

CENTRAL VALLEY FLOOD PROTECTION BOARD

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April 18, 2025

Wendy Pierce
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State Water Resources Control Board
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Subject: Comments for the Initial Study/Mitigated Negative Declaration, Kernville Raw Water Intake Upgrade Project, SCH# 2025040522, Kern County

Dear Wendy Pierce,

The Central Valley Flood Protection Board (Board) appreciates the opportunity to comment on the Initial Study/Mitigated Negative Declaration (IS/MND) for the proposed Kernville Raw Water Intake Upgrade Project (proposed project).

The proposed project involves replacing an existing raw water intake system that diverts water from the north fork of the Kern River to the Kernville Water Treatment Plant, constructing a concrete intake structure with a self-cleaning cone screen and stainless-steel trash rack, constructing an electrical platform, placing a fence around the electrical platform, placing rip rap upstream and downstream of the new intake structure, removing abandoned concrete blocks from a previous bridge demolition, removing trees, and installing a temporary cofferdam. The proposed project is located on the Kern River, a regulated stream and designated floodway that is within the Board's permitting authority, therefore an encroachment permit may be required. Board permit information, including information on how to schedule a pre-application meeting with Board staff, 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 the proposed project applicant review Title 23 Standards, including Sections 112 (Streams Regulated and Nonpermissible Work Periods), 115 (Dredged, Spoil, and Waste Material), 116 (Borrow and Excavation Activities – Land and Channel), 121 (Erosion Control), 123 (Pipelines, Conduits, and Utility Lines), 124 (Abandoned Pipelines and Conduits), 126 (Fences and Gates), 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. The Board operates under authorities as

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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. 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 SPFC, as defined in Water Code

The Board, as a Responsible Agency under the California Environmental Quality Act (CEQA), will review and consider the environmental effects of the proposed project identified in the IS/MND, and will reach its own conclusions on whether and how to approve the project involved (14 CCR 15096, subd. (a)). This includes direct impacts to facilities under construction, as well as indirect impacts from the proposed project to surrounding facilities. Accordingly, the comments herein are intended to assist in the development of a robust CEQA document capable of supporting the Board's permitting process.

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

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Environmental Program Manager

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