

**CENTRAL VALLEY FLOOD PROTECTION BOARD**

3310 El Camino Ave., Rm. 151  
SACRAMENTO, CA 95821  
(916) 574-0609 FAX: (916) 574-0682  
PERMITS: (916) 574-0685 FAX: (916) 574-0682

*PMB*  
*10-25-2012*

**OCT. 19 2012**

Permit No. 18773 BD

Three Rivers Levee Improvement Authority  
1114 Yuba Street  
Suite 218  
Marysville, California 95901

**RECEIVED****OCT 23 2012****TRLIA**

Enclosed is your approved Central Valley Flood Protection Board Encroachment Permit Conditions.

Under General Condition Four (4) of the permit, you are required to accomplish the work under direction and supervision of the Department of Water Resources; therefore, you must advise the Department at 3310 El Camino Avenue, Sacramento, California 95821, attention Lorraine Pendlebury, telephone (916) 574-0609, at least ten days prior to starting your project. An addressed postcard is enclosed for your convenience.

Please note that the permit grants the work proposed and constructed in your project description. This permit, in addition to the twelve (12) standard conditions, includes special conditions, which may place limitations on or require modifications to your project. You are advised to read all conditions prior to starting the project. Commencing any work under this permit shall constitute an acceptance of the provisions of the permit and an agreement to perform accordingly. This permit does not relieve you from the responsibility for obtaining authorization from any State, local, or federal agencies for your proposed project.

Please refer to your permit number when communicating with this office. For further information, contact Ashley Cousin at (916) 574-2380.

Sincerely,

A handwritten signature in cursive script that reads "Mitra Emami".

Mitra Emami, Chief  
Floodway Protection Section  
Central Valley Flood Protection Board

Enclosure



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 Central Valley Flood Protection 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 interfere 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 Central Valley Flood Protection 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. 18773 BD**

**THIRTEEN:** All work approved by this permit shall be in accordance with the submitted drawings and specifications 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 Central Valley Flood Protection Board.

**FOURTEEN:** 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 Department of Water Resources or any other agency responsible for maintenance, and in accordance with the Maintenance Agreement between Reclamation District 784 and Three Rivers Levee Improvement Authority, which is attached to this permit as Exhibit A and is incorporated by reference.

**FIFTEEN:** The permittee shall defend, indemnify, and hold the Central Valley Flood Protection Board and the State of California, including its agencies, departments, boards, commissions, and their respective officers, agents, employees, successors and assigns (collectively, the "State"), safe and harmless, of and from all claims and damages related to the Central Valley Flood Protection Board's approval of this permit, including but not limited to claims filed pursuant to the California Environmental Quality Act. The State expressly reserves the right to supplement or take over its defense, in its sole discretion.

**SIXTEEN:** The mitigation measures approved by the CEQA lead agency and the permittee are found in its Mitigation and Monitoring Reporting Program (MMRP) adopted by the CEQA lead agency. The permittee shall implement all such mitigation measures.

**SEVENTEEN:** The permittee is responsible for all liability associated with construction, operation, and maintenance of the permitted encroachments and shall defend and hold the Central Valley Flood

Protection Board and the State of California; including its agencies, departments, boards, commissions, and their respective officers, agents, employees, successors and assigns (collectively, the "State"), safe and harmless, of and from all claims and damages arising from the project undertaken pursuant to this permit, all to the extent allowed by law. The State expressly reserves the right to supplement or take over its defense, in its sole discretion.

**EIGHTEEN:** The permittee shall be responsible for securing any necessary permits incidental to habitat manipulation and restoration work completed in the flood control project, and will provide any biological surveying, monitoring, and reporting needed to satisfy those permits.

**NINETEEN:** The permittee agrees to incur all costs for compliance with local, State, and Federal permitting and resolve conflicts between any of the terms and conditions that agencies might impose under the laws and regulations it administers and enforces.

**TWENTY:** The Central Valley Flood Protection Board, Department of Water Resources, and Reclamation District 784 shall not be held liable for damages to the permitted encroachment(s) resulting from releases of water from reservoirs, flood fight, operation, maintenance, inspection, or emergency repair.

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

**TWENTY-TWO:** Any construction activities, other than those associated with the transplant of the elderberry shrubs and seedlings, shall not be permitted during the flood season from November 1 to April 15 without prior approval of the Central Valley Flood Protection Board.

**TWENTY-THREE:** The permittee shall provide supervision and inspection services acceptable to the Central Valley Flood Protection Board.

**TWENTY-FOUR:** Proposed vegetative rows shall be parallel to the direction of the overbank flow and shall not direct the flows toward any levee.

**TWENTY-FIVE:** The ground surface shall be kept clear of fallen trees, branches, and debris.

**TWENTY-SIX:** Cleared trees and brush (or prunings therefrom) shall be completely burned or removed from the floodway, and downed trees or brush shall not remain in the floodway during the flood season from November 1 to April 15.

