

**Meeting of the Central Valley Flood Protection Board
March 27, 2015**

Staff Report

**Department of Water Resources
Emergency Response Rock Stockpiles – Rio Vista
Solano County**

1.0 – ITEM

Consider approval of Draft Permit No. 18952
(Attachment B).

2.0 – APPLICANT

California Department of Water Resources (DWR)

3.0 – LOCATION

The project is located west of the Sacramento River at the corner of Airport Road and Saint Francis Way in Rio Vista on property owned in fee by the Sacramento San Joaquin Drainage District.
(Sacramento River, Solano County, see Attachment A).

4.0 – PROJECT DESCRIPTION

The applicant proposes to place rock stockpiles, a helicopter pad, k-rail fencing, an all-weather surface road and access ramp that will expedite flood mobilization and emergency response within the Delta.

5.0 - AUTHORITY OF THE BOARD

California Water Code § 8504, 8598, 8608, 8708, and 8709

California Code of Regulations, Title 23 (Title 23)

- § 19, District Lands

6.0 – PROJECT ANALYSIS

DWR proposes to implement the Delta Flood Emergency Preparedness, Response, and Recovery Program which involves securing long-term access and improving up to three critical flood fight staging areas in the Delta, including Stockton, Rio Vista, and Brannan-Andrus. The purpose of the program is to ensure that the State has the appropriate infrastructure and supplies in the Delta to respond to and recover quickly and effectively from major flood or earthquake disasters in the Delta. Permit No. 18952 would cover the Rio Vista Site only.

The Rio Vista site is located on land owned in fee by the Sacramento San-Joaquin Drainage District (SSJDD) which is managed by the Central Valley Flood Protection Board (CVFPB). A portion of the property is currently under lease to ASTA Construction, Inc. for sand and mining purposes. In addition to the approximately 5 acres of rock that are already stockpiled at the Rio Vista site, the proposed project refinements focus primarily on improving access to the existing rock stockpile and to the Dutra Group's dock facilities, stockpiling of 20,000 tons of sand, and developing site improvements to accommodate flood fight storage containers and parking for site personnel. The Dutra Group used its facility near the project site for loading barges in support of DWR's 2007-2008 Emergency Levee Repair Project, as well as other levee repair projects. DWR plans to contract with the Dutra Group for barge-loading services at its established barge-loading facility located along SR-84/River Road, which is approximately 1,000 feet southeast of the existing stockpile area.

A lease was executed between SSJDD and DWR on May 28, 2014 to allow DWR to access the site for a term of thirty (30) years (See Exhibit D).

6.1 – Hydraulic Analysis

A hydraulic analysis was not required as the project site will be located approximately 1,000 feet west of the Sacramento River.

6.2 – Geotechnical Analysis

The scope of work for this project did not require a geotechnical analysis.

7.0 – AGENCY COMMENTS AND ENDORSEMENTS

The comments and endorsements associated with this project, from all pertinent agencies are shown below:

- There is no local maintaining agency for the project area.
- The U.S. Army Corps of Engineers 208.10 comment letter has been received for this application. The USACE District Engineer has no objection to the project. The letter is attached to the permit as Exhibit A in reference to the project.

8.0 – CEQA ANALYSIS

Board staff has prepared the following California Environmental Quality Act (CEQA) determination:

The Board, as a responsible agency under CEQA, has reviewed the Initial Study/Mitigated Negative Declaration (IS/MND) (SCH Number: 20013042015, June 2013), Subsequent Initial Study/Mitigated Negative Declaration (IS/MND) (SCH Number: 2014112056, November 2014) and Mitigation Measures for the Delta Flood Emergency Facilities Improvement Project prepared by the lead agency, Placer County. These documents, including project design, may be viewed or downloaded from the Central Valley Flood Protection Board website at:

<http://www.cvfpb.ca.gov/meetings/2015/03-27-2015.cfm> under the link for this agenda item. These documents are also available for review in hard copy at the Board and the Department of Water Resources offices.

DWR determined that the project would not have a significant effect on the environment on February 11, 2015 and subsequently filed a Notice of Determination on February 12, 2015 with the State Clearinghouse. Board staff finds that although the proposed project could have a potentially significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. The project proponent has incorporated mandatory mitigation measures into the project plans to avoid identified impacts or to mitigate such impacts to a point where no significant impacts will occur. These mitigation measures are included in the project proponent's IS/MND and address impacts to biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, noise, and transportation and traffic. The description of the mitigation measures are further

described in the adopted IS/MND.

The documents and other materials which constitute the record of the Central Valley Flood Board's proceedings in this matter are in the custody of Leslie Gallagher, Acting Executive Officer, Central Valley Flood Protection Board, 3310 El Camino Ave., Rm. 151, Sacramento, California 95821.

9.0 – WATER CODE SECTION 8610.5 CONSIDERATIONS

1. Evidence that the Board admits into its record from any party, State or local public agency, or nongovernmental organization with expertise in flood or flood plain management:

The Board has considered all the evidence presented in this matter, including the original and updated applications and supporting documents, this Staff Report and attachments, all other evidence presented by any individual or group, and all letters and other correspondence received by the Board and in the Board's files related to this matter.

2. The best available science that related to the scientific issues presented by the executive officer, legal counsel, the Department or other parties that raise credible scientific issues.

The accepted industry standards for the earth work proposed and water delivery channels under this permit as regulated by Title 23 have been applied to the review of this permit.

3. Effects of the decision on facilities of the State Plan of Flood Control, and consistency of the proposed project with the Central Valley Flood Protection Plan (CVFPP) as adopted by Board Resolution 2012-25 on June 29, 2012:

The proposed project is located on high ground that is not subject to flooding; therefore there will be no adverse effect on facilities of the State Plan of Flood Control. In addition the project is consistent with the 2012 CVFPP as it will improve emergency response which is a component of the Primary Goal of the CVFPP to Improve Flood Risk Management.

The Delta Stewardship Council, and its authorizing statutes, requires that any actions in the Delta be consistent with the Delta Plan. The Delta Flood Emergency

Facilities Improvement Project is not a covered action under Delta Plan regulation. Therefore, certification of its consistency with the Delta Plan is not required. As a responsible agency, the Delta Stewardship Council filed Notice of Determination on March 6, 2015 with the State Clearinghouse.

