



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
441 G STREET, NW
WASHINGTON, DC 20314-1000

December 30, 2010

Engineering and Construction

Mr. Mark W. Cowin
Director, Department of Water Resources
1416 Ninth Street
P.O. Box 942836
Sacramento, California 94236-0001

Dear Mr. Cowin:

This is in response to your letter dated October 14, 2010, in which you request that the U.S. Army Corps of Engineers cease to implement Engineer Technical Letter (ETL) 1110-2-571, *Guidelines for Landscape Planting and Vegetation Management at Levees, Floodwalls, Embankment Dams, and Appurtenant Structures* and our draft Policy Guidance Letter (PGL), *Variance from Vegetation Standards for Levees and Floodwalls*. In addition, you requested written documents regarding the engineering basis for removal of trees from the lower 1/3 waterside levee slope of the West Natomas East Main Drainage Canal levee between levee miles 0.3 and 1.1. I address each of these separately below.

ETL 1110-2-571 is among the suite of design criteria that is used to ensure reliability, resilience and operability of levee, floodwall, and dam projects nationwide. These design criteria are applied to a host of programs, and is not limited to the Rehabilitation and Inspection Program for levees. We recognize that over time, design criteria can change due to improved technology or increased knowledge. For example, after Hurricane Katrina, the engineering profession discovered a new potential failure mechanism for I-walls. As a result, we have changed the design criteria for I-walls. As with other design criteria, should there be information available that warrants a revision or an improvement to the standards in the ETL, we will change the standard. However, until that time, the Corps will continue to implement the current standards in the ETL.

Related to the draft PGL for requesting vegetation variances for levees, Section 202(g) of the Water Resources Development Act of 1996, required the Corps to review its vegetation management requirements for levee systems and incorporate revisions to recognize that there may be some instances where vegetation may preserve, protect or enhance natural resources and/or protect the rights of Native Americans. As a result, a vegetation variance request process was issued in 1997 that was designed to accommodate those special cases when it is possible to enhance natural resources while still maintaining the safety, structural integrity and functionality of the levees. The draft PGL is a revision of that 1997 policy. The purpose of the draft PGL is to outline a standard process the Corps will use to determine that the integrity and functionality of the levee is preserved in situations where there is a desire to enhance natural resources by

retaining non-compliant vegetation on a levee system. We understand that not all levee conditions are the same; however our intent with implementation of the PGL is that the evaluation of all requests follow the same procedure.

Currently, we have postponed release of the PGL to enable us to conduct a thorough review and consideration of the public comments received on the draft policy, and to allow further coordination with the resource agencies at the national level. In addition, we also want to allow time for full consideration of levee vegetation research results being performed by our Engineer Research and Development Center. We value the comments submitted by the California Department of Water Resources (DWR) and will take them under full consideration for recommended revisions to the draft PGL. For example, we are reviewing how to address the important concept of specifying how variances will be implemented in areas with an approved system-wide improvement plan like the February 2009 California Central Valley Flood System Improvement Framework. In addition, we are looking at ways to emphasize close collaboration early in the process to develop the scope of the engineering analysis required for the variance request to establish a common understanding of expectations related to resources required. This early coordination should assist in determining the cost of the analysis for budget purposes.

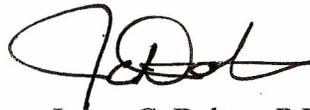
Though we intend to move forward with issuing a final variance request policy, we recognize that the final PGL would not apply to California while it operates under the current Framework agreement. I recognize that the Framework was developed prior to the draft PGL and references "regional" variances. I also recognize that not everything in the draft PGL fits the unique circumstance in California – a complex mix of Federal, state, and local levee improvements. I support working with DWR to better define a vegetation variance process that can be implemented under the Framework and possibly incorporated into the Central Valley Flood Protection Plan (CVFPP). As a starting point, I have requested my staff to develop a proposal and work with you and the California Roundtable to finalize the collaborative regional variance request process. I want to point out, however, that this does not mean we are compromising standards or technical analyses. We want to look at a process that can be efficiently implemented given California's current situation.

In reference to the Natomas vegetation variance, I viewed the process to be a success. Not only did it result in well documented analysis for retaining large woody vegetation on the waterside for over 25 miles of levee, but also it resulted in several lessons learned that will help us improve the variance request process. As you reference, for 0.8 mile of levee, the Agency Technical Review (ATR) team, a team of subject matter experts, had concerns with retaining large woody vegetation because this portion of the levee had a narrower cross-section that may have resulted in potential impacts to the critical levee prism in the long-term. Since these levee modifications for the Natomas levee are meant to be permanent improvements, not an interim or partial remediation, I supported the recommendation to seek other alternatives that would result in less risk to the integrity of the levee. It is my understanding that a collaborative and

successful plan to remove these trees in this particular portion of the levee has been mutually agreed upon with the resource agencies. If you would like to further discuss our rationale for the Natomas variance decision, I recommend you contact me and we can schedule a joint discussion with the ATR team.

We appreciate and concur with your support of the commitment to long-term collaboration. I look forward to continued Corps involvement. If you have any questions, please contact me at 202-761-8826.

Sincerely,



James C. Dalton, P.E.
Chief, Engineering and Construction
Directorate of Civil Works