



CALIFORNIA CENTRAL VALLEY
FLOOD CONTROL
ASSOCIATION

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Ms. Kaleigh Maze
U.S. Army Corps of Engineers, Sacramento District
1325 J Street, Room 1460
Sacramento, California 95814-2922
VIA ELECTRONIC TRANSMITTAL: *Kaleigh.Maze@usace.army.mil*

SUBJECT: Comments on Section 408 Categorical Permission Proposal, Sacramento District

Dear Ms. Maze:

The California Central Valley Flood Control Association, (CCVFCA) has reviewed the Public Notice regarding intent to implement a Categorical Permission for certain minor alterations under Section 408 in the Sacramento District. Established in 1926 to serve as a common voice for local public agencies with flood control responsibilities, CCVFCA is comprised of 75 members including reclamation districts, levee districts, cities, counties, joint powers agencies, and other special districts that serve as non-federal partners with the State of California on projects proposing alteration of federal flood protection facilities in the Central Valley.

CCVFCA has previously advocated for improvements to the Section 408 process and is therefore pleased to express its support of the proposed Categorical Permission process that can be implemented in the Sacramento District under the Secretary of the Army's existing authority without further legislation. Following are CCVFCA's general and specific comments on the Categorical Permission described in the notice:

- a. **General – Scope.** We suggest the addition of a new alteration type that would include public safety, recreational, and aesthetic features, such as signs and lighting.
- b. **General - Jurisdiction.** It should be clarified that the Categorical Permission would only apply to alterations occurring within the lands and real property interests identified and acquired for USACE projects.
- c. **General – Types of Alterations.** The Categorical Permission includes twenty alteration types with varying technical constraints. It is unclear if the technical constraints are intended to limit the type of alteration that is covered by the Categorical Permission, or if

the intent is to change the level of technical review required as long as the alteration meets the stated constraints, or neither. Assuming that the engineering criteria is unchanged, and must be met for all alterations, we suggest removing any specific technical constraints from the alteration types. For example, under section 9. *Fences and Gates*, it states that, “*Fences must be constructed of see-through materials such as chain link or barbed wire...must not penetrate more than 12 inches into the levee prism*”. It is not apparent that these constraints affect the magnitude of environmental effects; therefore, the reason for their inclusion is unclear.

If the intention is indeed to apply an engineering constraint to limit the type of alteration covered, we suggest adding other limitations. For example, under section 5. *Bridges*, in order for replacement of bridges to be covered by the categorical permission, we suggest requiring that the lowest chord be at, or above, the DWSE or be located at least a foot above the existing.

It should be clarified that the Categorical Permission would not apply to alterations that do not meet engineering criteria, the Categorical Permission does not change engineering criteria, nor does it change the need for technical review, if that is correct.

- d. **General – Project Location.** For clarity, we suggest that if the alteration type is limited to a certain location within the project right-of-way that it be written as such. For example, “The Categorical Permission for swimming pools is limited to those located in the floodway and more than 15 feet from the waterside toe”. In some cases, a location is specifically identified and in others, no location is identified. Additionally, there seems to be inconsistency or nuances in the terms used that are not clear (e.g., levee prism, levee slopes, levee). Also, it is unclear when the actions are allowed to occur within the O&M corridor (i.e., between the levee toe and floodway, and landside levee toe and ROW limit). For example, fences and gates are allowed on the levee and in the floodway. Is the intent to exclude fences and gates off the levee, but not in the floodway?
- e. **General – Levee Improvement Standard.** The proposed Categorical Permission would benefit from a category of standard levee improvements, although some examples of these actions were already included separately. For example, the Department of Water Resources’ Rural Levee Repair Guidelines provide standard repair templates for rural levees that could be covered by the Categorical Permission. Other examples would be relief wells and levee performance monitoring activities (e.g. piezometers, settlement monuments).
- f. **General – Ground Disturbance.** Most of the twenty alteration types include a threshold for ground disturbance. It is unclear how this threshold was determined and why it varies among the alteration types. From an environmental effects perspective, why is the limit 2 acres for a building or structure, 5 acres for borrow sites, 2.5 acres for an access ramp, 2000 square feet for a swimming pool, and 350 acres for agriculture and landscaping? Similar programmatic/categorical permissions developed by other USACE Districts do not provide ground disturbance thresholds.
- g. **Section 3 - Borings and Other Levee Explorations.** We suggest that inspection of trenches and test pits be included. Also, the following text, “*A variety of drilling methods*

may be used...” should be revised to “Exploration types include...”, as CPTs and borings are not drilling types.

- h. **Section 4 - Borrow Sites.** The text states that borrow sites are allowed in the floodway, but later states that the borrow sites must be 100 feet from the waterside and landside toes. This distance seems arbitrary and it is unclear why that distance affects environmental effects (see comment a.). It is also unclear if borrow sites located at least 100 feet from the *landside* levee toe are allowed, and even if this is the case, these would likely be outside the project right-of-way and not subject to Section 408.
- i. **Section 9 - Fences and Gates.** We suggest also including bollards. Additionally, we suggest revising the text from, “*must not limit access or visibility...*” to “must allow for access and visibility...” or alternatively, clarifying “limit access or visibility”.
- j. **Section 11 – Pipes.** We suggest allowing removal of existing penetrations in addition to abandonment and modification.
- k. **Section 18 - Utility Poles.** We suggest allowing underground utility lines, such as fiber optic, electric, etc.

CCVFCA appreciates the opportunity to review and comment on the Sacramento District’s public notice and looks forward to the opportunity to work together on implementing this Categorical Permission.

Sincerely,



Melinda Terry,
Executive Director