4. Effects of reasonable projected future events, including, but not limited to, changes in hydrology, climate, and development within the applicable watershed:

There will be no effects of reasonable projected future events as the project will be located on high ground in a rural area. The site may need to be relocated if sea level rise occurs due to global warming.

10.0 – STAFF RECOMMENDATION

Staff recommends that the Board (in substantially the form provided):

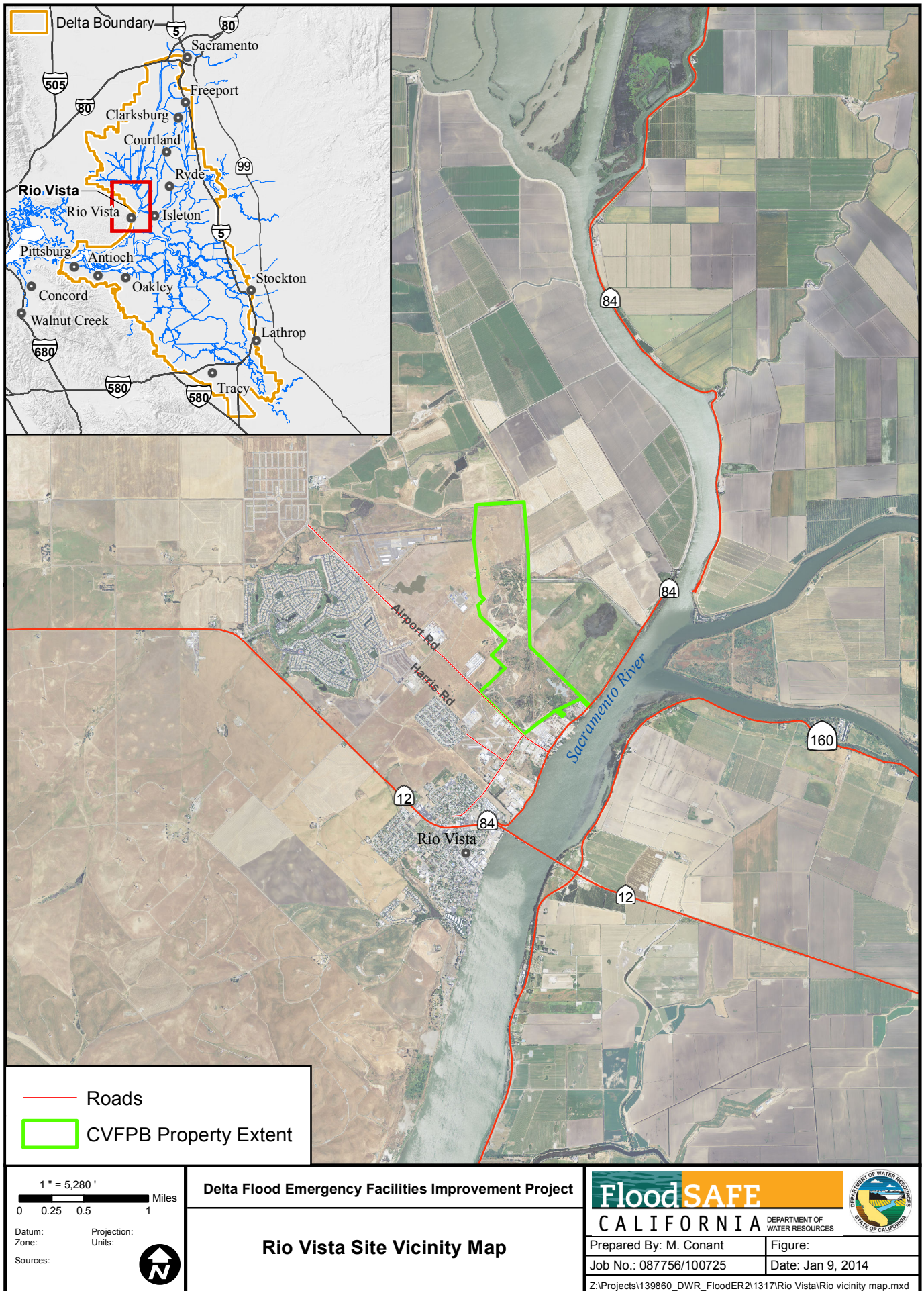
- Adopt the CEQA findings,
- Approve Encroachment Permit No. 18952,
- Direct staff to file a Notice of Determination with the State Clearinghouse.

11.0 – LIST OF ATTACHMENTS

- A. Location Maps and Photos
- B. Draft Permit No. 18952
- C. Project Drawing
- D. SSJDD/DWR Lease

Design Review:	Gary W. Lemon P.E.
Environmental Review:	Andrea Buckley, Senior Environmental Scientist
Document Review:	Mitra Emami P.E., Permitting Section Chief, Len Marino P.E., Chief Engineer
Legal Review:	Leslie Gallagher, Chief Counsel

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Delta Flood Emergency Facilities Improvement Project

Rio Vista Site Vicinity Map

FloodSAFE
CALIFORNIA



Prepared By: M. Conant

Figure:

Job No.: 087756/100725

Date: Jan 9, 2014

Z:\Projects\139860_DWR_FloodER2\1317\Rio Vista\Rio vicinity map.mxd

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DRAFT

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

PERMIT NO. 18952 BD

This Permit is issued to:

California Department of Water Resources
3310 El Camino Avenue
Sacramento, California 95821

To authorize the placement of rock stockpiles, helicopter pad, k-rail fencing, all weather surface road and access ramp to expedite flood mobilization within the Delta on property owned by SSJDD, west of the Sacramento River and south (landside) of the Mellin levee.

The project is located west of the Sacramento River at the corner of Airport Road and Saint Francis Way in Rio Vista. (Section 19, 20 , T4N, R3E, MDB&M, , Sacramento River, Solano County).

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

(SEAL)

Dated: _____

Executive Officer

GENERAL CONDITIONS:

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

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

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

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

FIVE: Unless the work herein contemplated shall have been commenced within one year after issuance of this permit, the Board reserves the right to

change any conditions in this permit as may be consistent with current flood control standards and policies of The Central Valley Flood Protection Board.

