

**Meeting of the Central Valley Flood Protection Board  
March 23, 2012**

**Staff Report – Encroachment Permit**

**Jeffrey & Patricia Crowder  
Private Residence, Sutter County**

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**1.0 – ITEM**

Consider approval of Permit No. 18712 (Attachment B).

**2.0 – APPLICANT**

Jeffrey E. & Patricia J. Crowder  
39 Timberwood Court  
Sacramento, California 95833  
APN: 34-200-017

**3.0 – LOCATION**

The project is located along Garden Highway on the landside left (east) levee of the Sacramento River just south of the Feather and Sacramento Rivers confluence. (Sacramento River, Sutter County, see Attachment A)

**4.0 – DESCRIPTION**

Applicant proposes to construct a three-story, 2,800 square-foot concrete block and wood frame house on the landside of the levee, approximately 15-feet from the levee toe, along Garden Highway. See Figure 1 and 2 for details.

**5.0 – PROJECT ANALYSIS**

The proposed residence will be constructed 15-feet away from the levee toe, with only minor grading to take place between the residence and levee toe to collect surface runoff and direct it away from the levee toe. The Application will cover the installation of a septic tank at the northeast corner of the property, approximately 33-feet landward from the levee toe. The septic tank will be connected to an existing leach field across

Garden Highway that the Applicant has rights to use. See figure 1 and 2 below for details.

