

Kevin Kauffman, President  
Ben Koch, Trustee  
Christian Gaines, Trustee

**RECLAMATION DISTRICT NO.  
1614 SMITH TRACT**

Daniel J. Schroeder, Counsel  
Rhonda L. Olmo, Secretary  
Christopher H. Neudeck, Engineer  
Abel Palacio, Superintendent.

**BOARD OF TRUSTEES  
MEETING**

**MONDAY, OCTOBER 5, 2020**

**2:00 PM**

**ENGINEER'S REPORT**

**I. ROCK SLOPE PROTECTION PROJECT**

A. Review the proposed rock slope protection project between Levee Station 62+50 to 68+00. The preliminary estimate for the project is:

- ¼ ton-3-ton rock and 18" minus riprap \$75,000 (to be bid)  
KSN is meeting with Foothill Materials the week of October 5<sup>th</sup> to look at the availability of approximately 500 tons of product and to be able to specify more accurately the size for the supply bid that is expected to hit the street October 12<sup>th</sup> for a construction timeframe hopefully as early as second week of November. KSN has surveyed the site and prepared plans for this project. Based on coordination with City of Stockton (COS) we are planning on having award ready for next District Board meeting on November 2<sup>nd</sup>.
- Slope Preparation, fence removal \$15,000 (force account)  
Dino & Sons are available the month of November to do this work. Dave Carr is meeting with Dino & Sons week of October 15 to confirm scope of work and pricing.
- Placement of Large Rock & Riprap \$25,000 (force account)  
Dino & Sons are available the month of November to do this work. Dave Carr is meeting with Dino & Sons week of October 15 to confirm scope of work and pricing.
- Miscellaneous clean up and haul off of debris \$10,000 (force account)  
Dino & Sons are available the month of November to do this work. Dave Carr is meeting with Dino & Sons week of October 15 to confirm scope of work and pricing.
- Contingency \$25,000 (20%)

B. Review the ultimate acquisition of levee easements from 1 private property owner of the apartments and the refinement of an existing levee easement from the City of Stockton along the historic Sewage Treatment Facility.

Dave Carr is coordinating with COS MUD to determine the appropriate person to contact regarding access to project via COS Pump Station and easement refinement. Calls have been made to Deedee Antypas and Ken Valentine with COS. Contact has not been made yet with the Apartment owner. Survey Easement Descriptions have been prepared.

## II. WISCONSIN PUMP STATION NO. 7

### A. Civil:

Civil plans are substantially complete (90%). We have received CVFPB/USACE comments and will be incorporating comments into plans.

Specifications will be prepared.

### B. Structural:

Structural plans are substantially complete (90%). Plans will now be finalized.

### C. Electrical:

PG&E called and left a voice mail on 7/17/2020 to indicate that their design has been completed and that they are ready to accept payment from the District. Since that time, numerous phone calls and emails to PG&E to discuss the process moving forward have gone unanswered until today. We finally received a response today with a copy of the design, but we're still waiting for pricing.

### D. Environmental:

Done.

### E. Permitting:

CVFPB permit application was approved at the 9/25/2020 CVFPB Board Meeting. The permit is now being routed for signature which can take 7-10 days. A copy of the **Draft Permit is attached**.

CDFW (1602): We received the latest updated 1602 from CDFW on 7/8/2020. They incorporated all of our comments, and the agreement was signed and returned 7/9/2020. We are awaiting the fully executed agreement back from CDFW.

RWQCB (401) permit is completed.

USACE (404) has determined that our project is authorized by Nationwide Permit No. 7. A copy of the **verification letter is attached**.

- F. The permitting for this project is completed therefore we will now finalize the plans and specs and have it ready to bid next summer for a scheduled construction start date of 8/1/2021. PG&E has continued to be extremely nonresponsive, and we will need to continue to monitor closely.

***EXHIBIT A: DRAFT Central Valley Flood Protection Board Permit No 19451.***

***EXHIBIT B: USACE Nationwide verification letter***

**III. FALLEN TREE POLICY INTO SMITH CANAL.**

- A. Review proposed policy for fallen trees in Smith Canal. District Attorney will distribute DRAFT Policy.

# Exhibit A

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**DRAFT**

STATE OF CALIFORNIA  
THE RESOURCES AGENCY  
**THE CENTRAL VALLEY FLOOD PROTECTION BOARD**

**PERMIT NO. 19451 BD**

**This Permit is issued to:**

Reclamation District No. 1614 - Smith Tract  
P.O. Box 4807  
Stockton, California 95204

To upgrade the Wisconsin Avenue Pump Station, the project will include; the removal and replacement of an existing 20-inch and 18-inch diameter discharge pipes; the installation of two (2) new pumps with 24-inch diameter pipes; and the construction of a new discharge outfall structure, with rock slope protection, on the waterside levee shoulder.

Project located on the left (south) bank of the Calaveras River, approximately 4,100-feet downstream of Interstate 5 in the City of Stockton, at 37.96972°N 121.35120°W, San Joaquin County Flood Control and Water Conservation District, Calaveras River, San Joaquin County.

**NOTE:** Special Conditions have been incorporated herein which may place limitations on and/or require modification of the proposed project as described above.

**(SEAL)**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Executive Officer

**GENERAL CONDITIONS:**

**ONE:** This permit is issued under the provisions of Sections 8700 – 8723 of the Water Code.

**TWO:** Only work described in the subject application is authorized hereby.

**THREE:** This permit does not grant a right to use or construct works on land owned by the Sacramento and San Joaquin Drainage District or on any other land.

**FOUR:** The approved work shall be accomplished under the direction and supervision of the Central Valley Flood Protection Board (Board) or the California Department of Water Resources (DWR), and the permittee shall conform to all requirements of the Board or DWR.