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

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

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

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

TEN: The permittee is responsible for all personal liability and property damage which may arise out of failure on the permittee's part to perform the obligations under this permit. If any claim of liability is made against the State of California, or any departments thereof, the United States of America, a local district or other maintaining agencies and the officers, agents or employees thereof, the permittee shall defend and shall hold each of them harmless from each claim.

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

TWELVE: Should any of the work not conform to the conditions of this permit, the permittee, upon order of The Central Valley Flood Protection Board, shall in the manner prescribed by the Board be responsible for the cost and expense to remove, alter, relocate, or reconstruct all or any part of the work herein approved.

SPECIAL CONDITIONS FOR PERMIT NO. 18952 BD

LIABILITY AND INDEMNIFICATION

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

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

AGENCY CONDITIONS

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

Protection Board.

SIXTEEN: A letter from the Department of the Army (U.S. Army Corps of Engineers, Sacramento District) dated June 19, 2014, is attached to this permit as Exhibit A in reference to the project.

PRE-CONSTRUCTION

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

CONSTRUCTION

EIGHTEEN: No excavation shall be made or remain within the levee during the flood season from November 1 to April 15 without prior approval of the Central Valley Flood Protection Board.

NINETEEN: Backfill material for excavations shall be placed in 4- to 6-inch layers and compacted to at least the density of the adjacent, firm, undisturbed material.

POST-CONSTRUCTION

TWENTY: All debris generated by this project shall be properly disposed of outside of the floodway.

TWENTY-ONE: The project site shall be restored to at least the condition that existed prior to commencement of work.

OPERATIONS AND MAINTENANCE

TWENTY-TWO: The permittee shall maintain the permitted encroachment(s) and the project works within the utilized area in the manner required and as requested by the authorized representative of the Department of Water Resources or any other agency responsible for maintenance.

REAL ESTATE

TWENTY-THREE: The proposed project extends onto land owned in fee by the Sacramento and San Joaquin Drainage District acting by and through the Central Valley Flood Protection Board, where the permittee has secured a lease from the Central Valley Flood Protection Board (Lease No. RIOV173).

PROJECT ABANDONMENT / CHANGE IN PLAN OF FLOOD CONTROL

TWENTY-FOUR: If the project, or any portion thereof, is to be abandoned in the future, the permittee

or successor shall abandon the project under direction of the Central Valley Flood Protection Board and Department of Water Resources, at the permittee's or successor's cost and expense.

END OF CONDITIONS



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. Army Engineer District, Sacramento
Corps of Engineers
1325 J Street
Sacramento, California 95814-2922

Flood Protection and Navigation Section (18952)

JUN 19 2014

Leslie M. Gallagher, Acting Executive Officer
Central Valley Flood Protection Board
3310 El Camino Avenue, Room 151
Sacramento, California 95821

Dear Ms. Gallagher:

We have reviewed a permit application by the California Department of Water Resources (application number 18952). This project includes authorizing the placement of rock stockpiles, helicopter pad, k-rail fencing, all weather surface road and access ramp to expedite flood mobilization within the Delta on property owned by SSJDD west of the Sacramento River and south (landside) of Mellin Levee. The project is located at the corner of Airport Road and Saint Francis Way, in Rio Vista, at 38.17378055°N 121.6801055°W NAD83, Solano County, California.

The District Engineer has no objection to approval of this application by your Board from a flood control standpoint.

Based upon the information provided, no Section 404 permit is needed.

A copy of this letter is being furnished to Mr. Don Rasmussen, Chief, Flood Project Integrity and Inspection Branch, 3310 El Camino Avenue, Suite 200, Sacramento, CA 95821.

Sincerely,


Rick L. Poeppelman, P.E.
Chief, Engineering Division

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Field Division:
 Project: Delta Flood Emergency Facilities
 Improvement Project – Rio Vista
 Facility

Maint. Yard:
 Lease No: RIOV173
 Cost Object: FBM13SXCP401

State of California
 California Natural Resources Agency
 CENTRAL VALLEY FLOOD PROTECTION BOARD

LEASE

This Lease consists of this summary and the following attached and incorporated parts:

- Section 1: Basic Provisions
- Section 2: Standard Provisions
- Section 3: Special Provisions Amending or Supplementing Section 1 or 2
- Section 4: Legal Description and/or map(s) of Lease Premises

SECTION 1

BASIC PROVISIONS

THE SACRAMENTO AND SAN JOAQUIN DRAINAGE DISTRICT, acting by and through the Central Valley Flood Protection Board of the State of California (P.O. Box 942836, Sacramento, California 94236-0001), hereinafter called STATE, for consideration specified in this Lease, does hereby lease, demise and let to: the State of California, Department of Water Resources, Division of Flood Management (DFM), hereinafter referred to as LESSEE, those certain lands included in Section 4, hereinafter referred to as Premises, subject to the provisions, reservations, terms, covenants and conditions of this Lease.

Pursuant to Sections 8550, 8590 and 8598 of the California Water Code, STATE has certain powers of acquisition, management, and disposal of real property for flood control purposes.

SIZE AND LOCATION: Approximately 67.89 acres of the Premises owned by the Central Valley Flood Protection Board in Solano County, City of Rio Vista on the north side of Airport Road between St Francis and Church streets. The Premises includes portions of the following parcels: 0177-110-060, 0117-110-070, 0117-140-010, 0177-140-020, and 0177-140-050. A general location map of the Premises, including parcel boundaries, is included as Exhibit A of Section 4, *Rio Vista Site Regional Location map*.

LAND USE OR PURPOSE: The LESSEE will utilize the Premises to support LESSEE's responsibility to prepare for and respond to flood emergencies. The Premises will be used as an emergency transfer facility where quarry rock, sand, soil and other flood fight materials and supplies can be stockpiled and efficiently transferred via land, water or air to expedite levee repairs and/or channel closures in the Delta.