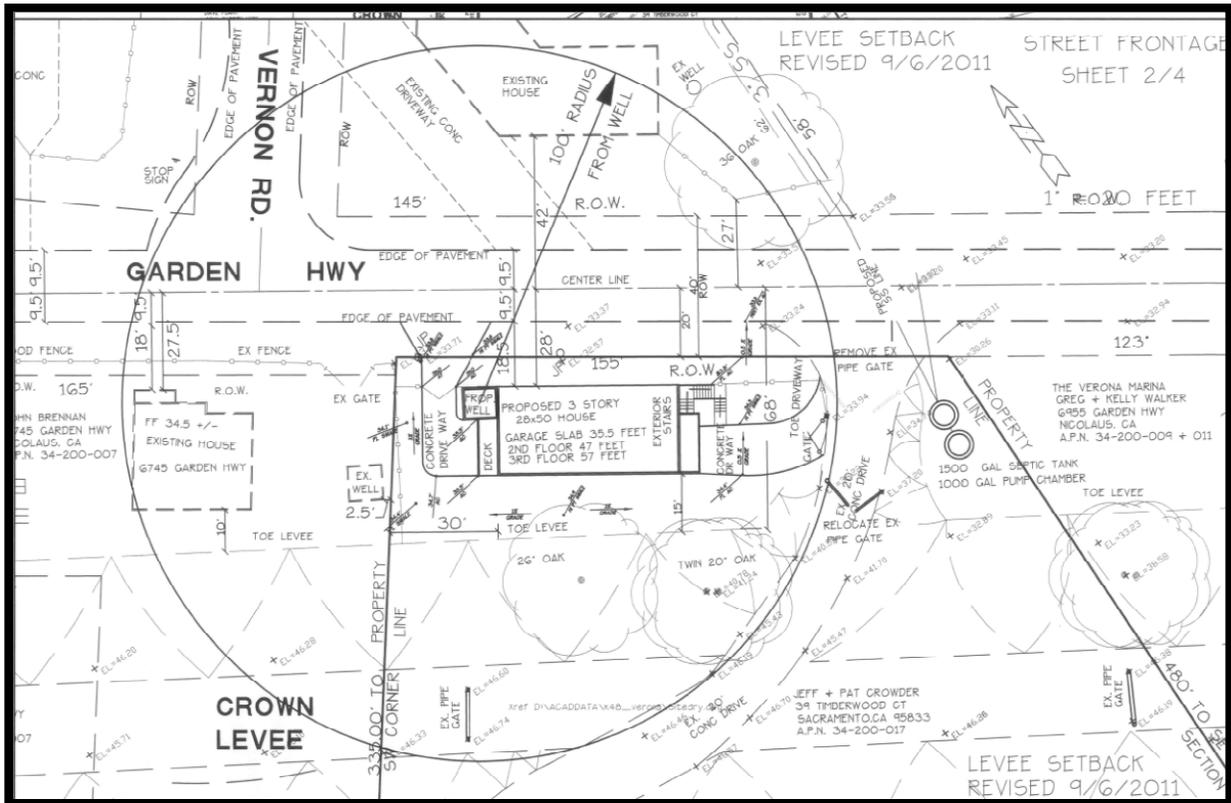


Figure 1 - Application 18712 Site Plan (Source: Submitted by Applicant on 9/6/2011)

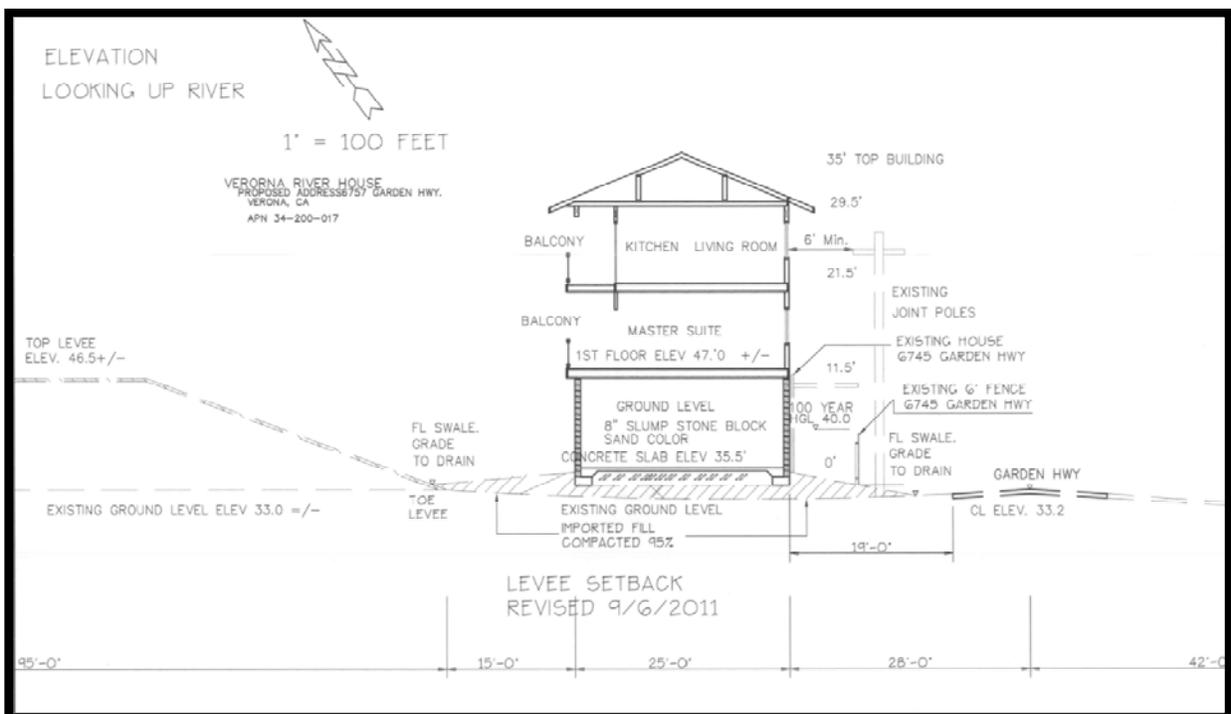


Figure 2 - Application 18712 Cross Section (Source: Submitted by Applicant on 9/6/2011)

### **5.1 – Hydraulic Analysis**

Hydraulic impacts from the construction of the project are considered insignificant and limited to the landside of the levee. Therefore, a hydraulic analysis was not required.

### **5.2 – Geotechnical Analysis**

A geotechnical analysis was not required as no work will take place within 15-feet from the landside levee toe. Earthwork will be completed in accordance with conditions in Permit No. 18712 (Attachment B) and Board Regulations, Title 23.

