

CENTRAL VALLEY FLOOD PROTECTION BOARD

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October 10, 2024

Michael Cooke
Director of Water Resources and Regulatory Affairs
Turlock Irrigation District
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Subject: Comments for the Notice of Intent to Rely on FERC Final Environmental Impact Statement with Mandatory Conditions, in Combination with a Supplemental Analysis; Relicensing of the Don Pedro Hydroelectric Project and an Original License for the La Grange Hydroelectric Project; SCH# 2024090634; Stanislaus and Tuolumne Counties

Dear Michael Cooke,

The Central Valley Flood Protection Board (Board) appreciates the opportunity to comment on the Notice of Intent to Rely on FERC Final Environmental Impact Statement with Mandatory Conditions, in Combination with a Supplemental Analysis for the proposed Relicensing of the Don Pedro Hydroelectric Project and an Original License for the La Grange Hydroelectric Project (proposed project).

The proposed project involves renewing operation and maintenance licensing with FERC. The proposed project location is Don Pedro Reservoir and La Grange Reservoir, upstream of the Tuolumne River. The portion of Tuolumne River downstream of the La Grange spillway is a regulated stream and designated floodway, that is within the Board's permitting authority, therefore an encroachment permit may be required. 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), 119 (Dams and Related Structures), 123 (Pipelines, Conduits, and Utility Lines), and 124 (Abandoned Pipelines and Conduits). Any deviation or variation from these standards will require approval from the Board.

While the activity locations appear to be situated upstream from the Central Valley Flood Control Plan area, any work that modifies Board regulated streams, designated floodways, or elements of the State Plan of Flood Control within the watershed may require review and approval by the Central Valley Flood Protection Board. This includes activities that introduce encroachments, increase peak flow rates, or alter flow velocities, potentially altering channel conveyance

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capacity and sediment transport patterns and causing negative downstream impacts. For any such activities, compliance with California Code of Regulations Title 23, Division 1 (Central Valley Flood Protection Board) and Part 4 of Division 5 of the California Water Code would be necessary.

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 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).

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. 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

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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 Land Use and Climate Innovation
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