**FIVE:** Unless the work herein contemplated shall have been commenced within one year after issuance of this permit, the Board reserves the right to change any conditions in this permit as may be consistent with current flood control standards and policies of the Board.

**SIX:** This permit shall remain in effect until revoked. In the event any conditions in this permit are not complied with, it may be revoked on 15 days' notice.

**SEVEN:** It is understood and agreed to by the permittee that the start of any work under this permit shall constitute an acceptance of the conditions in this permit and an agreement to perform work in accordance therewith.

**EIGHT:** This permit does not establish any precedent with respect to any other application received by the Board.

**NINE:** The permittee shall, when required by law, secure the written order or consent from all other public agencies having jurisdiction.

**TEN:** The permittee is responsible for all personal liability and property damage which may arise out of failure on the permittee's part to perform the obligations under this permit. If any claim of liability is made against the State of California, or any departments thereof, the United States of America, a local district or other maintaining agencies and the officers, agents or employees thereof, the permittee shall defend and shall hold each of them harmless from each claim.

**ELEVEN:** The permittee shall exercise reasonable care to operate and maintain any work authorized herein to preclude injury to or damage to any works necessary to any plan of flood control adopted by the Board or the Legislature, or interference with the successful execution, functioning or operation of any plan of flood control adopted by the Board or the Legislature.

**TWELVE:** Should any of the work not conform to the conditions of this permit, the permittee, upon order of the Board, shall in the manner prescribed by the Board be responsible for the cost and expense to remove, alter, relocate, or reconstruct all or any part of the work herein approved.

#### **SPECIAL CONDITIONS FOR PERMIT NO. 19451 BD**

#### **LIABILITY AND INDEMNIFICATION**

**THIRTEEN:** The permittee shall defend, indemnify, and hold harmless the Board, San Joaquin County Flood Control and Water Conservation District, and the State of California, including its agencies or departments thereof, including but not limited to, any and all boards, commissions, officers, agents, employees, and representatives (Indemnitees), against any and all claims, liabilities, charges, losses, expenses, and costs including the State's attorneys' fees (Liabilities), that may arise from, or by reason of: (1) any action or inaction by the Indemnitees in connection with the issuance or denial of any permit, lease, or other entitlement; (2) as a result of approvals or authorizations given by the Board to the permittee pursuant to, or as a result of, permittee's permit application; (3) provisions of the issued permit or lease, provisions of CEQA, an environmental document certified or adopted by the Board related to the permit application, or any other regulations, requirements, or programs by the State, except for any such Liabilities caused solely by the gross negligence or intentional acts of the State or its officers, agents, and employees.

**FOURTEEN:** Permittee shall reimburse the Board in full for all reasonable costs and attorneys' fees, including, but not limited to, those charged to it by the California Office of Attorney General, that the Board incurs in connection with the defense of any action brought against the Board challenging this permit or any other matter related to this permit or the work performed by the State in its issuance of this permit. In addition, the permittee shall reimburse the Board for any court costs and reasonable attorneys' fees that the Board/Indemnitees may be required by a court to pay as a result of such action. The permittee may participate in the defense of the action, but its participation shall not

relieve it of its obligations under the conditions of this permit.

FIFTEEN: The Board, DWR, and San Joaquin County Flood Control and Water Conservation District, shall not be held liable for any damages to the permitted encroachment(s) resulting from releases of water from reservoirs, flood fight, operation, maintenance, inspection, or emergency repair.

## **AGENCY CONDITIONS**

SIXTEEN: All work approved by this permit shall be in accordance with the submitted drawings and specifications dated 4/18/2019 except as modified by special permit conditions herein. No further work, other than that approved by this permit, shall be done in the area without prior approval of the Board.

SEVENTEEN: Permittee shall pay an inspection fee(s) to the Board to cover inspection cost(s), including staff and consultant time and expenses, for any inspections before, during, and after construction, and regularly thereafter as deemed necessary by the Board.

EIGHTEEN: The Board will conduct routine inspections of the permitted encroachment periodically, at regular intervals, at the Board's discretion. The Board will notify the permittee in advance of the planned routine inspection and will impose an inspection fee for each inspection.

NINETEEN: In the event that levee or bank erosion injurious to the Adopted Plan of Flood Control occurs at or adjacent to the permitted encroachment(s), the permittee shall repair the eroded area and propose measures, to be approved by the Board, to prevent further erosion.

TWENTY: The permittee shall be responsible for the repair of any damages to the project levee, channel, banks, floodway, or other flood control facilities due to construction, operation, or maintenance of the proposed project.

TWENTY-ONE: The permittee shall comply with all conditions set forth in the letter from the Department of the Army (U.S. Army Corps of Engineers, Sacramento District) dated 8/26/2020 which is attached to this permit as Exhibit A and is incorporated by reference.

TWENTY-TWO: The permittee agrees to notify any new property/encroachment owner(s) that they are required to submit a permit Name Change request form to the Board upon completion of the sale. The new owner(s) will be required to comply with all permit conditions. Name Change forms are available at <http://cvfcpb.ca.gov/>

TWENTY-THREE: The Board reserves the right to add additional, or modify existing, conditions when there is a change in ownership and/or maintenance responsibility of the work authorized under this permit.

## **PRE-CONSTRUCTION**

TWENTY-FOUR: Upon receipt of a signed copy of the issued permit the permittee shall contact the Board by telephone at (916) 574-0609 to schedule a preconstruction conference with the inspector



who is assigned to the project. Failure to do so at least 10 working days prior to start of work may result in a delay of the project.

## **CONSTRUCTION**

TWENTY-FIVE: No construction work of any kind shall be done during the flood season from November 1 to April 15 without prior approval of the Board. Failure to submit a Time Variance Request to the Board at least 10 working days prior to the start of work may result in a delay of the project.

TWENTY-SIX: At all times during construction, access roads shall be kept open for maintenance.

