

**CENTRAL VALLEY FLOOD PROTECTION BOARD**

3310 El Camino Ave., Rm. 151  
SACRAMENTO, CA 95821  
(916) 574-0609 FAX: (916) 574-0682



**Sent Via U.S. Certified Mail Return Receipt Requested**

**CEASE AND DESIST ORDER**

**Property Owner:** Igor R. & Dana M. Vaynberg **Date:** April 23, 2015  
**Mailing Address:** 3720 Bridgeway Lakes Dr. **Enforcement Action:** 2015-1200  
West Sacramento, California 95691

**Encroachment Location:** 3083 Garden Highway  
Sacramento, California 95833  
Sacramento River, Left (East) Bank, Unit 1  
Levee Mile 14.27  
Latitude: 38.624181 Longitude:-121.561103

**Local Maintaining Agency:** Reclamation District No. 1000  
**Assessor Parcel Number:** 225-0200-012-0000 (Sacramento County)

The State of California - Central Valley Flood Protection Board (CVFPB) staff has documentation that encroachment violations of the State Plan of Flood Control exist within its jurisdiction at the above location as described in the attached Notice of Violation (NOV) (see Attachment 1), dated March 5, 2015.

By issuing this Cease and Desist Order (C&D), the CVFPB staff is notifying you that the corrective actions described in the attached NOV must be completed by or before May 26, 2015. As the property owner, you are responsible for notifying all applicable agencies and obtaining necessary approvals for the corrective action work. Failure to comply with this C&D will subject you to an enforcement order under Water Code Section 8701.4, which may order remedial and enforcement actions, including but not limited to, administrative penalties. See Water Code Section 8701.4 for a complete list of actions that the CVFPB may take, and Water Code Sections 8704 and 8704.1 for penalty provisions.

This C&D will be considered by the CVFPB during a regular scheduled meeting as follows:

**Meeting Date:** Friday May 29, 2015 starting at 9:00 AM.

**Meeting Location:** Sacramento City Hall  
First Floor Council Chamber  
915 I Street  
Sacramento, CA 95814

This meeting will be your opportunity to appear before the CVFPB to contest this C&D.

At this meeting, the CVFPB may affirm, amend, modify, stay, or rescind this C&D. If you fail to appear at the above mentioned meeting, the C&D may be approved by default.

**CVFPB Contact:**

The staff member assigned to this enforcement action is Alfred Lam, Staff Engineer, Enforcement Section. E-mail: [alfred.lam@water.ca.gov](mailto:alfred.lam@water.ca.gov), desk: (916) 574-1719.

If you have any questions, please contact Michael C. Wright, PE, Chief of the Enforcement Section at E-mail: [michael.wright@water.ca.gov](mailto:michael.wright@water.ca.gov), desk: (916) 574-0698.

Signed,



Leslie Gallagher  
Acting Executive Officer

**Attachments:**

1. Notice of Violation dated March 5, 2015

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**YOUR RESPONSE IS REQUIRED BY: April 10, 2015**

March 5, 2015

Igor R. & Dana M. Vaynberg  
3720 Bridgeway Lakes Dr.  
West Sacramento, California 95691

Subject: **Notice of Violation – Noncompliant Encroachments**  
**Enforcement Action: No. 2015-1200**

Dear Mr. & Mrs. Vaynberg:

The State of California, Central Valley Flood Protection Board (CVFPB) staff has observed noncompliant encroachments located at 3083 Garden Highway in Sacramento, California. You are receiving the attached Notice of Violation (NOV) because you are either the property owner where the encroachments are located, or you are the party believed to be responsible for the encroachments.

CVFPB staff has prepared the attached NOV formally noticing you to address the noncompliant encroachments in accordance with the California Water Code (Division 5, Part 4) and the California Code of Regulations (Title 23, Waters).

If you have questions about this letter or the NOV, please contact Mr. Michael C. Wright, Chief of the Enforcement Section, at (916) 574-0698, or by e-mail at [Michael.Wright@water.ca.gov](mailto:Michael.Wright@water.ca.gov).

Sincerely,

Leslie Gallagher  
Acting Executive Officer

Attachment: Notice of Violation

cc: (Please see attached list)

Name

March 5, 2015

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cc: Mr. Paul Devereux, Reclamation District 1000 (via electronic copy)  
Mr. Ryan Larson, USACE (via electronic copy)  
Mr. David Pesavento, DWR (via electronic copy)  
Mr. Len Marino, CVFPB (via electronic copy)  
Mr. Michael C. Wright, CVFPB (via electronic copy)  
Mr. Alfred Lam, CVFPB (via electronic copy)  
Ms. Lori Brock, DWR (via electronic copy)

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**NOTICE OF VIOLATION****NONCOMPLIANT ENCROACHMENTS****YOUR RESPONSE IS REQUIRED BY: April 10, 2015**

**Property/Encroachment Owner:** Igor R. & Dana M. Vaynberg **Date:** March 5, 2015  
**Mailing Address:** 3720 Bridgeway Lakes Dr. **Enforcement Action:** 2015-1200  
West Sacramento, California 95691

**Encroachment Location:** 3083 Garden Highway  
Sacramento, California 95833  
Sacramento River, Left (East) Bank, Unit 1  
Levee Mile 14.27  
Latitude: 38.624181 Longitude: -121.561103

**Local Maintaining Agency:** Reclamation District No. 1000  
**Assessor Parcel Number:** 225-0200-012-0000 (Sacramento County)

**Section A – Encroachment Violation**

**Description:** Pursuant to California Water Code (CWC) Section 8701, the Central Valley Flood Protection Board (CVFPB) may issue a Notice of Violation (NOV) to the person or public agency responsible for the encroachment, flood system improvement, or activity that is in violation of Part 4, Division 5 of the CWC. A recent inspection by the CVFPB staff has determined that the encroachment, flood system improvement, or activity described below, interferes with or obstructs the performance, maintenance, or operation of flood control facilities that are regulated by the CVFPB. You have been identified as the party responsible for the encroachment.

