

CENTRAL VALLEY FLOOD PROTECTION BOARD

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May 3, 2024

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Governor's Office of Planning & Research

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STATE CLEARINGHOUSE

Subject: Comments for the Mitigated Negative Declaration, Parcel Map 18-01 for Eshoo (PM 18-01) Project, SCH# 204040217, Butte County

The Central Valley Flood Protection Board (Board) appreciates the opportunity to comment on the Mitigated Negative Declaration (MND) for the proposed Parcel Map 18-01 for Eshoo (PM 18-01) Project (proposed project).

A portion of the proposed project involves the installation of a new road and bridge over Dead Horse Slough, a regulated stream under Board jurisdiction, thereby requiring an encroachment permit for project activities.

The Biological Resources section of the MND notes that trees may be removed during project construction. California Code of Regulations, Title 23, Section 131 provides the regulatory requirements for maintenance, planting, and removal of vegetation. Specifically, Section 131(l) of the California Code of Regulations states that "trees removed from the levee and from within ten feet of the levee shall have all roots larger than 1 ½ inches in diameter removed for a distance of at least 3 feet from the tree trunk at ground level and the hole filled with impervious soil compacted in 4-6 inch lifts." In addition, it is recommended that you refer to California Code of Regulations, Title 23, Section 131 when completing restoration work. Board staff may require a planting plan to be submitted for review and approval prior to commencement of restoration work for vegetation plantings.

Additionally, the Biological Resources section of the MND notes that riparian vegetation will be planted and/or potentially removed as part of the project. Title 23, Section 131 provides the regulatory requirements for maintenance, planting, and removal of vegetation. It is recommended that you refer to the regulations when developing and analyzing your ecological enhancement planting plan. Please contact Board staff to ensure that any planting plans and vegetation maintenance schedules that have been developed are included in your encroachment permit application documents.

Responsibility of the Central Valley Flood Protection Board

The Board is the State's regulatory agency responsible for enforcing appropriate standards for the construction, maintenance, and operation of the flood control system that protects life, property, and habitat in California's Central Valley. The Board serves as the State coordinator

City of Chico

May 2, 2024

Page 2

between local flood management agencies and the federal government, with the goal of providing the highest level of flood protection possible to California's Central Valley.

The Board operates under authorities as described in California Water Code (Water Code), which requires the Board to oversee future modifications or additions to facilities of the State Plan of Flood Control (SPFC). In addition, pursuant to assurances provided to the United States Army Corps of Engineers (USACE) by the Board on behalf of the State, the USACE Operation and Maintenance Manuals, Code of Federal Regulations, Title 33, § 208.10, and United States Code, Title 33, § 408, the Board is responsible for the operation and maintenance of the SPFC facilities. The USACE 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 the assurances provided to the USACE.

Encroachment Permit

Per California Code of Regulations, Title 23, Waters, Division 1 (Title 23), Section 6, approval by the Board is required for all proposed work or uses, including the alteration of levees within any area for which there is an Adopted Plan of Flood Control within the Board's jurisdiction. In addition, Board approval is required for all proposed encroachments within a floodway, on adjacent levees, and within any Regulated Stream identified in Title 23, Table 8.1. Specifically, Board jurisdiction includes the levee section, the waterward area between project levees, a minimum 10-foot-wide strip adjacent to the landward levee toe, the area within 30 feet from the top of bank(s) of Regulated Streams, and inside Board's Designated Floodways. Activities outside of these limits which could adversely affect Federal-State flood control facilities, as determined by Board staff, are also under the Board's jurisdiction. Permits may also be required for existing unpermitted encroachments or where it is necessary to establish the conditions normally imposed by permitting, including where responsibility for the encroachment has not been clearly established or ownership or uses have been changed.

Federal permits, including USACE Section 404 and Section 10 regulatory permits and Section 408 Permission, in conjunction with a Board permit, may be required for the proposed project. In addition to federal permits, state and local agency permits, certification, or approvals may also be required. State approvals may include, but are not limited to, California Department of Fish and Wildlife's Lake and Streamed Alteration Agreement and Central Valley Regional Water Quality Control Board's Section 401 Water Quality Certification/Waste Discharge Requirement. The Applicant must obtain all authorizations that the proposed project may require.

Flood Impacts Analysis

Pursuant to Section 15 of Title 23, the Board may deny an encroachment permit if the proposed project could:

- Jeopardize directly or indirectly the physical integrity of levees or other works
- Obstruct, divert, redirect, or raise the surface level of design floods or flows, or the lesser flows for which protection is provided
- Cause significant adverse changes in water velocity or flow regimen

City of Chico

May 2, 2024

Page 3

- Impair the inspection of floodways or project works
- Interfere with the maintenance of floodways or project works
- Interfere with the ability to engage in flood fighting, patrolling, or other flood emergency activities
- Increase the damaging effects of flood flows
- Be injurious to, or interfere with, the successful execution, functioning, or operation of any adopted plan of flood control
- Adversely affect the State Plan of Flood Control, as defined in the California Water Code

Closing

The potential risks to public safety, including increased flood risks, need to be considered when developing proposed projects that seek to modify flood control works or the hydrology of the water ways. Board staff is available to discuss any questions you have regarding the above comments. Please contact Jordan Robbins at (916) 524-3454, or via email at Jordan.Robbins@CVFlood.ca.gov if you have any questions.

Sincerely,

Andrea Buckley

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Environmental Services and Land Management Branch Manager

cc: Office of Planning and Research
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