TWENTY-SEVEN: Suitable markers, as determined by the Board or San Joaquin County Flood Control and Water Conservation District, shall be installed to identify the location of the buried pipes and be maintained until the pipes are properly abandoned.

TWENTY-EIGHT: Backfill procedures for excavations within the levee section shall be Controlled Low-Strength Material (CLSM) per condition m of Exhibit A, which is attached to this permit.

TWENTY-NINE: The fill surface area shall be graded to direct drainage away from the toe of the levee.

## **POST-CONSTRUCTION**

THIRTY: All debris generated by this project shall be properly disposed of outside the Calaveras River Floodway and/or off all Project Works and Project Rights-of-Way.

THIRTY-ONE: The project area shall be restored to at least the condition that existed prior to commencement of work.

THIRTY-TWO: Upon completion of the project, the permittee shall submit as-constructed drawings to San Joaquin County Flood Control and Water Conservation District and the Board.

THIRTY-THREE: Upon completion of the project, compaction tests by a certified soils laboratory will be required to verify compaction of backfill within the levee section or within 10 feet of the levee toe.

THIRTY-FOUR: The pipeline shall be tested and confirmed free of leaks by X-ray, pressure tests, or other approved methods during construction or anytime after construction upon request by the Board.

## **OPERATIONS AND MAINTENANCE**

THIRTY-FIVE: After each period of high water, debris that accumulates at the site shall be completely removed from the Calaveras River Floodway and off all Project Works.



THIRTY-SIX: The permittee shall maintain the permitted encroachment(s) and the Project Works within the utilized area in the manner required and as requested by the authorized representative of the Board, DWR, Reclamation District 1614, or any other agency responsible for maintenance and shall, at all times, allow officials from these agencies to access the levee, levee slope, and any adjacent areas as necessary for flood control.

THIRTY-SEVEN: The permitted encroachment(s) shall not interfere with the operation and maintenance of the flood control project. If the permitted encroachment(s) are determined by any agency responsible for operation or maintenance of the flood control project to interfere, the permittee shall be required, at permittee's cost and expense, to modify or remove the permitted encroachment(s) within 30 days of being notified in writing by the Board. In the event of an emergency a shorter timeframe may be required. If the permittee does not comply, the Board, or a designated agency or company authorized by the Board, may modify or remove the encroachment(s) at the permittee's expense.

#### **PROJECT ABANDONMENT / CHANGE IN PLAN OF FLOOD CONTROL**

THIRTY-EIGHT: If the project, or any portion thereof, is to be abandoned in the future, the permittee or successor shall abandon the project under direction of the Board at the permittee's or successor's cost and expense.

THIRTY-NINE: The permittee may be required, at permittee's cost and expense, to remove, alter, relocate, or reconstruct all or any part of the permitted encroachment(s) if in the discretion of the Board the removal, alteration, relocation, or reconstruction is necessary as part of or in conjunction with any present or future flood control plan or project or if the project is not maintained or is damaged by any cause. The permittee shall remove the encroachment(s) within 30 days of being notified in writing by the Board. In the event of an emergency a shorter timeframe may be required. If the permittee does not comply the Board will remove the encroachment(s) at the permittee's expense.

#### **END OF CONDITIONS**



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT  
1325 J STREET  
SACRAMENTO, CA 95814-2922

408 Permission Section (19451)

**AUGUST 26, 2020**

Ms. Leslie M. Gallagher  
Executive Officer  
Central Valley Flood Protection Board  
3310 El Camino Avenue, Room 170  
Sacramento, CA 95821

Dear Ms. Gallagher:

We have reviewed permit application number 19451 submitted by Reclamation District 1614 to alter the Mormon Slough Project authorized by the Flood Control Act of 1962, Public Law 87-874, 87th Congress, 2<sup>nd</sup> Session. The proposed project includes upgrading the Wisconsin Avenue Pump Station by removing and replacing existing 20-inch and 18-inch diameter discharge pipes; expanding the pump station by installing two (2) new 75 horsepower pumps and two (2) new 24-inch diameter pipes; and the construction of a new concrete outfall structure with ArmorFlex block matting below the waterside levee hinge. The proposed project is located on the left (south) bank of the Calaveras River at 37.969508°N 121.351103°W NAD83 in the City of Stockton, within San Joaquin County, CA.

The Sacramento District U.S. Army Corps of Engineers (USACE) has reviewed this application and determined that the alteration will not be injurious to the public interest and will not impair the usefulness of the project works. Pursuant to Section 14 of the Rivers and Harbors Act of 1899, 33 U.S.C. § 408 (Section 408), USACE has validated and approves the proposed alteration under *Categorical Permission for Section 408 Requests, U.S. Army Corps of Engineers Sacramento District, dated January 14, 2019*, subject to the following conditions:

Engineering Conditions:

- a. That the alteration must not interfere with the integrity or hydraulic capacity of the flood risk management project; easement access; or maintenance, inspection, and flood fighting procedures.
- b. That construction or other work in the floodway cannot take place during the flood season unless approved in writing by the Central Valley Flood Protection Board (CVFPB).

