

CENTRAL VALLEY FLOOD PROTECTION BOARD

3310 El Camino Ave., Ste. 170
SACRAMENTO, CA 95821
(916) 574-0609 FAX: (916) 574-0682



February 14, 2020

Governor's Office of Planning & Research

FEB 14 2020

STATE CLEARINGHOUSE

Ms. Renee Rodriguez
Delta Conveyance Scoping Comments
Department of Water Resources
P.O. Box 942836
Sacramento, California 94236

Subject: Notice of Preparation of Environmental Impact Report for the Delta Conveyance Project, SCH No. 2020010227

Dear Ms. Rodriguez,

The Central Valley Flood Protection Board (Board) appreciates the opportunity to comment on the Notice of Preparation of Environmental Impact Report for the Delta Conveyance Project.

The Notice of Preparation (NOP) pursuant to the California Environmental Quality Act (CEQA) Guidelines § 15082 is intended to provide the responsible and trustee agencies, the Office of Planning and Research and county clerk with sufficient information describing the project and the potential environmental effects to enable the responsible agencies to make meaningful responses.

The Board as a responsible agency submits this response to the NOP pursuant to CEQA Guidelines § 15082 and provides the CEQA lead agency, Department of Water Resources (DWR) with specific detail about the scope and content of the environmental information related to Board's area of statutory responsibility that must be included in the draft Environmental Impact Report (DEIR).

According to CEQA Guidelines § 15082 (b) (1) "The response at a minimum shall identify: (A) The significant environmental issues and reasonable alternatives and mitigation measures that the responsible or trustee agency, or the Office of Planning and Research will need to have explored in the draft EIR."

Board staff has reviewed the subject document and provides the following comments on the potential environmental effects within the Board's jurisdiction:

I. Potential Impacts to the State Plan of Flood Control (SPFC) Operations and Maintenance

The Board is an independent State agency that is required to enforce on behalf of the State the construction, maintenance and protection of the levees, embankments and channel rectification that will, in the Board's judgment, best serve the interests of the State. In accordance with Water Code § 8608, the Board is charged with establishing and enforcing

standards for the maintenance and operation of 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. The Board also has all the responsibilities and authorities necessary to oversee future modifications of the SPFC and tributaries and distributaries of the Sacramento River, the San Joaquin River, and designated floodways pursuant to assurance agreements with the U.S. Army Corps of Engineers (USACE) and the USACE Operation and Maintenance Manuals under Code of Federal Regulations, Title 33, § 208.10 and United States Code, Title 33, § 408.

Under authorities granted by California Water Code (Water Code) and Public Resources Code statutes, the Board enforces its Title 23, California Code of Regulations, Division 1 (Title 23) for the construction, maintenance, and protection of adopted plans of flood control, including the federal-State facilities of the SPFC, regulated streams, and designated floodways.

The proposed project may involve modifications to one or more of the regulated streams under the Board's jurisdiction during the construction of the DCP. According to the NOP, page 4, Figure 1 Proposed Project Facility Corridor Options, the map shows that the proposed project is within the Old River, Middle River, Sutter Slough, Sacramento and San Joaquin Rivers. The proposed project facility corridor options shown in the NOP did not clearly identify the locations of the proposed construction activities within the SPFC and corresponding name of the affected regulated stream and or designated floodway that are within the Board's jurisdiction.

Recommendation: The DEIR should identify the potential hydraulic effects resulting from the proposed construction activities that will be located within each of the regulated streams under Board jurisdiction pursuant to Title 23, § 112, Table 8.1. The DEIR should include reasonable alternatives and mitigation measures that that will not interfere with the SPFC Operations and Maintenance. The DCP facilities located within, under or adjacent to regulated streams under Board jurisdiction may require the submission of an encroachment permit application to the Board for approval prior to construction.

II. Potential Impacts to Levee Roads Resulting from Increased Traffic during DCP Implementation

The NOP proposes to construct new facilities as shown on page 3:

"New facilities proposed for the Delta Conveyance Project include, but are not limited to, the following:

- Intake facilities on the Sacramento River
- Tunnel reaches and tunnel shafts
- Forebays
- Pumping plants
- South Delta Conveyance Facilities

Figure 1 shows the areas under consideration for these facilities. Other ancillary facilities may be constructed to support construction of the conveyance facilities including, but not limited to, access roads, barge unloading facilities, concrete batch plants, fuel stations, mitigation areas, and power transmission and/or distribution lines.”

The construction of conveyance facilities and the identified ancillary facilities may result in transportation impacts to levees and loss of levee integrity, leading to levee failures. The DCP alternatives that would increase traffic due to truck haul routes using levee crown roadways for extended periods may impact levees due to excessive load resulting in levee deformation and crest depression. Damage to levee slopes can also result from the use of levee hinge points for vehicle turn-outs.

Recommendation: The mitigation measures for geologic effects resulting from haul routes or construction zones within or crossing over levee roads should include pre-project inspections and levee geometry surveys for the elevations of levee crests on the waterside and landside. Any project work including subsequent levee reconstruction and emergency repairs must be compliant with Board requirements and standards pursuant to Title 23.

III. CVFPB Role as Non-Federal Sponsor for Purposes of Section 408

The Board has all the responsibilities and authorities necessary to oversee future modifications or additions to the SPFC as approved by the USACE pursuant to assurance agreements with the USACE and the USACE Operation and Maintenance Manuals under Code of Federal Regulations, Title 33, § 208.10 and United States Code, Title 33, § 408. The USACE’s policy requires the Board to serve as the lead non-Federal sponsor for projects to improve or alter facilities of the SPFC pursuant to Code of Federal Regulations, Title 33, § 408. The State’s objectives include fulfilling the USACE’s expectations pursuant to assurances given by the Board to the USACE to operate and maintain the SPFC facilities.

The DEIR and supporting documents should properly reference the Board as the non-federal sponsor for any project proposed to modify a SPFC facility. Even if the "project" is determined to be exempt from Board authority per Water Code § 8536, the State retains the obligation to ensure those projects are compliant with the Operations and Maintenance Manuals and Assurance Agreements given to the USACE by the State.

Recommendation: The DEIR should identify the potential flood effects to the SPFC that may result from constructing and implementing the proposed DCP. Project features and planning should be approved by the Board either under its permitting authority or in conjunction with its duties as the non-federal sponsor for levee modification projects requiring USACE approval.

Board permit applications and Title 23 regulations are available on our website at <http://www.cvfpb.ca.gov/>. Maps of the Board’s jurisdiction are also available from the California Department of Water Resources website at <http://gis.bam.water.ca.gov/bam/>.

Ms. Renee Rodriguez

February 14, 2020

Page 4 of 4

Encroachment permit applications received on or after July 1, 2019 are subject to fees, additional information is available on the Board's website at <http://cvfpb.ca.gov/fees-2019/>.

Please contact James Herota at (916) 574-0651, or via email at James.Herota@CVFlood.ca.gov if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Andrea Buckley", with a stylized flourish at the end.

Andrea Buckley, Chief
Environmental Services and Land Management Branch

cc: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044