During emergency operations the Premises will be used 24-hours per day to stockpile and transfer flood fight materials using heavy equipment and helicopters, as necessary. During emergency operations, portable trailers, portable restrooms, power generators will be positioned on the Premises, within areas that have been improve, to manage emergency operations. Trailers will be removed after the termination of emergency operation at the site.

During non-emergency periods, the site maybe in use for periodic stockpiling and material restocking; inspection and maintenance activities; and training exercises and drills.

IMPROVEMENTS:

LESSEE will make the following improvements to the Premises to support the stockpiling and transfer of flood fight materials. Figure 3-10 of Section 3, *Delta Flood Emergency Preparedness, Response and Recovery Facilities Improvement Project – Rio Vista Facility*, reflects the preliminary location of proposed improvements to the site.

- Clear and grub approximately 35-acres to support stockpiling rock, sand, or soil.
- Improve 0.7-acres to all-weather surfaces for temporary placement of steel storage containers and construction offices.
- Establish a 100x100-foot paved helicopter pad.
- Improve 3.5-acres of existing haul roads to all-weather surfaces for materials transportation within the site and at entry and exit points.
- Install utility access terminals in the vicinity where temporary construction offices will be placed. Utility tie-ins to be brought to site: Electricity, potable water, telecommunications.
- Improve site security with gates at entry and exit points, improved fencing, and remote monitoring.
- Improvements to the existing site's aggregate base (AB) roads (minor grading and new AB)
- Base for stockpiled materials (localized grading, compacted subgrade and an underlayment of geotextile fabric and AB)
- Foundations for storage containers (DFM to determine if foundations are concrete pads, or asphalt pads or AB pads) AB pads for temporary construction trailers for use during flood emergencies
- Tie-in from site road to Airport Road (county road)
- Site security fencing and entrance road gates
- Contractor to bring in flood-fight materials (DFM to determine this under the scope of work in contract)

TERM:

Lease term will be for 30-years.

CONSIDERATION:

LESSEE has completed the California Environmental Quality Act (CEQA) requirements for the use of and improvements to the Premises as described in this Lease. Additionally, LESSEE shall improve the land and be responsible for all normal maintenance of the Premises during the term of the Lease.

LIABILITY INSURANCE:

Self Insured. (See Standard Provisions)

SECTION 2 - STANDARD PROVISIONS

1. **ACREAGE APPROXIMATE.** LESSEE has visited and inspected the Premises and it is agreed that the acreage stated or shown in exhibits is only approximate and the STATE does not hereby warrant or guarantee the actual acreage included hereunder.
2. **USE OF PREMISES.** The use of Premises is to be strictly construed and therefore excludes the existence of any structures, mobile homes or trailers, incidental to the use of the Premises stated in Section 1 which are used for business, residential, or other incidental purposes, unless authorized in Section 1 Basic Provisions. No hunting or discharge of firearms is permitted on the Premises, unless authorized in Section 3, Special Provisions.
3. **PAYMENT OF RENT.** Rental payment shall be submitted to STATE addressed as follows:
California Department of Water Resources
ATTENTION: Cashier, Room 841
Post Office Box 942836
Sacramento, California 94236-0001

Such payments must be identified with Lease Number. If rent is not paid when due, STATE may take action including terminating the Lease.
4. **UTILITIES.** LESSEE agrees to pay said rent as herein provided and to pay all water, electric, gas and other utility charges or any other charges payable in connection with LESSEE'S use of Premises during the term of this Lease. No utilities including electricity or gas will be provided by STATE and STATE assumes no liability for the existence or nonexistence of utilities.
5. **WATER AVAILABILITY.** It is understood and agreed between the parties hereto STATE does not guarantee the availability, quality or quantity of water on the Premises.
6. **TAXES.** LESSEE agrees to pay all lawful taxes, assessments, or charges which at any time may be levied upon interest in this Lease. It is understood that this Lease may create a possessory interest subject to property taxation and assessment, LESSEE may be subject to the payment of all applicable property taxes and assessments levied on such interest.
7. **COMPLIANCE WITH LAW.** LESSEE shall, at his sole cost and expense, comply with all of the statutes, laws, ordinances, regulations, and requirements of all municipal, county, state, and federal authorities now in force, or which may hereafter be in force, pertaining to the Premises and the use of the Premises as provided in this Lease.
8. **CONDITION OF PREMISES.** By entry hereunder, LESSEE accepts the Premises as being in good order, condition and repair, and agrees that on the last day of the term, or upon sooner termination of this Lease, to surrender to STATE the Premises with any appurtenances or improvements in the same condition as when received, reasonable use and wear thereof and damage by act of nature, excepted.
9. **MAINTENANCE.** LESSEE shall maintain the Premises, and any improvements existing on the Premises in a weed free condition and in good repair, and otherwise operate the premises during the term hereof in a businesslike manner.