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- c. That no temporary staging, stockpiles of materials, temporary buildings, or equipment can remain on the levee or in the floodway during flood season unless approved in writing by the CVFPB.
- d. That construction or other work must be coordinated with other work in the area.
- e. That the requester is responsible for removal and disposal of trees or brush cleared during construction. The removal and disposal must be to areas outside the limits of the federal project easement.
- f. That the requester is responsible for protecting the levee from being damaged by construction vehicles, equipment, construction activities, and storage of materials.
- g. That all structures, facilities, related equipment and other appurtenances must be properly anchored to prevent flotation within the floodway in the event of high water.
- h. That all companies/agencies whose existing utilities are located in the intended construction area must be contacted to determine whether those utilities need to be relocated or modified to accommodate the proposed alteration, or whether they would pose any hazards to alteration construction workers or equipment.
- i. That all real property interests and other rights (easements, permits, licenses, acquisitions, etc.) necessary for the construction, operation, maintenance, occupation, or use of the proposed alteration as well as for operation, maintenance, occupation, or use of the federal project (levee and channel) are acquired prior to construction. An approval under Section 408 does not grant property rights or exclusive privileges.
- j. That areas disturbed during construction or other work associated with an alteration must be restored to pre-construction conditions once the work is complete.
- k. Minimum Slope Requirements. Excavate all temporary construction slopes no steeper than 2.0H (Horizontal):1.0V (Vertical) in the levee embankment and within 15 feet of either toe of the embankment. All excavations must also meet Federal, State, local, and OSHA requirements.
- l. Excavated Slope Preparation. For slopes excavated perpendicular to the levee alignment, benching is not permitted. Benches through the levee embankment have the potential to create seepage paths through the levee if compaction is not

performed uniformly in the bench zones. As each lift of fill material is added, the side slopes may be roughened by blading or ripping to a depth of no more than 6 inches to facilitate bonding of the excavated slopes to the fill material.

- m. Initial Trench Backfill. Compact the trench subgrade prior to placement of the new pipes in the trench using a wheel roller or suitable hand-operated compactors. Regardless of pipe material type, all pipes crossing the flood control feature must be backfilled as stated below. Place the new pipes on supports and backfill with a controlled low strength material (CLSM) in the pipe bedding zone and around the pipe haunches in one lift. The backfill operation may be paused to avoid pipe flotation. After the CLSM has adequately set, place a second lift of CLSM to a level one foot above the top of the pipes. After the second lift of CLSM has adequately set, final trench backfill may proceed.
- n. Final Trench Backfill. Reuse the existing excavated levee soil in the trench backfill zone, and all other excavations. If import material is determined to be necessary, the potential import soil must match existing embankment fill (i.e. compatible ASTM D2488 soil classification type).
- o. All material used for fill on levee slopes and the crown must be acceptable cohesive material (Unified Soil Classification System CL, CL-ML, or SC) and free of organics or other materials harmful to the levee. Satisfactory fill material must have a plasticity index between 8 and 25, have a liquid limit less than 45, a minimum fines content of 20%, and 100% passing the 3-inch sieve.
- p. Levee Restoration. Restore the project site to the lines and grades present prior to initiation of construction, including the levee embankment, access roads, and crest patrol road.
- q. Placement and Compaction. Compact fill in accordance with the following:
  - i. Spread and place fill in 4- to 6-in-thick loose lifts.
  - ii. Compact to greater than or equal to 95% of the maximum density at moisture contents between +2 and -3 percent of optimum obtained from ASTM D698 (*USACE preferred method*).
  - iii. *Alternate Method*: Compact to greater than or equal to 90% of the maximum density at moisture contents between -1 and +4 percent of optimum obtained from ASTM D1557.

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- iv. Within 4 feet of structures, spread and place fill in 4-in thick loose lifts and compact with hand operated equipment.
- r. That pipes be designed to prevent flotation from uplift, scour or erosion, damage from debris on the waterside (particularly during flood flows), seepage along proposed pipes, corrosion, leakage, and damage from vehicular loads.
- s. That pipes passing over the Design Water Surface Elevation will have a minimum of 2 feet of cover (low permeability or CLSM).
- t. If material must be added to the levee crown, the added material must be sloped at a ratio of 10H:1V horizontal to vertical, in the upstream/downstream direction to prevent a "speed bump" effect and facilitate vehicle access.
- u. That pipes located within or beneath a levee have watertight joints that can accommodate movements resulting from settlement.
- v. That pipe location and orientation will be clearly marked in the field.
- w. That plastic pipes within the levee embankment or its foundation are embedded in concrete.

Environmental Conditions:

- x. That if you discover any previously unknown historic properties (36 CFR § 800.13) while accomplishing the activity authorized by this Section 408 permission, you shall immediately notify USACE of what you have found. USACE will initiate any necessary Federal and State coordination to ensure continued compliance with the National Historic Preservation Act.
- y. To ensure your project complies with the Federal Endangered Species Act, you shall implement all of the best management practices identified in the enclosed National Marine Fisheries Service letter of concurrence (WCRO-2019-00966, dated June 11, 2019; Enclosure 1). If you are unable to implement any of the proposed measures, you must immediately notify USACE, prior to initiating the work, so USACE may reinstate consultation as appropriate, in accordance with the Federal Endangered Species Act.

Standard terms and conditions per Appendix K of EC 1165-2-220:

Limits of the Authorization

- z. This permission only authorizes you, the requester, to undertake the activity described herein under the authority provided in Section 14 of the Rivers and Harbors Act of 1899, as amended (33 U.S.C. § 408). This permission does not obviate the need to obtain other federal, state, or local authorizations required by law. This permission does not grant any property rights or exclusive privileges, and you must have appropriate real estate instruments in place prior to construction and/or installation.
- aa. The time limit for completing the work authorized ends on September 1, 2025. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
- bb. Without prior written approval of the USACE, you must neither transfer nor assign this permission nor sublet the premises or any part thereof, nor grant any interest, privilege or license whatsoever in connection with this permission. Failure to comply with this condition will constitute noncompliance for which the permission may be revoked immediately by USACE.
- cc. The requester understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration of the work herein authorized, or if, in the opinion of the Secretary of the Army or an authorized representative, said work will cause unreasonable conditions and/or obstruction of USACE project authorized design, the requester will be required upon due notice from the USACE, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim can be made against the United States on account of any such removal or alteration.