**TWENTY-SEVEN:** After each period of high water, debris that accumulates at the site shall be completely removed from the floodway.

**TWENTY-EIGHT:** All debris generated by this project shall be disposed of outside the floodway.

**TWENTY-NINE:** No new wild rose, grape, blackberries, or other bushy thickets shall be propagated at this site, except for those described within this permit.

**THIRTY:** The work area shall be restored to the condition that existed prior to start of work.

**THIRTY-ONE:** Areas where plantings are lost to erosion on the floodplain shall not be replanted.

**THIRTY-TWO:** The landscaping, appurtenances, and maintenance practices shall conform to standards contained in Section 131 of the Central Valley Flood Protection Board's Regulations.

**THIRTY-THREE:** If the proposed project result(s) in an adverse hydraulic impact, the permittee shall provide appropriate mitigation measures, to be approved by the Central Valley Flood Protection Board, prior to implementation of mitigation measures.

**THIRTY-FOUR:** 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 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 damaged by any cause. If the permittee does not comply, the Central Valley Flood Protection Board may remove the encroachment(s) at the permittee's expense.

**THIRTY-FIVE:** 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 Central Valley Flood Protection Board and Department of Water Resources, at the permittee's or successor's cost and expense.

**THIRTY-SIX:** The permittee shall contact the Department of Water Resources by telephone, (916) 574-0609, and submit the enclosed postcard to schedule a preconstruction conference. Failure to do so at least 10 working days prior to start of work may result in delay of the project.

**THIRTY-SEVEN:** The permittee should contact the U.S. Army Corps of Engineers, Sacramento District, Regulatory Branch, 1325 J Street, Sacramento, California 95814, telephone (916) 557-5250, as compliance with Section 10 of the Rivers and Harbors Act and/or Section 404 of the Clean Water Act may be required.

**THIRTY-EIGHT:** The permittee shall comply with all conditions set forth in the letter from the U.S. Army Corps of Engineers dated October 11, 2012, which is attached to this permit as Exhibit B and is incorporated by reference.

**THIRTY-NINE:** The permittee shall comply with all conditions set forth in the project endorsement from Reclamation District 784 dated April 3, 2012, which is attached to this permit as Exhibit C and incorporated by reference.

**FORTY:** This permit shall run with the land and shall be recorded with the Yuba County Recorder's Office. The applicant is required to record this permit and send the Central Valley Flood Protection Board Chief Engineer this recorded document upon completion of the work.

**MAINTENANCE AGREEMENT  
BETWEEN RECLAMATION DISTRICT 784  
AND  
THREE RIVERS LEVEE IMPROVEMENT AUTHORITY  
FOR THE  
ANDERSON MITIGATION SITE**

This Agreement is entered into by and between Reclamation District 784, hereinafter referred to as the "District," and the Three Rivers Levee Improvement Authority, hereinafter referred to as "TRLIA", on this FOURTH day of JANUARY 2011, in view of the following circumstances:

WHEREAS, TRLIA is constructing levee repairs to the South Levee of the Yuba River ("Project") in partnership with the Department of Water Resources as an Early Implementation Program Project; and

WHEREAS, TRLIA is required under the Endangered Species Act to mitigate for impacts to 34 elderberry shrubs caused by the Project; and

WHEREAS, the Central Valley Flood Protection Board has granted a permit for the construction of the Project under Permit 18577; and

WHEREAS, the Anderson Mitigation Site is an existing mitigation site that was established by the Corps of Engineers and the Department of Water Resources to provide for mitigation for repair projects to the Sacramento River Flood Control Project; and

WHEREAS, the Project is a feature of the Sacramento River Flood Control Project; and

WHEREAS, the District currently maintains the Anderson Mitigation Site for other entities that created the mitigation site; and

WHEREAS, TRLIA wishes to utilize the existing Anderson Mitigation Site for elderberry shrub impacts caused by the Project, and has submitted an application for an encroachment permit from the Central Valley Flood Protection Board; and

WHEREAS, use of the existing Anderson Mitigation Site by TRLIA would add minimal additional maintenance requirements; and

WHEREAS, TRLIA and the District wish to enter into this Agreement in order to ensure long term maintenance of the transplanted elderberry shrubs.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants provided herein, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged by TRLIA and the District, it is hereby agreed as follows:

1. Terms of Agreement. The District agrees to maintain the TRLIA transplanted elderberry shrubs and additional seedlings on the Anderson Mitigation Site in the same manner as it currently maintains other existing plantings at the Anderson Mitigation Site. The District will continue to follow the existing manual, Mitigation Site Operations and Maintenance Manual, Sacramento River Flood Control Project, Phase II, Marysville-Yuba City Area Levee Reconstruction Project, established by the Corps of Engineers.
2. Compensation. For this additional maintenance TRLIA agrees to pay the District a sum of \$5,000 annually.
3. Obligations of TRLIA. TRLIA or its agents shall perform or cause to be performed all monitoring required for the transplanted shrubs and associated seedlings.
4. Termination of Agreement. This Agreement may be terminated upon written notice of either party.
5. Amendment. This Agreement may not be modified or amended unless agreed to in writing by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

RECLAMATION DISTRICT 784

By *Mark Brown*

Date 1-14-11

APPROVED AS TO LEGAL FORM AND SUFFICIENCY:

By *Carl L. Shapiro*

Date 1/14/11

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

By *Mary Jane Grigo*  
Mary Jane Grigo, President

Date 1-14-2011

APPROVED AS TO LEGAL FORM AND SUFFICIENCY:

By \_\_\_\_\_  
Scott L. Shapiro, General Counsel

Date \_\_\_\_\_

1. Terms of Agreement. The District agrees to maintain the TRLIA transplanted elderberry shrubs and additional seedlings on the Anderson Mitigation Site in the same manner as it currently maintains other existing plantings at the Anderson Mitigation Site. The District will continue to follow the existing manual, Mitigation Site Operations and Maintenance Manual, Sacramento River Flood Control Project, Phase II, Marysville-Yuba City Area Levee Reconstruction Project, established by the Corps of Engineers.
2. Compensation. For this additional maintenance TRLIA agrees to pay the District a sum of \$5,000 annually.
3. Obligations of TRLIA. TRLIA or its agents shall perform or cause to be performed all monitoring required for the transplanted shrubs and associated seedlings.
4. Termination of Agreement. This Agreement may be terminated upon written notice of either party.
5. Amendment. This Agreement may not be modified or amended unless agreed to in writing by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

RECLAMATION DISTRICT 784

APPROVED AS TO LEGAL FORM AND SUFFICIENCY:

By \_\_\_\_\_

By \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

THREE RIVERS LEVEE IMPROVEMENT AUTHORITY

APPROVED AS TO LEGAL FORM AND SUFFICIENCY:

By \_\_\_\_\_  
Mary Jane Griego, President

By *Audrea P. Clark* for Scott Shapiro  
Scott L. Shapiro, General Counsel

Date \_\_\_\_\_

Date 1-14-11





**DEPARTMENT OF THE ARMY**  
**U.S. Army Engineer District, Sacramento**  
**Corps of Engineers**  
**1325 J Street**  
**Sacramento, California 95814-2922**

Exhibit B

REPLY TO  
ATTENTION OF

Flood Protection and Navigation Section (18773)

OCT 11 2012

Mr. Jay Punia, Executive Officer  
Central Valley Flood Protection Board  
3310 El Camino Avenue, Room 151  
Sacramento, California 95821

Dear Mr. Punia:

We have reviewed a permit application by Reclamation District 784 (application number 18773). These plans include transplanting an additional 228 elderberry seedlings into the Anderson Mitigation Site on the left bank overflow area of the Feather River and River Mile 20.68. The project is located south of Marysville and west of Anderson Avenue at 39.0448°N 121.6064°W NAD83 in Yuba County, California.

The District Engineer has no objection to approval of this application by your Board from a flood control standpoint, subject to the following conditions:

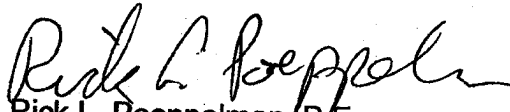
- a. That the proposed work shall not be performed during the flood season of November 1 to April 15, unless otherwise approved in writing by your Board.
- b. That the proposed work shall not interfere with the integrity or hydraulic capacity of the flood risk reduction project; easement access; or maintenance, inspection, and flood fighting procedures.
- c. That in the event trees and brush are cleared, they shall be properly disposed of by either complete burning or complete removal outside the limits of the project right-of-way.
- d. That the proposed work shall not change the streamflow velocity in such a way that might cause damage to the existing waterside levee slope.
- e. That the proposed vegetation shall be maintained within the mitigation site boundary, as shown in Figure 6, Anderson Mitigation Site, Detailed Planting Plan.
- f. That after each period of high water, all debris in the planting area shall be cleared and disposed of outside the limits of the project right-of-way.

g. That once the plants have been established, the irrigation system shall be completely removed from the project right-of-way.

Based upon the information provided, no Section 10 or Section 404 permit is needed.

A copy of this letter is being furnished to Mr. Don Rasmussen, Chief, Flood Project Integrity and Inspection Branch, 3310 El Camino Avenue, Suite LL30, Sacramento, CA 95821.

