

RECLAMATION DISTRICT NO. 17

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Via email Kaleigh.Maze@usace.army.mil

Kaleigh Maze, Biologist

USACE, Sacramento District

1325 J Street, Room 1460

Sacramento, California 95814-2922

Re: Section 408 Categorical Permission

We appreciate the opportunity to comment and support the Sacramento District's effort to reduce the delay and huge cost imposed on Local Maintaining Agency (LMA) efforts to maintain and improve the project levees. It is critical not to impair the usefulness of the project levees, to promptly repair known deficiencies and to facilitate improvement to meet more conservative engineering standards and increased physical threats.

It is not clear from the notice how the proposed categorical permissions will reduce the current delays and costs of 408 permitting, but we are supportive of any permit streamlining that can be achieved.

Removal, repair or replacement of penetrations through the levees should not require any permit process so long as inspected by the LMA engineer and reported to the CVFPB. It doesn't make any sense to delay or obstruct such corrective actions, particularly in those situations in which the LMA is undertaking such actions pursuant to a federal project O&M manual. Similarly actions to

correct seepage deficiencies and improve the levee integrity with work outside the waterway should be expedited and encouraged and covered by a categorical permission. Widening and raising the crown, flattening the landside slopes, constructing landside toe and seepage berms, installing toe drains and the like should be allowed if meeting minimal engineering standards set forth in the O&M manual. Even sheet piles and seepage cut off walls installed according to generally accepted engineering standards should be considered.

When it comes to project levees, the type of environmental review or compliance should not be relevant as to whether or not there is impairment of the usefulness of the project or whether the work is injurious to the public interest as a matter of Section 408. The levees were authorized to protect areas against flooding. Private and public actions have relied upon such protection, and to delay or obstruct efforts to provide such protection as injurious to the public interest is at the very least unjustifiable. The mitigation, measures and minimization of impacts to the environment will be addressed in any event, particularly in those instances in which such measures were recommended by an EIA or EA/FONSI in the first instance.

Reducing cost and delay in the permitting process is welcome for work that is necessary to maintain and improve levees. Nonetheless, some of the items proposed for Categorical Permission could be very damaging to levees. For example, including borrow site excavations only 100 feet from the waterside or landside levee toes and below ground swimming pools within 15 feet is not a good idea. Without measures to comply with the USACE seepage criteria it would appear to be irresponsible. Site location is critical. In our area we would be gravely concerned. Where HDD entry or exit sites are below the water levels in the waterway, particularly during the construction period the entry and exit points should be located well back from the levee or adequately leveed or otherwise contained. These Categorical permissions particularly need some engineering conditions that are relevant to the particular categorical permission at issue. Levee crown raising and widening to the landside, flattening the landside slopes, constructing landside toe and seepage berms, installing toe drains and the like should be added.

The proposed Categorical permissions' limitations as to size, including lineal footage, square footage, acreage etc. appear to be arbitrary. The focus should be on whether the work impairs the usefulness of the project levees or is injurious to the public interest in accordance with Section 408.

Finally, the Sacramento District should clarify how the District intends to document that a Categorical permission applies to a particular activity when a proposed action is covered by a Categorical permission.

A handwritten signature in blue ink, appearing to read "Dante John Nomellini".

Dante John Nomellini
Secretary and Counsel