Indemnification and Hold Harmless

- dd. The United States will in no case be liable for:
  - i. any damage or injury to the structures or work authorized by this permission that may be caused or result from future operations undertaken by the United States, and no claim or right to compensation will accrue from any damage; or

- ii. damage claims associated with any future modification, suspension, or revocation of this permission.
- ee. The United States will not be responsible for damages or injuries which may arise from or be incident to the construction, maintenance, and use of the project requested by you, nor for damages to the property or injuries to your officers, agents, servants, or employees, or others who may be on your premises or project work areas or the federal project(s) rights-of-way. By accepting this permission, you hereby agree to fully defend, **indemnify**, and **hold harmless** the United States and USACE from any and all such claims, subject to any limitations in law.
- ff. Any damage to the water resources development project or other portions of any federal project(s) resulting from your activities must be repaired at your expense.

#### Reevaluation of Permission

- gg. The determination that the activity authorized by this permission would not impair the usefulness of the federal project and would not be injurious to the public interest was made in reliance on the information you provided.
- hh. This office, at its sole discretion, may reevaluate its decision to issue this permission at any time circumstances warrant, which may result in a determination that it is appropriate or necessary to modify or revoke this permission. Circumstances that could require a reevaluation include, but are not limited to, the following:
  - i. you fail to comply with the terms and conditions of this permission;
  - ii. the information provided in support of your application for permission proves to have been inaccurate or incomplete; or
  - iii. significant new information surfaces which this office did not consider in reaching the original decision that the activity would not impair the usefulness of the water resources development project and would not be injurious to the public interest.



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Conduct of Work Under this Permission

- ii. You are responsible for implementing any requirements for mitigation, reasonable and prudent alternatives, or other conditions or requirements imposed as a result of environmental compliance.
- jj. Work/usage allowed under this permission must proceed in a manner that avoids interference with the inspection, operation, and maintenance of the federal project.
- kk. In the event of any deficiency in the design or construction of the requested activity, you are solely responsible for taking remedial action to correct the deficiency.
- ll. The right is reserved to the USACE to enter upon the premises at any time and for any purpose necessary or convenient in connection with government purposes, to make inspections, to operate and/or to make any other use of the lands as may be necessary in connection with government purposes, and you will have no claim for damages on account thereof against the United States or any officer, agent or employee thereof.
- mm. You must provide copies of pertinent design, construction, and/or usage submittals/documents. USACE may request that survey and photographic documentation of the alteration work and the impacted project area be provided before, during, and after construction and/or installation.
- nn. You may be required to perform an inspection of the federal project with the USACE, prior to your use of the structure, to document existing conditions.
- oo. USACE shall not be responsible for the technical sufficiency of the alteration design nor for the construction and/or installation work.

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A Section 404 permit SPK-2019-00058 is in process for the proposed work. This Section 408 letter of permission does not serve as authorization for any work that affects navigable capacity of waters of the United States or that involves the discharge of dredge or fill material into waters of the United States.

The Section 408 permission request ID for this alteration is 408-SPK-2019-0062. For any questions regarding this permission, please contact Kimberlee Leonard at (916) 557-7183.

Sincerely,

POEPPelman.RIC  
K.LEE.1230104456

Digitally signed by  
POEPPelman.RICK LEE 12301  
04456  
Date: 2020.08.25 18:44:58 -07'00'

Rick L. Poeppelman, P.E.  
Chief, Engineering Division  
Levee Safety Officer

Enclosure

## ENCLOSURE 1



**Exhibit A - USACE Conditions**  
UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
West Coast Region  
850 Capitol Mall, Suite 5-100  
Sacramento, California 95814-4700

Refer to NMFS No.: WCRO-2019-00966

**June 11, 2019**

William Guthrie  
Chief, California Delta Section  
U.S. Army Corps of Engineers, Regulatory Division  
1325 J Street  
Sacramento, California 95814

Re: Endangered Species Act Section 7(a)(2) Concurrence Letter and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Response for the Wisconsin Ave Pump House Improvement Project

Dear Mr. Guthrie:

On April 30, 2019, NOAA's National Marine Fisheries Service (NMFS) received your request for a written concurrence that the Wisconsin Ave Pump House Improvement Project is not likely to adversely affect species listed as threatened or endangered or critical habitats designated under the Endangered Species Act (ESA). This response to your request was prepared by NMFS pursuant to section 7(a)(2) of the ESA, implementing regulations at 50 CFR 402, and agency guidance for preparation of letters of concurrence.

NMFS also reviewed the proposed action for potential effects on essential fish habitat (EFH) designated under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), including conservation measures and any determination you made regarding the potential effects of the action. This review was pursuant to section 305(b) of the MSA, implementing regulations at 50 CFR 600.920, and agency guidance for use of the ESA consultation process to complete EFH consultation. In this case, NMFS concluded the action would not adversely affect EFH. Thus, consultation under the MSA is not required for this action.

This letter underwent pre-dissemination review using standards for utility, integrity, and objectivity in compliance with applicable guidelines issued under the Data Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001, Public Law 106-554). A complete record of this consultation is on file with the California Central Valley Office in Sacramento, California.



### **Proposed Action and Action Area**

The action area encompasses waterways where federally listed as threatened California Central Valley (CCV) steelhead Distinct Population Segment (DPS), threatened Central Valley (CV) spring-run Chinook salmon Evolutionary Significant Unit (ESU), endangered Sacramento River (SR) winter-run Chinook salmon ESU, and threatened North American green sturgeon sDPS have the potential to occur. The proposed action consists of replacing two discharge pipes that cross through an existing levee with two new 24-inch diameter discharge pipes. A new discharge structure would be constructed at the top of the waterside slope of the levee, and an articulated concrete mat (Armorflex—Contech Engineered Solutions, LLC) would also be installed at the waterside slope of the levee. The existing sump and pump house would remain. The purpose of the proposed action is to replace aging infrastructure. The existing capacity of the current pump station is 10,000 gallons per minute (gpm), and the capacity for the proposed new pump is 30,000 gpm. However, the total volume of storm water that could be pumped would remain the same. The proposed action, including in-water work, would occur between July 1 and September 30.