LESSEE agrees that in no event shall STATE be required to perform any maintenance on or make repairs or alterations to the Premises of any nature whatsoever. LESSEE agrees to keep the Premises in good order and condition at his sole cost and expense. LESSEE does hereby waive all rights to make repairs at the expense of STATE as provided in Sections 1941 and 1942 of the Civil Code.
10. **ALTERATION OF PREMISES.** No alteration to the Premises, including surface topography or construction of facilities or improvements thereon shall be allowed without prior written approval by the STATE.
11. **PROTECTION AGAINST NUISANCE AND DAMAGE.** No removal of soil or dumping of refuse by LESSEE is permitted in any area of the Premises, and LESSEE shall not commit or suffer to be committed any waste or nuisance upon the Premises including storage of abandoned and inoperable motorized equipment or vehicles; and Lessee agrees not to cut or remove any trees or brush thereon except as approved in writing by STATE; and LESSEE further agrees that he shall at all times exercise due diligence in the protection of the Premises against damage or destruction by fire or other causes.
12. **PERFORMANCE.** In the event of the failure, neglect, or refusal of LESSEE to do or perform work, or any part thereof, or any act or thing in this Lease provided for by law to be done and performed by LESSEE, STATE shall, at its option, have the right to do and perform the same, and LESSEE hereby covenants and agrees to pay STATE the cost thereof on demand.
13. **RIGHT TO ENTER, STATE.** During continuance in force of this Lease, there shall be and is hereby expressly reserved to STATE and to any of its agencies, contractors, agents, employees, representatives or licensees, the right at any and all times, and any and all places, to temporarily enter upon said Premises to inspect the Premises and the operations of LESSEE or for survey or other lawful STATE purposes.
14. **RIGHTS OF OTHERS.** This Lease is subject to all existing easements, servitudes, licenses and rights of way for canals, ditches, levees, roads, highways, telegraph, telephone and electric power lines, railroads, pipelines and other purposes, whether recorded or not and rights of others under any existing oil, gas and mineral lease or leases affecting the Premises or any portion thereof, whether recorded or not. STATE further reserves the right to grant additional public utility easements as may be necessary and LESSEE hereby consents to the granting of any such easement. The public utility will be required to reimburse LESSEE for any damages caused to the LESSEE's operations by the construction work on the easement area.
15. **RIGHT TO ENTER UNDER MINERAL RIGHTS.** LESSEE agrees not to interfere, in any way, with the interests of any person or persons that may presently, or in the future, hold oil, gas, or other mineral interests upon or under said leased Premises; nor shall LESSEE, in any way, interfere with the rights of ingress and egress of said interest holders.
16. **INDEMNIFICATION.** This Lease is made upon the express condition that the STATE is to be free from all liability and claims for damages by reason of any injury to any person or persons, including LESSEE, or property of any kind whatsoever and to whomsoever belonging, including LESSEE, from any cause or causes whatsoever while in, upon, or in any way connected with the Premises during the term of this Lease or any occupancy hereunder, except those arising out of the sole negligence of the STATE. LESSEE agrees to defend, indemnify and save harmless the STATE from all liability, loss, cost or obligation on account of or arising out of any such injury or loss, however occurring. Provided, however, when claims by third parties are made which assert the STATE and LESSEE are each negligent, the STATE shall be held harmless and have no obligation for any loss or cost until the limits of the LESSEE's insurance provided for below are exhausted in payment or settlement of a claim. But the STATE's obligation shall be limited to its share of any negligence claim based on its share of the claimed negligence. LESSEE further agrees to provide necessary workers compensation insurance for all employees of LESSEE upon Premises at LESSEE's own cost and expense.

17. **INSURANCE.** LESSEE shall furnish to the STATE a Certificate of Insurance, at the time the Lease is signed, stating that there is liability insurance presently in effect for LESSEE with bodily injury and property damage limits of not less than \$1,000,000 per occurrence. The Certificate of Insurance will provide:

- a. That the insurer will not cancel the insured's coverage without 30 days' prior written notice to the STATE.
- b. That the STATE, its officers, agents, employees and servants are included as additional insureds, but only insofar as the operations under this Lease are concerned.
- c. That the STATE will not be responsible for any premiums or assessments on the policy.
- d. That Premises included in this Lease (referenced by Lease number) is covered by the policy.

LESSEE agrees that the bodily injury liability insurance herein provided for shall be in effect at all times during the term of this Lease. In the event said insurance coverage expires at any time or times during the term of this Lease, LESSEE agrees to provide at least thirty (30) days prior to said expiration date, a new Certificate of Insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the Lease, or for a period of not less than one (1) year. New Certificates of Insurance are subject to the approval of the State Department of General Services. In the event LESSEE fails to keep in effect at all times insurance coverage as herein provided, STATE may, in addition to any other remedies it may have, terminate this Lease upon the occurrence of such event.

If LESSEE is self-insured in whole or in part for any of the above-described types and levels of coverage, LESSEE shall provide STATE with written acknowledgment of this fact at the time of the execution of this Lease. The STATE may require financial information to justify LESSEE's self-insured status. If, at any time after the execution of the Lease, LESSEE abandons its self-insured status, LESSEE shall immediately notify STATE of this fact and shall comply with all of the terms and conditions of this Insurance clause pertaining to policies of insurance in regard to those types and levels of insurance.

18. **DEBTS AND CLAIMS - STATE NOT LIABLE.** The STATE shall not be liable for any debts or claims that arise from the operation of this Lease.
19. **TITLE KEPT FREE OF ENCUMBRANCES.** During the term provided for in the Lease, LESSEE will not in any way encumber or cloud title to the Premises, or any part thereof, nor shall the interest or estate of STATE in the Premises be in any way subject to any claim by way of lien or encumbrance, whether by operation of law or by virtue of any express or implied contract by LESSEE. LESSEE will promptly pay all utility charges, assessments, and all debts contracted by it in reference to the Premises to the end that no liens shall attach hereto. Any claim to, or lien upon, the Leased Premises arising from any act or omission of LESSEE shall accrue only against the leasehold estate of LESSEE and shall be subject and subordinate to the paramount title and rights of STATE in and to the Leased Premises.
20. **NOTICES.** All notices herein provided to be given or which may be given by either party to the other shall be deemed to have been fully given when made in writing and deposited in the United States mail, certified, postage prepaid and addressed to such party at its address set forth in Section 1 of this Lease. The address to which notices may be mailed, as aforesaid to either party, may be changed by written notice given by subject party to the other, as hereinbefore provided; but nothing contained shall preclude the giving of any such notice by personal service.

21. **NO SUBLETTING.** LESSEE shall not, without previous consent in writing of STATE, sublet the Premises in whole or in part, nor assign this Lease or any interest herein.

22. **TERMINATION.** STATE may terminate this Lease in whole or in part at any time during the term hereof by giving LESSEE notice in writing at least 30 days prior to the date when any such termination shall become effective. In the event of any such termination, in whole or in part, STATE shall reimburse LESSEE for the unearned portion of any prepaid rent. Any such refund shall be based on the premise that the rent payable under the Lease is identical as to all portions of the land. In the event of a partial termination, all rentals payable thereafter shall be reduced in accordance with the proportionate amounts of land remaining under the Lease.

23. **HOLDOVER.** Any holding over after expiration of the term of this Lease with the consent of STATE, expressed or implied, shall be deemed to be a tenancy only from month to month. Rental to be paid monthly pro rata to the rate set forth herein. Said month-to-month tenancy shall be subject otherwise to all the terms and conditions of this Lease so far as applicable.