Sincerely,



Rick L. Poepelman, P.E.  
Chief, Engineering Division

APPLICATION FOR A CENTRAL VALLEY FLOOD PROTECTION BOARD  
ENCROACHMENT PERMIT

Application No. \_\_\_\_\_  
(For Office Use Only)

1. Description of proposed work being specific to include all items that will be covered under the issued permit.

Plant an additional 228 elderberry seedlings into an existing mitigation site (Anderson Site) in the Feather River Floodway to meet revised mitigation requirements for elderberry shrub impacts from the Upper Yuba Levee Improvement Project. See Attachment A for more details.

2. Project

Location: South of Marysville, Yuba County, in Section Section 23  
(N) (E)  
Township: 14N (S), Range: 3E (W), M. D. B. & M.  
Latitude: 39° 02' 41.48" N Longitude: 121° 36' 23.30" W  
Stream: Feather river, Levee: \_\_\_\_\_ Designated Floodway: Feather  
APN: 014-290-001-000

3. Three Rivers Levee Improvement Authority of 114 Yuba Street, Suite 218  
Name of Applicant / Land Owner Address

Marysville California 95901 530-749-7841  
City State Zip Code Telephone Number  
dacus@mbkengineers.com  
E-mail

4. Larry Dacus of MBK Engineers  
Name of Applicant's Representative Company

Sacramento California 95815 (916) 437-7515  
City State Zip Code Telephone Number  
dacus@mbkengineers.com  
E-mail

5. Endorsement of the proposed project from the Local Maintaining Agency (LMA):

We, the Trustees of Reclamation District 784 approve this plan, subject to the following conditions:  
Name of LMA

Conditions listed on back of this form  Conditions Attached  No Conditions

[Signature] 4/3/12  
Trustee Date  
[Signature] 4/3/12  
Trustee Date  
[Signature] 4/3/12  
Trustee Date  
[Signature] 4/3/12  
Trustee Date

APPLICATION FOR A CENTRAL VALLEY FLOOD PROTECTION BOARD ENCROACHMENT PERMIT

6. Names and addresses of adjacent property owners sharing a common boundary with the land upon which the contents of this application apply. If additional space is required, list names and addresses on back of the application form or an attached sheet.

Table with 3 columns: Name, Address, Zip Code. Row 1: Three Rivers Levee Improvement Authority, 1114 Yuba Street, Suite 218, Marysville, CA, 95901. Row 2: Sacramento San Joaquin Drainage District, Attn: Wes Dote, DWR Real Estate Division, 1416 Ninth Street, Room 425, Sacramento, CA, 95814.

7. Has an environmental determination been made of the proposed work under the California Environmental Quality Act of 1970? [X] Yes [ ] No [ ] Pending

If yes or pending, give the name and address of the lead agency and State Clearinghouse Number:

Three Rivers Levee Improvement Authority
915 Eighth Street, Suite 115
Marysville, CA 95901-5273
SCH No. 2010022039

8. When is the project scheduled for construction? Summer 2012

- 9. Please check exhibits accompanying this application.
A. [X] Regional and vicinity maps showing the location of the proposed work.
B. [X] Drawings showing plan view(s) of the proposed work to include map scale.
C. [ ] Drawings showing the cross section dimensions and elevations (vertical datum?) of levees, berms, stream banks, flood plain,
D. [ ] Drawings showing the profile elevations (vertical datum?) of levees, berms, flood plain, low flow, etc.
E. [X] A minimum of four photographs depicting the project site.

Signature of Applicant: Paul M. Brunner, Date: 4-11-2012

Include any additional information:

Reclamation District No. 784 has the following conditions to be included on the Central Valley Flood Protection Board Encroachment Permit to transplant Elderberry Shrubs and plant Additional Associated Species into the existing Anderson Road Mitigation Site to mitigate Elderberry Impacts from the Upper Yuba Levee Improvement Project:

1. All improvements shall meet Central Valley Flood Protection Board Standards;
2. The proposed project shall not appreciably increase, as determined by the U.S. Corps of Engineers and the California Central Valley Flood Protection Board the 1-in-100 and 1-in-200 water surface elevation or the velocity on the East or West bank of the Feather River;
3. Grading or Tree Plantings shall be designed not to direct water towards the existing levee or the diversion levees. Grading shall not affect the hydraulic characteristics of the river in a negative manner;
4. A copy of the Operation and Maintenance Manual shall be provided to Reclamation District No. 784 upon completion of the work;
5. A set of As-Built Mylar Plans shall be provided to Reclamation District No. 784 upon completion of the work;
6. A copy of the final Central Valley Flood Protection Board Permit shall be provided to Reclamation District No. 784 prior to any work.
7. Reclamation District No. 784 shall be notified five (5) working days prior to any construction activities.
8. Reclamation District No. 784 shall be included in all construction status meetings.
9. Reclamation District No. 784 shall be reimbursed for all costs directly related to proposed work on the Central Valley Flood Protection Board Standards.