities in subparagraph c.:
 - a. The delegations listed in the California Code of Regulations, Title 23, Division 1, Article 2, Section 5, Delegations; and
 - b. The enforcement duties and authorities listed in the California Code of Regulations, Title 23, Division 1, Article 4, Enforcement Actions; and
 - c. The authority to issue permits under this resolution is limited to permits that will not affect the State Plan of Flood Control as defined in the California Code of Regulations, Title 23, Division 1, Section 5 (b) without holding an evidentiary hearing or obtaining Board approval. This delegation is further conditioned upon the Executive Officer publicly posting proposed permit actions on the Board’s website and periodically reporting acted permits to the Board per Sections 5(c) and 5(d).

PASSED AND ADOPTED by vote of the Board on April 27, 2012



William Edgar
President



Jane Dolan
Secretary