24. **NO RIGHT TO RENEWAL.**

(a) STATE offers and LESSEE accepts no assurances that the Premises or any other comparable acreage at the site described herein will be made available to LESSEE beyond the term stated in Section 1 or as said term is reduced as provided herein.

(b) STATE will not be responsible in any way for reimbursement claims by LESSEE for any costs incurred for future materials or obligations necessary for the operation of this site which LESSEE has paid in anticipation of renewal, extension or grant of occupancy beyond lease term.

25. **ACTION FOR BREACH - ATTORNEYS' FEES.** If action be brought by the STATE for recovery of any rent due under the provisions hereof or for any breach hereof, or for the recovery of possession of Premises, or to protect any rights given to the STATE against LESSEE, prevailing party shall be entitled to attorney's fees in said action as the court shall determine to be reasonable, which shall be fixed by the court as part of payment or the costs of said action.

26. **INDEPENDENT CAPACITY.** LESSEE and any and all agents and employees of LESSEE shall act in an independent capacity and not as officers or employees of STATE. Nothing herein contained shall be construed as constituting the parties herein as partners.

27. **NONDISCRIMINATION.**

(a) In the performance of this Lease, the LESSEE will not discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, age, handicap, religion, physical disability (including HIV and AIDS), mental disability, medical condition, marital status, sex, sexual orientation, or use of family care leave. LESSEE will take action to ensure that the employees and applicants for employment are treated during employment without regard to their race, color, creed, sex, national origin, ancestry, age, handicap, or religion.

(b) Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(c) LESSEE shall comply with all provisions of the Fair Employment and Housing Act (Government Code (GC) Section 12990 (a-f) et seq.) The applicable regulations of the Fair Employment and Housing Commission implementing GC Section 12990 (a-f), set forth in Chapter

5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into the Lease by reference and made a part thereof as if set forth in full. LESSEE shall not post in conspicuous places available to employees and applicants for employment, notices to be provided by the STATE setting forth the provisions of this Fair Employment Practices Section. (GC, Section 12920-12976).

(d) Remedies for willful violations:

1. The STATE may determine a willful violation of the Fair Employment Practices provision to have occurred upon the receipt of final judgment having that effect from a court action to which LESSEE was a party, or upon receipt of a written notice from the Fair Employment Practices Commission that it has investigated and determined that the LESSEE has violated the Fair Employment Practices Act and has issued an order pursuant to the appropriate provisions of the Government Code.

2. The STATE shall have the right to terminate this Lease and any loss of revenue sustained by the STATE by reason thereof will be borne and paid for by LESSEE.

28. **AMERICANS WITH DISABILITIES ACT.** Where applicable, LESSEE shall comply with all Federal requirements established under the following: 28 Code of Regulations, Part 36, Americans with Disabilities Act, in order to make programs accessible to all participants and to provide equally effective communications.
29. **PERSONAL PROPERTY.** All personal property, tools, or equipment taken onto, stored or placed on the Premises by LESSEE shall remain the property of LESSEE. Such personal property shall be removed by LESSEE, at his sole risk and expense, upon the expiration or sooner termination of this Lease. STATE does not accept any responsibility for any damage, including, but not limited to damages caused by fire, flooding and theft, to any personal property, including any equipment, tools or machinery stored on the lease Premises.
30. **HAZARDOUS SUBSTANCES.** LESSEE agrees that it will comply with all laws, either Federal, State, or local, existing during the term of this Lease pertaining to the use, storage, transportation and disposal of any hazardous substance as that term is defined in such applicable law. LESSEE shall obtain any and all local, State and Federal permits required including: restricted pesticide use permit and burning permits, and comply with all of the conditions noted herein.

Dumping of hazardous material or waste is strictly prohibited. No use or storage of any hazardous substance or chemical, as those terms are used in CERCLA (42 USC 9601.14) or SARA (42 USC 11021.e) or any similar State law, or use of any pesticide, oil, petroleum product or fuel; except only materials packaged and purchased for consumer use in containers not to exceed one (1) gallon, or fuel in a vehicle fuel tank.

No accumulation, storage treatment or disposal of any waste material, excepting only temporary storage not to exceed 14 days, or nonhazardous solid refuse produced from activities on the property for pick up by a municipal or licensed commercial refuse service and lawful use of sanitary sewers (if any) for domestic sewage.

No manufacturing or maintenance of equipment or vehicles, or use, installation or construction vessels, tanks dikes, sumps or ponds or any activity for which a license or permit is required from any government agency for (1) transportation, storage, treatment or disposal of any wastes (2) discharge of any pollutant including but not limited to discharge to air, water, or a sewer system.

Any spill or release of a hazardous material to the air, soil, surface water or ground water will be immediately reported to the State as well as to the appropriate governmental agencies and shall be promptly and fully cleaned up and the property (including soils and surface water and ground water) restored to its original condition.

In the event the STATE or any of its affiliates, successors, principals, employees or agents should incur any liability, cost or expense, including attorneys' fees and costs, as a result of LESSEE's illegal or alleged illegal use, storage, transportation or disposal of any hazardous substance, including any petroleum derivative, LESSEE shall indemnify, defend and hold harmless any of these individuals against such liability.

Where LESSEE is found to be in breach of this provision due to the issuance of a government order directing LESSEE to cease and desist any illegal action in connection with a hazardous substance, or to remediate a contaminated condition caused by LESSEE or any person acting under LESSEE's direction, control and authority, LESSEE shall be responsible for all costs and expenses of complying with such order including any and all expenses imposed on or incurred by STATE in connection with or response to such government order.

In the event a government order is issued naming LESSEE or LESSEE incurs any liability, during or after the term of the Lease, in connection with contamination which preexisted LESSEE's obligations and occupancy under this Lease or which were not caused by LESSEE, STATE shall hold harmless, indemnify, and defend LESSEE in connection therewith and shall be solely responsible as between LESSEE and STATE for all efforts and expenses thereof.

