

CENTRAL VALLEY FLOOD PROTECTION BOARD

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August 30, 2024

Gerald Hatler
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Subject: Comments for the Draft Initial Study/Mitigated Negative Declaration, Kern River Hatchery Siphon Replacement Project, SCH# 2024070895, Kern County

Dear Gerald Hatler,

The Central Valley Flood Protection Board (Board) appreciates the opportunity to comment on the Draft Initial Study/Mitigated Negative Declaration (IS/MND) for the proposed Kern River Hatchery Siphon Replacement Project (proposed project).

The proposed project involves removing the existing pipeline and related structures; trench excavations; vegetation removal; installing a temporary cofferdam; temporarily dewatering; and constructing a new siphon and inlet structures, pump vault, pipeline, anchors, and diversion and outlet structure. The proposed project is located in the Kern River, a regulated stream and designated floodway that is within the Board's permitting authority, therefore an encroachment permit may be required.

Section 2.7 of the Draft IS/MND lists the anticipated permits and approvals that may be required for the proposed project. Board staff recommends including an encroachment permit from the Board under the State Agencies heading. Board permit information is available on the [Permitting at the Central Valley Flood Protection Board website](#).

California Code of Regulations, Title 23 provides standards that govern the design and construction of projects that affect the flood control works and floodways. Board staff recommends that you review Title 23 Standards, including Sections 112 (Streams Regulated and Nonpermissible Work Periods), 116 (Borrow and Excavation Activities – Land and Channel), 121 (Erosion Control), 123 (Pipelines, Conduits, and Utility Lines), 124 (Abandoned Pipelines and Conduits), and 131 (Vegetation). Any deviation or variation from these standards will require approval from the Board.

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.

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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.

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
- 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,

Jamie Silva

Jamie Silva

Environmental Program Manager

cc: Office of Planning and Research
State.Clearinghouse@opr.ca.gov