The proposed action would occur at the terminal end of a 540 foot-long slough that is connected to the Calaveras River roughly 0.87 miles upstream from the confluence with the San Joaquin River in the city of Stockton, San Joaquin County, California. The slough acts as a discharge canal for local storm water to reduce the risk of residential flooding. During a large rainfall event, the increased pumping capacity would be able to keep up with the peak flow of storm water so that certain residences do not experience localized flooding.

The proposed action would involve the installation of an approximately 974 square foot articulated concrete (Armorflex) mat on the waterside bank of the slough. The Armorflex mat would armor approximately 409 feet, or 0.01 acres, of the slough bank below the high water mark at the terminal end of the slough. The purpose of the Armorflex mat is to dissipate flows discharged from the pipes to reduce the potential for erosion on the bank of the slough. The Armorflex mat would likely be installed with a long reach excavator, however, a small crane might be required if the mat is too heavy for the excavator. The Armorflex mat would be installed during an ebb tide, when the slough experiences lower water levels.

The total footprint of work within the riparian corridor (i.e. waterside levee to outer edge of riparian vegetation) would encompass a total area of 1,600 square feet (0.04 acres), of which 0.01 acres would be below the high water mark. The only riparian vegetation that would be removed as part of the proposed action is a single, non-native, ornamental tree to make space for one of the new pipes.

The proposed action would also involve the excavation of approximately 46 cubic yards of soil from the upper bank of the slough at the waterside hinge point in order to facilitate the construction of the new discharge structure. All of the excavation would occur above the ordinary high-water mark (OHWM). Excavated soils would not be re-used at the site and would be hauled away for disposal. Clean fill dirt would be used to support the newly installed discharge pipes. None of the clean fill dirt would be placed on the waterside slope of the levee or below the OHWM.

In addition, the proposed action would include the following list of pollution/spill control Best Management Practices (BMPs):

- (1) Vehicle and Equipment Cleaning/ Vehicle and Equipment Fueling and Maintenance:
  - (a) All vehicle and equipment cleaning for the construction site is prohibited, and will take place off site at a location where wash water can be captured and disposed of properly.
  - (b) Vehicles and equipment may be fueled and/or maintained at the construction site by the contractor. Any fueling or maintenance will occur on the landside levee slope.
  - (c) A drip pan/tray and a spill kit will be available for use in the fueling area to help prevent and mitigate any potential spills.
  - (d) Waste management will consist of implementing procedural and structural BMPs for handling, storing, and ensuring proper disposal of wastes to prevent the release of those wastes into water bodies.
  - (e) Materials and waste management pollution control BMPs will be implemented to minimize storm water contact with construction materials, wastes, and service areas; and to prevent materials and wastes from being discharged off-site or into water bodies.
- (2) Spill Prevention and Control:
  - (a) Spill prevention and control will minimize and/or eliminate the potential discharge of hazardous and non-hazardous materials into water bodies.
  - (b) Employees of contractors and subcontractors will be trained on spill prevention practices and the potential environmental impacts resulting from the materials they are handling.
  - (c) Spill prevention practices will include the use of secondary containment, designating specific areas for equipment storage, and other measures.
  - (d) Minor spills typically involve small quantities of oil, gasoline, paint, etc. which can be controlled by the first responder at the discovery of the spill.
  - (e) Absorbent materials will be used on small spills rather than hosing down or burying the spill.
  - (f) Absorbent materials will be promptly removed and disposed of properly.
  - (g) The response practices indicated below for a minor spill will be followed:
    - (i) Contain the spread of the spill.
    - (ii) Recover spilled materials.
    - (iii) Clean the contaminated area and properly dispose of contaminated materials.
  - (h) If the spill occurs in dirt areas, the spill will be immediately contained by construction of an earthen dike. The contaminated soil will then be dug up and properly disposed of.

### **Action Agency's Effects Determination**

The action agency finds that implementation of the proposed action may effect, but is not likely to adversely affect the CCV steelhead, CV spring-run Chinook salmon, SR winter-run Chinook salmon, and the sDPS green sturgeon. No critical habitat is designated within the action area.

The action agency also finds that implementation of the proposed action would not adversely affect the Essential Fish Habitat (EFH) for Chinook salmon within or outside the action area.

### **Consultation History**

April 30, 2019 – NMFS received a letter and associated Biological Assessment for the Project from the United States Army Corps of Engineers (Corps) requesting consultation.

May 3, 2019 – NMFS sent an email advising the Corps that the information provided was insufficient to initiate consultation and indicated that if we did not receive a response within 30 days, we would consider the request withdrawn.

May 29, 2019 – NMFS received an email from the Corps with the requested information for the Project.

May 29, 2019 – NMFS initiated consultation.

## **ENDANGERED SPECIES ACT**

### **Effects of the Action**

Under the ESA, “effects of the action” means the direct and indirect effects of an action on the listed species or critical habitat, together with the effects of other activities that are interrelated or interdependent with that action (50 CFR 402.02). The applicable standard to find that a proposed action is not likely to adversely affect listed species or critical habitat is that all of the effects of the action are expected to be discountable, insignificant, or completely beneficial. Beneficial effects are contemporaneous positive effects without any adverse effects to the species or critical habitat. Insignificant effects relate to the size of the impact and should never reach the scale where take occurs. Discountable effects are those extremely unlikely to occur.

The effects of the proposed action are reasonably likely to include: Death or injury from noise effects of construction activities; impacts to the slough bank from the installation of the Armorflex mat below the OHWM; water quality impacts during construction activities and from increased discharge capacity of pipes; and impacts to riparian vegetation.

