

**CENTRAL VALLEY FLOOD PROTECTION BOARD**

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October 28, 2010

Lieutenant General Robert L. Van Antwerp  
Commander and Chief of Engineers  
U.S. Army Corps of Engineers  
441 G Street, N.W.  
Washington, DC 20314-1000

Subject: Request Exemption from Engineering Technical Letter (ETL) 1110-2-571 and a Regional Vegetation Variance Policy

Dear General Van Antwerp:

The Central Valley Flood Protection Board (Board) is formally requesting a temporary exemption from ETL 1110-2-571 for the federal flood control system in the Central Valley of California until 2012, when our new comprehensive plan of flood control is completed. In addition, the Board requests that the U.S. Army Corps of Engineers (Corps) work with the State of California to develop a Regional Vegetation Variance Policy for ETL 1110-2-571 and that you formally delegate the responsibility to develop the Regional Vegetation Variance Policy to the Division or District commanders. Our requests are consistent with the agreements and commitments made by the California Roundtable participants and embodied in *California's Central Valley Flood System Improvement Framework* (Framework) adopted in March of 2009.

Currently, the State of California cannot comply with the ETL 1110-2-571 because the implementation of the ETL in the Central Valley conflicts with California regulations, the federal Clean Water Act, Section 404, the federal Endangered Species Act, National Environmental Policy Act (NEPA), and other federal laws. The draft *Policy Guidance Letter (PGL) – Variance from Vegetation Standards for Levees and Flood Walls* released for public comment in March, 2010 does not provide the flexibility needed in California to manage vegetation for public safety and protect natural resources, as stated in our comment letter dated April 21, 2010.

We appreciate your continued support of, and collaboration with, the California Roundtable which developed and adopted the Framework. Our understanding is that the Framework serves as the regional vegetation policy guidance document for California's Central Valley until the Central Valley Flood Protection Plan (CVFPP) is ready in 2012. The Framework acknowledges that the "legacy levees" built immediately adjacent to California's major river systems present a unique challenge that will likely require a regional variance. Much of the large vegetation on the Central Valley levees was there before the federal government improved the levees and incorporated them into the State-federal flood control system. The Framework document states that participating agencies will continue to collaborate as partners in the implementation of the Framework agreements and the subsequent CVFPP to improve public safety and environmental sustainability.

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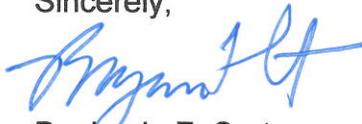
In an April 2, 2010 letter to the Board, Mr. Steven Stockton stated that the Corps remains committed to the implementation of the Framework and that it is the guiding document as California continues to develop a long term plan for system improvements, including vegetation management. We understood from Mr. Stockton's letter that the draft PGL was not intended to supersede the Framework, however, we are concerned that without a regional vegetation variance policy for California, there will continue to be different interpretations on how to implement or approve a vegetation variance.

The Board would like to work with the Corps' South Pacific Division and Sacramento District commanders to develop a regional team of Corps leadership and other State and federal stakeholders to develop a formal, written, Regional Vegetation Variance Policy, based on documented science, that allows flexibility for managing existing vegetation for public safety and natural resource conservation. The Board agrees that vegetation must be managed to provide the greatest safety factors and flood protection benefits, however, we are required by State and federal laws to maintain the vegetation on the water side of levees that is currently providing habitat for many species of fish and wildlife.

Thank you very much for your consideration of our request for a temporary exemption from ETL 1110-2-571 and for a Regional Vegetation Variance Policy for California. We look forward to continuing our close collaboration with the Corps regarding the vegetation policies and flood protection in California. I hope to see you again during your next visit to the West Coast.

If you have any questions, please do not hesitate to contact me at (530) 682-9700, or [bencarter@succeed.net](mailto:bencarter@succeed.net) or Jay S. Punia, the Board's Executive Officer, at (916) 574-0609, or [jpunia@water.ca.gov](mailto:jpunia@water.ca.gov).

Sincerely,



Benjamin F. Carter  
President

cc: (See attached list)

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