31. **SUCCESSORS TO LEASE.** The terms of this Lease and covenants and agreements herein contained shall apply to and shall bind and inure to the benefit of the heirs, representatives, assigns and successors in interest of the parties hereto.
32. **REDUCTION IN AREA.** STATE, at its sole discretion may reduce the leased acreage during the term of the this lease by giving LESSEE notice in writing at least thirty (30) days prior to the date any such reduction shall become effective. In the event of a reduction in leased acreage, all rents will be recalculated thereafter and shall reflect the change in acreage remaining under the lease.
33. **RELOCATION.** In the event the STATE terminates this Lease pursuant to Paragraph 22, LESSEE acknowledges and agrees that it has no claim against the STATE for Relocation Payments, Relocation Advisory Assistance, or costs pursuant to the Government Code Sections 7260 et. seq. or any regulations implementing or interpreting such sections. LESSEE further agrees that, other than the reimbursement described in Paragraph 25, it has no claim in either law or equity against the STATE for damages or other relief should the Lease be terminated and waives such claims it may have.
34. **DISPOSITION OF IMPROVEMENTS.** During the term of this Lease, all improvements and personal property placed in, upon, or under the leased Premises by LESSEE shall remain the property of the LESSEE. Upon lease termination or termination of tenancy, at LESSEE's sole expense, LESSEE shall remove all person property, and shall remove/demolish all items (if any) STATE identifies for removal/demolition on said Premises within thirty (30) days of written notice and shall restore the ground as needed. Should LESSEE fail to remove said property within thirty (30) days after expiration or termination of the Lease, STATE may do so at the risk of the LESSEE. Upon written demand by STATE, the LESSEE shall pay all cost and

expense of the removal of LESSEE's property.

LESSEE may, however, with written consent of the STATE, abandon in place any and all of LESSEE's property, real or personal, to include all furnishings and fixtures, above or below ground, whereupon, as abandoned, title to said improvements shall vest in STATE.

35. **BINDING.** The terms of this Lease and covenants and agreements herein contained shall apply to and shall bind and inure to the benefit of the heirs, representatives, assigns and successors in interest of the parties hereto.
36. **PARAGRAPH HEADINGS.** All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Lease.
37. **ESSENCE OF TIME.** Time is of the essence for each and all of the provisions, covenant and conditions of the agreement.
38. **SEPARATE COUNTERPARTS.** This Lease may be executed in separate counterparts, each of which when so executed, shall be deemed to be an original. Such counterparts shall, together, constitute and be one and the same instrument.
39. **SUPERCEDURE.** This Lease supersedes and voids any prior license, lease, or agreement between STATE and the LESSEE identified in this Lease with regards to the Premises.
40. **SEVERABILITY.** If any term, covenant, or provision of this Lease or any application thereof, to any extent, is found invalid, void, or unenforceable by a court of competent jurisdiction, the remainder of this Lease will not be affected thereby, and will be valid and enforceable to the fullest extent permitted by law.
41. **ENTIRE AGREEMENT.** This Lease and its exhibits constitute the entire agreement between STATE and LESSEE. No prior written or prior, contemporaneous or subsequent oral promises or representations shall be binding.

SECTION 3

SPECIAL PROVISIONS

This Lease may include Special Provisions. In the event that any terms of the Standard Provisions and the Special Provisions are inconsistent, the Special Provisions shall prevail.

PAYMENT OF RENT. The improvements made to the Premise to support LESSEE's emergency response objectives and the maintenance of both the improvements and the premises generally shall serve as the consideration for this lease.

TAXES: The LESSEE is a department of the State of California, with a mission consistent with that of the Central Valley Flood Protection Board of the STATE. Therefore, the STATE will continue to maintain the responsibility for paying all lawful taxes, assessment, charges which at any time may be levied upon this property.

ACCESS IN EMERGENCY: STATE and LESSEE share the goal of preventing and remediating damage to persons or property resultant from high water or other emergency condition. LESSEE and STATE mutually agree to cooperate and coordinate during times of high water or other emergency. LESSEE shall allow STATE or STATE's federal or local flood control partners on the premises for flood fighting or other related and reasonably necessary activities. STATE shall take reasonable measures to ensure non interference with LESSEE's use of the premises during said time of high water or other emergency. Upon the cessation of the high water or other emergency, STATE shall repair or restore any damage to the premises, inclusive of LESSEE's improvements, resultant from STATE's use of the land during the high water or other emergency and LESSEE shall resume full possession of the premises pursuant to the terms of this Lease.

SECTION 4

Location of Premises

This Lease refers to the property owned by the Sacramento and San Joaquin Drainage Districts, through the Central Valley Flood Protection Board, in Solano County, in the city of Rio Vista. Exhibit A to this Section provides the general location of the property. The portion of the property considered under this Lease, referred to as the Premises, is shown in detail in Exhibit B of this Section.

State of California
California Natural Resources Agency
DEPARTMENT OF WATER RESOURCES

LEASE NO. RIOV173

This Lease shall become effective only when fully approved and executed on behalf of the State of California and a duly executed copy has been delivered to LESSEE. The submission of this Lease by STATE, its agent or representative for examination by LESSEE does not constitute an option or offer to lease the Premises upon the terms and conditions contained herein, or a reservation of the Premises in favor of LESSEE. LESSEE'S submission of an executed copy of this Lease to STATE shall constitute an offer to STATE to lease the Premises on the terms and conditions set forth herein.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the date hereafter affixed.