*Death or injury, and noise from construction activities:* Construction-related activities associated with installation of the Armorflex mat on the waterside slope of the slough would utilize either a long-reach excavator or small crane. All work on the waterside slope of the slough and below the high water mark would be completed during an ebb tide, when the water levels within the slough are naturally lowered. Use of heavy machinery would generate underwater noise, which could potentially injure or kill anadromous fish, should they be present in the action area during construction. However, in-water work would occur between July 1 and September 30, when NMFS ESA-listed species are least likely to be migrating through the Calaveras River, or rearing or holding in the slough. In addition, the proposed action includes implementation of



construction BMPs that would reduce, minimize, or avoid impacts from vehicle and equipment cleaning, fueling, and maintenance, and hazardous spills. Therefore the effects to anadromous fish will be discountable.

*Armorflex mat:* In the long-term, the mat would armor approximately 409 feet, or 0.01 acres, of the slough bank below the high water mark at the terminal end of the slough. The Armorflex mat is a flexible, interlocking matrix of concrete blocks of uniform size, shape, and weight and are used for hard armor erosion control. The Armorflex blocks are laced longitudinally with revetment cables that allow it to conform to the specific topography of the installation site (Contech 2019). Hence, the concrete blocks that make up the mat lay relatively flush against the bank surface, when compared to large irregular rocks that generally make up riprap. For that reason, the Armorflex mat is not expected to produce the same low quality juvenile salmonid habitat that riprap does. The slough provides some off-channel habitat for juvenile anadromous fish, however, given that the slough partially dewateres during an ebb tide, and is in a highly disturbed urbanized area, the slough is not expected to provide high quality rearing habitat.

The slough discharges into the Calaveras River, which is designated as critical habitat for the Central Valley steelhead. Anadromous fish pass through the Calaveras River at the mouth of the slough when migrating to and from the spawning and rearing reaches upstream nearer to New Hogan Reservoir. Since 1976, the USFWS have conducted beach seine monitoring in the San Joaquin River near the confluence of the Calaveras River<sup>1</sup>. Data collected indicate zero steelhead have been captured in the seine surveys conducted near the Calaveras River since 1976 (USFWS 2019).

Given that the slough does not provide high quality rearing habitat, and that no juvenile steelhead have been observed near the mouth of the Calaveras River in long-term monitoring datasets, the long-term effects of the installation of the Armorflex mat to anadromous fish will be insignificant.

*Water quality:* Construction activities below the high water mark would be conducted during an ebb tide, when the slough is partially de-watered, naturally. In addition, the proposed action includes implementation of construction BMPs that would reduce, minimize, or avoid impacts to water quality from vehicle and equipment cleaning, fueling, and maintenance, and hazardous spills.

Although the slough itself is not critical habitat for listed species, the slough discharges directly into the Calaveras River, which is critical habitat for Central Valley steelhead. The upgraded pump station would add 44.8 cubic feet per second (cfs) of discharged water to the Calaveras River. However, in comparison, the 100-year flow coming down the Calaveras River is over 15,000 cfs at the Wisconsin Pump Station location (FishBio 2019). Since the land use within the project area has not changed, the total volume of water pumped and discharged into the Calaveras River would not change. Only the timing of the discharge would change since the proposed action would result in a higher pumping capacity rate. Furthermore, upstream of the slough, the upper Calaveras River, below New Hogan Reservoir, has been highly channelized and leveed as it flows through and drains agricultural lands. The lower reaches of the Calaveras

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<sup>1</sup> [Delta Juvenile Fish Monitoring Program](#)



River flows through and drains the heavily urbanized city of Stockton. The proposed upgraded pump station is one of the last residential storm water discharges before the confluence of the Calaveras and the San Joaquin River. Given the proposed action does not significantly increase the volume of storm water discharge into the Calaveras River, nor does the proposed action introduce types of discharge that have not already drained into the Calaveras River at that point during a storm event, the effects to anadromous fish will be insignificant.

*Riparian vegetation:* Riparian vegetation provides cover, shade, and food resources required by adult and juvenile life stages of anadromous fish. Only one, non-native, ornamental tree within the riparian area would be removed to facilitate construction of the proposed action. Given that the slough does not provide high quality rearing habitat, and that no juvenile steelhead have been observed near the mouth of the Calaveras River in long-term monitoring datasets, the long-term effects of the removal of one non-native tree will be discountable.

### **Conclusion**

Based on this analysis, NMFS concurs with the Corps that the proposed action is not likely to adversely affect the subject listed species.

### **Reinitiation of Consultation**

Reinitiation of consultation is required and shall be requested by the Corps or by NMFS, where discretionary Federal involvement or control over the action has been retained or is authorized by law and (1) new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered; (2) the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this concurrence letter; or if (3) a new species is listed or critical habitat designated that may be affected by the identified action (50 CFR 402.16). This concludes the ESA portion of this consultation.

Please contact Abbie Moyer, NMFS California Central Valley Office, at [abbie.moyer@noaa.gov](mailto:abbie.moyer@noaa.gov), or 916-930-3707 if you have any questions concerning this letter or if you require additional information.

Sincerely,



Erin Strange  
Branch Supervisor  
San Joaquin River Branch

cc: To the file 151422-WCR2019-SA00522  
Alyssa Smith, [Alyssa.K.Smith@usace.army.mil](mailto:Alyssa.K.Smith@usace.army.mil)

References

Contech Engineered Solutions. 2019. <https://www.conteches.com/erosion-control/hard-armor/armorflex19572016>

FishBio. 2019. Biological Assessment of Fisheries Resources Near the Wisconsin Ave Pump House Improvement Project. Prepared for Moore Biological Consultants.