The following noncompliant encroachments have been identified:

1. Soil and demolished concrete placed on the waterside levee berm and river bank in violation of California Code of Regulation (CCR) Title 23, Sections 6, 115(a), 115(d), and CWC Sections 8700 and 8710. The soil and demolished concrete may:
  - a. Reduce the flood-carrying capacity of the floodway.
  - b. Destabilize the riverbank.
  - c. Interfere with maintenance activities, inspections or flood fight activities.

**Legal Authority:** The encroachments listed above in Section A violate the following State statutes and/or federal regulations

1. CWC Section 8700 – It is unlawful to interfere with, obstruct the performance, maintenance, or operation of, or otherwise take action that may adversely affect the facilities of the State Plan of Flood Control, designated floodways, or streams that are regulated by the CVFPB.

2. CWC Section 8710 – Every plan of reclamation, flood control, drainage, improvement, dredging or work, that includes or contemplates the construction, enlargement, revetment or alteration of any levee, embankment, canal or other excavation in the bed of or along or near the banks of the Sacramento or San Joaquin Rivers or any of their tributaries or connected therewith, or upon any land adjacent thereto, or within any of the overflow basins thereof, or upon any land susceptible to overflow therefrom, shall be approved by the board before construction is commenced.
3. California Code of Regulations (CCR) Title 23 Section 6 – (Encroachment Permit) 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 kinds, 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 CVFPB prior to commencement of work.
4. CCR Title 23 Section 115(a) – Dredged, spoil, and waste material may not be deposited within a project floodway without approval of the CVFPB.
5. CCR Title 23 Section 115(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.
6. Code of Federal Regulations (CFR) Title 33, Section 208.10 – The structures and facilities constructed by the United States for local flood protection shall be continuously maintained in such a manner and operated at such times and for such periods as may be necessary to obtain the maximum benefits. No encroachment, land improvement, alteration, excavation, or construction shall adversely affect the efficient maintenance and operation of local flood protection structures and facilities, which include levees, flood walls, drainage structures, closure structures, pumping plants, channels, floodways and miscellaneous facilities.

### **Section B – Corrective Action**

CCR Title 23 allows the CVFPB to require that all noncompliant and unpermitted encroachments on a levee, within the levee, within 10-feet of the levee toes, or located in an easement held by the Sacramento-San Joaquin Drainage District, be removed. Encroachments within the floodway that do not comply with state and federal laws cannot be permitted and must be removed by the landowner at the landowner's expense. Encroachments within the floodway that comply with state and federal laws will require a CVFPB encroachment permit. The soil, concrete and miscellaneous debris violate state and federal law and are not eligible for a permit.

#### **The following corrective actions are necessary:**

The above noted encroachments may be corrected without obtaining prior approval from the CVFPB. The corrective actions must take place prior to **April 10, 2015**, and must include the following:

On or before April 10, 2015: Removal of the soil and demolished concrete on the waterside levee berm and river bank to a location outside of the floodway.

**After removal and repair, you must submit the following:**

A post-removal and repair report which includes photographs of all pre- and post-removal and repair work to the CVFPB contacts listed below on or before April 10, 2015.

**Section C – Consequences of No Action or No Response**

You have until **April 10, 2015 to comply with the corrective actions noted above in Section B.**

Failure to comply with corrective action, including the submittal of the post-removal and repair report, by the dates above may result in CVFPB staff issuing you a Cease and Desist Order and the imposition of further remedial and enforcement actions, including, but not limited to, corrections of the violation by the CVFPB at the responsible parties' expense, and penalties. The penalties can range from \$500 to \$50,000, and additional penalties may apply under certain circumstances. See CWC Sections 8704 and 8704.1 for penalty provisions.

If you possess documentation from the CVFPB that, in your opinion, allows you to maintain the encroachments described in Section A, please provide those documents to the CVFPB staff for consideration prior to April 10, 2015.

**Section D – CVFPB Contact**

The staff member assigned to this enforcement action is Alfred Lam, Staff Engineer. E-mail: [alfred.lam@water.ca.gov](mailto:alfred.lam@water.ca.gov), desk: (916) 574-1719.

If you have any questions, please contact Michael C. Wright, PE, Chief of the Enforcement Section  
E-mail: [michael.wright@water.ca.gov](mailto:michael.wright@water.ca.gov) , desk: (916)-574-0698

Signed,



Leslie Gallagher  
Acting Executive Officer

**Attachments:**

1. Figure 1 – Site Location
2. Figure 2 – DWR Inspector and CVFPB Staff site visit photos (January 28 and 30, 2015)



## 1. Figure 1 – Site Location

Photo 1: Aerial view



## 2. Figure 2 – DWR Inspection and CVFPB site visit photos (January 28 and 30, 2015)

Photo 1: Soil and demolished concrete placed on the waterside levee berm and river bank (DWR Inspection - January 28, 2015)





Photo 2: Soil and demolished concrete placed on the waterside levee berm and river bank (DWR Inspection – January 28, 2015)



Photo 3: Soil and demolished concrete placed on the waterside levee berm and river bank (CVFPB site visit – January 30, 2015)