LESSOR:

STATE OF CALIFORNIA
CENTRAL VALLEY FLOOD PROTECTION
BOARD

LESSEE:

STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES

Jay S. Paris

Title: Executive Officer

Date: 5/28/2014

[Signature]

Title: Chief, Real Estate Branch

Date: 7/11/14

EXHIBIT "A"

EDF-43

That portion of Lots 33, 34, 35, 36 & 37 of Rancho de los Ulpinos, lying within projected Sections 19 and 20, Township 4 North, Range 3 East, M.D.M., City of Rio Vista, County of Solano, State of California, described as follows:

BEGINNING at a found $\frac{3}{4}$ -inch iron pipe with no tag, accepted in lieu of the 1-inch iron pipe marking the most Northerly corner of PARCEL NO. 2, as shown on PARCEL MAP No. 83-1, filed for record on December 28, 1983 in Book 25 of Parcel Maps, Page 66, in the Office of the Solano County Recorder, which bears North $36^{\circ} 05' 28''$ East 1154.63 feet from a found $\frac{3}{4}$ -inch iron pipe with no tag, accepted in lieu of the 1-inch iron pipe, marking the Southwest corner of PARCEL NO. 1, as shown on said PARCEL MAP;

THENCE FROM SAID POINT OF BEGINNING, along the Northeasterly, Southeasterly and Southwesterly boundary of said PARCEL NO. 2 the following 9 courses:

- (1) South $46^{\circ} 36' 02''$ East 1026.84 feet to a found $\frac{3}{4}$ -inch iron pipe, as shown on said PARCEL MAP;
- (2) South $43^{\circ} 56' 21''$ East 430.10 feet to the Southeast corner of said PARCEL NO. 2;
- (3) South $41^{\circ} 37' 53''$ West 75.00 feet;
- (4) North $42^{\circ} 27' 09''$ West 216.02 feet;
- (5) North $24^{\circ} 40' 28''$ West 9.86 feet;
- (6) North $46^{\circ} 37' 27''$ West 150.67 feet;
- (7) North $72^{\circ} 10' 54''$ West 27.75 feet;
- (8) North $77^{\circ} 06' 35''$ West 26.03 feet; and
- (9) South $44^{\circ} 00' 38''$ West 30.65 feet to a point on the Northeasterly boundary of PARCEL NO. 1, as shown on said PARCEL MAP;

thence South $46^{\circ} 33' 35''$ East 10.00 feet to the Southeast corner of said PARCEL NO. 1;

thence along the Southeasterly boundary of said PARCEL NO. 1 the following 2 courses:

- (1) North $64^{\circ} 46' 34''$ West 668.53 feet; and
- (2) South $64^{\circ} 40' 39''$ West 344.74 feet to the Southwest corner of said PARCEL NO. 1;

thence along the Southwesterly boundary of said PARCEL NO. 1

North $54^{\circ} 06' 57''$ West 22.46 feet to a $\frac{5}{8}$ -inch iron pipe, as shown on said PARCEL MAP;

thence continuing along said Southwesterly boundary North $54^{\circ} 06' 58''$ West 40.09 feet;

thence leaving said Southwesterly boundary the following 3 courses:

- (1) South 54° 03' 53" East 109.32 feet;
- (2) South 50° 34' 06" East 17.95 feet; and
- (3) South 60° 45' 41" East 22.43 feet to the most Northwesterly corner of the land described as Parcel No. 71-656B in QUITCLAIM DEED, recorded August 31, 1972 in Book 1773, Page 220, Official Records of said County;

thence along the Northwesterly boundary of said Parcel No. 71-656B the following 2 courses:

- (1) South 64° 46' 10" West 23.13 feet; and
- (2) South 52° 36' 09" West 790.08 feet to a found ¾-inch iron pipe accepted as marking the most Northerly corner of the land described as Parcel No. 71-656A in QUITCLAIM DEED, recorded August 31, 1972 in Book 1773, Page 210, Official Records of said County;

thence along the Northwesterly boundary of said PARCEL 71-656A the following 2 courses:

- (1) South 52° 36' 09" West 397.65 feet; and
- (2) South 55° 05' 36" West 380.08 feet to the Northwest corner of said Parcel No. 71-656A, being also a point on the Northeasterly line of Airport Way (formerly Suisun Avenue), as shown on Tracing 2-68, sheet 21 of 32, on file at the California State Department of Water Resources in Sacramento, California;

thence leaving said Northwesterly boundary, along said Northeasterly line the following 2 courses:

- (1) North 54° 12' 08" West 244.86 feet; and
- (2) North 44° 54' 42" West 602.05 feet;

thence leaving said Northeasterly line the following 3 courses:

- (1) North 45° 05' 18" East 400.20 feet;
- (2) North 44° 54' 43" West 300.00 feet; and
- (3) South 45° 05' 18" West 400.20 feet to said Northeasterly line;

thence along said Northeasterly line North 44° 54' 42" West 1449.94 feet;

thence leaving said Northeasterly line the following 15 courses:

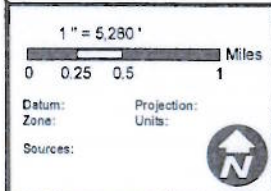
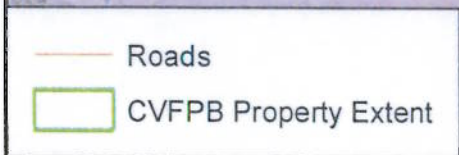
- (1) North 45° 05' 18" East 586.95 feet;
- (2) South 40° 49' 21" East 493.58 feet;
- (3) South 50° 24' 27" East 269.42 feet;
- (4) South 41° 32' 35" East 631.17 feet;
- (5) South 36° 04' 02" East 856.38 feet;
- (6) North 89° 31' 41" East 231.72 feet;
- (7) North 62° 07' 53" East 165.15 feet;
- (8) North 45° 50' 26" East 86.45 feet;
- (9) North 32° 08' 05" East 679.22 feet;
- (10) North 42° 19' 46" East 617.59 feet;

- (11) North 09° 49' 21" East 150.43 feet;
- (12) North 49° 05' 55" West 112.06 feet;
- (13) North 42° 26' 53" West 501.95 feet;
- (14) North 55° 34' 07" East 563.66 feet to the Northeasterly line of Lot 36 of the Los Ulpinos Rancho; and
- (15) along said Northeasterly line South 43° 44' 05" East 484.92 feet to the Point of Beginning.

Containing 67.89 acres, more or less.

Bearings and distances used in the above description are based on the California Coordinate System, CCS83 (2011).





Delta Flood Emergency Facilities Improvement Project

Rio Vista Site Vicinity Map

FloodSAFE
CALIFORNIA



Prepared By: M. Conant

Figure:

Job No.: 087756/100725

Date: Jan 9, 2014

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NO VISTA BORROW AREA
EAST DELTA FACILITIES

STATE OF CALIFORNIA
THE NATURAL RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES
DIVISION OF ENGINEERING - GEOTECHNICAL BRANCH

[illegible]

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