USFWS. 2019. [https://www.fws.gov/lodi/juvenile\\_fish\\_monitoring\\_program/jfmp\\_index.htm](https://www.fws.gov/lodi/juvenile_fish_monitoring_program/jfmp_index.htm)

# Exhibit B

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**DEPARTMENT OF THE ARMY**  
U.S. ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT  
1325 J STREET  
SACRAMENTO CA 95814-2922

September 9, 2020

Regulatory Division (SPK-2019-00058)

Reclamation District No. 1614  
Attn: Christopher Neudeck  
711 N. Pershing Avenue  
Stockton, California 95203  
[CNeudeck@ksninc.com](mailto:CNeudeck@ksninc.com)

Dear Christopher Neudeck:

We are responding to your pre-construction notification (PCN), dated January 14, 2019, for a Department of the Army (DA) Nationwide permit for the Wisconsin Pump Station Replacement project. The approximately 0.04-acre project site is located on a tributary slough to the Calaveras River, adjacent to Wisconsin Avenue, Latitude 37.96983°, Longitude -121.35126°, Stockton, San Joaquin County, California.

Based on the information you provided to this office, the Wisconsin Pump Station Replacement project involves the discharge of fill material into approximately 0.01 acre of waters of the U.S. for upgrades to an existing pump station and outfall structure, subject to Section 404 of the Clean Water Act. The specific activities that require DA authorization is the placement of an articulated concrete mat which would be constructed for erosion control purposes. These activities will result in the permanent effects to approximately 0.01 acre of riverine habitat. The proposed activities would be conducted in accordance with the PCN, dated January 14, 2019.

We have determined that activities in waters of the U.S. associated with the project are authorized by Nationwide Permit (NWP) 7, *Outfall Structures and Associated Intake Structures*.

You must comply with all terms and conditions of the NWP and applicable regional conditions. Enclosed is information about the NWP terms and conditions (Enclosure 1) and Sacramento District regional conditions for California, excluding the Lake Tahoe Basin (Enclosure 2). You should pay particular attention to General Conditions 4, 6, 11, 12, 14, 18, 19, 21, 23, and Regional Conditions 3, 4, 7, and 8. In addition, your work must comply with the following special conditions:

1. Incidents where any individual *fish* listed by National Oceanic and Atmospheric Administration (NOAA) Fisheries under the Endangered Species Act appear to be injured or killed as a result of discharges of dredged or fill material into waters of the United States or structures or work in navigable waters of the United States authorized by this NWP shall be reported to NOAA Fisheries, Office of Protected Resources at (301) 713-1401 and the Regulatory Office of the Sacramento District of the U.S. Army Corps of Engineers at (916) 557-5250. The finder should leave the plant or animal alone, make note of any circumstances likely causing the death or injury, note the location and number of individuals involved and, if possible, take photographs. Adult animals should not be disturbed unless circumstances arise where they are obviously injured or killed by discharge exposure, or some unnatural cause. The finder may be asked to carry out instructions provided by NOAA Fisheries, Office of Protected

Resources, to collect specimens or take other measures to ensure that evidence intrinsic to the specimen is preserved.

2. You shall comply with all terms and conditions of the May 30, 2019, Section 401 Water Quality Certification (Enclosure 3).

Within 30 days after completion of the authorized work, you must sign the enclosed Compliance Certification and return it to this office with the information required by Sacramento District Regional Condition C(9) for California.

This verification is valid until March 18, 2022, when the existing NWP's are scheduled to be modified, reissued, or revoked. Furthermore, if you commence or are under contract to commence this activity before the date the NWP is modified, reissued, or revoked, you will have 12 months from the date of the modification, reissuance or revocation to complete the activity under the present terms and conditions. Failure to comply with the general and regional conditions of this NWP, or the project-specific special conditions of this authorization, may result in the suspension or revocation of your authorization.

We would appreciate your feedback on this permit action including your interaction with our staff and processes. For more information about our program or to complete our Regulatory Program national customer service survey, visit our website at [www.spk.usace.army.mil/Missions/Regulatory.aspx](http://www.spk.usace.army.mil/Missions/Regulatory.aspx).

Please refer to identification number SPK-2019-00058 in any correspondence concerning this project. If you have any questions, please contact Thomas Faughnan by email at [Thomas.J.Faughnan@usace.army.mil](mailto:Thomas.J.Faughnan@usace.army.mil), or telephone at (916) 557-5263.

Sincerely,



Paul Maniccia  
Chief, California Delta Section  
Regulatory Division

Enclosures

cc: (w/o encls)

Ms. Abbie Moyer, NMFS, at [Abbie.Moyer@noaa.gov](mailto:Abbie.Moyer@noaa.gov)

Ms. Jordan Hensley, CVRWQC, [Jordan.Hensley@Waterboards.ca.gov](mailto:Jordan.Hensley@Waterboards.ca.gov)

Ms. Diane Moore, Moore Biological Consultants, [MooreBio@softcom.net](mailto:MooreBio@softcom.net)

Ms. Kim Leonard, USACE, [Kimberlee.K.Leonard@usace.army.mil](mailto:Kimberlee.K.Leonard@usace.army.mil)

# COMPLIANCE CERTIFICATION

**Permit File Name:** Wisconsin Pump Station Replacement

**Action ID:** SPK-2019-00058

**Nationwide Permit Number:** 7

**Permittee:** Reclamation District No. 1614  
Attn: Christopher Neudeck  
711 N. Pershing Avenue  
Stockton, California 95203

**County:** San Joaquin County

**Date of Verification:** September 9, 2020

Within 30 days after completion of the activity authorized by this permit, sign this certification and return it to the following address:

U.S. Army Corps of Engineers  
Sacramento District  
*DLL-CESPK-RD-Compliance@usace.army.mil*

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with the terms and conditions of the permit your authorization may be suspended, modified, or revoked. If you have any questions about this certification, please contact the U.S. Army Corps of Engineers.

\*\*\*\*\*

***I hereby certify that the work authorized by the above-referenced permit, including all the required mitigation, was completed in accordance with the terms and conditions of the permit verification.***

\_\_\_\_\_  
Permittee Signature

\_\_\_\_\_  
Date