### **5.3 – Background and additional Information**

The proposed project is located on parcel APN: 34-200-017 and it is approximately 2.17 acres. The parcel is bisected by the Sacramento River East levee, with the majority of the parcel located on the waterside of the levee, approximately 1.9 acres. In 2007, the Applicant submitted an application to the Central Valley Flood Protection Board (Board) requesting a variance to authorize the construction of a 3,100 square-foot, two story residence on the waterside berm of the property. On December 17, 2009 the Board denied application 18201 and the applicant was notified of this decision via letter dated February 2, 2010 (see Attachment C).

On June 2011, Board staff met with the Applicant at Board offices to discuss his proposed work. Following the meeting, staff notified the Applicant that his proposed work (residence setback 12-ft from landside levee toe) was compliant with Board regulations. However, due to the proximity of the proposed work to the existing Federal project levee, staff requested that an application be submitted.

On July 2011, a new application was submitted (18712) requesting authorization to construct the residence on the landside of the levee, approximately 15-feet from the levee toe. The application was placed on hold until the Applicant submitted the required documents to comply with California Environmental Quality Act (CEQA). On October 19, 2011, Sutter County Planning Commission approved the Applicant's request to grant a variance to their setback requirements. On November 15, 2011, Sutter County Board of Supervisor's approved the variance and the filing of a Notice of Exemption with the State Clearinghouse.

At this location, the Board through the Sacramento-San Joaquin Drainage District (SSJDD) holds an easement (Deed 2416 recorded on Book 46 of Deeds Page 184), which extends to the landside levee toe. See Attachment D for Exhibit prepared by DWR Cadastral dated December 17, 2009. Approval of the proposed work will require

that an easement is granted to SSJDD for the area 10-feet from the landside levee toe (see Special Condition 13 on Attachment B).

Because the majority of the parcel is located on the waterside of the levee where Board Regulations restrict development, the applicant is required to execute a covenant agreement which will be recorded against the title of the property. The purpose of this document is to serve as a notice that a Board permit is required for additional work on the property in the event the property changes ownership in the future.

## **6.0 – AGENCY COMMENTS AND ENDORSEMENTS**

The comments and endorsements associated with this project, from all pertinent agencies are shown below:

- The U.S. Army Corps of Engineers 208.10 comment letter has not been received for this application. Staff anticipates receipt of a letter indicating that the USACE District Engineer has no objection to the project, subject to conditions. Upon receipt of the letter, staff will review to ensure conformity with the permit language and incorporate it into the permit as Exhibit A.
- Reclamation District 1001 endorsed the proposed project on January 11, 2011, and a revised letter was submitted on December 21, 2011 with no conditions. See Attachment B, Exhibit B.

## **7.0 – CEQA ANALYSIS**

Board staff has prepared the following California Environmental Quality Act (CEQA) determination:

The Board has determined that the project is categorically exempt from CEQA under a Class 3 Categorical Exemption (CEQA Guidelines Section 15303) covering new construction of small structures and a Class 4 Categorical Exemption (CEQA Guidelines Section 15304) covering minor alterations to land.

## **8.0 – SECTION 8610.5 CONSIDERATIONS**

1. Evidence that the Board admits into its record from any party, State or local public agency, or nongovernmental organization with expertise in flood or flood plain management:

*The Board will make its decision based on the evidence in the permit application and attachments, this staff report, and any other evidence presented by any individual or group.*

2. The best available science that related to the scientific issues presented by the executive officer, legal counsel, the Department or other parties that raise credible scientific issues.

*The accepted industry standards for the work proposed under this permit as regulated by Title 23 have been applied to the review of this permit.*

3. Effects of the decision on the entire State Plan of Flood Control:

*The proposed project has no negative impacts on the State Plan of Flood Control.*

4. Effects of reasonable projected future events, including, but not limited to, changes in hydrology, climate, and development within the applicable watershed:

*The proposed residence may be affected by future climate changes requiring improvements, repair and expansion of the floodway and levees.*

## **9.0 – STAFF RECOMMENDATION**

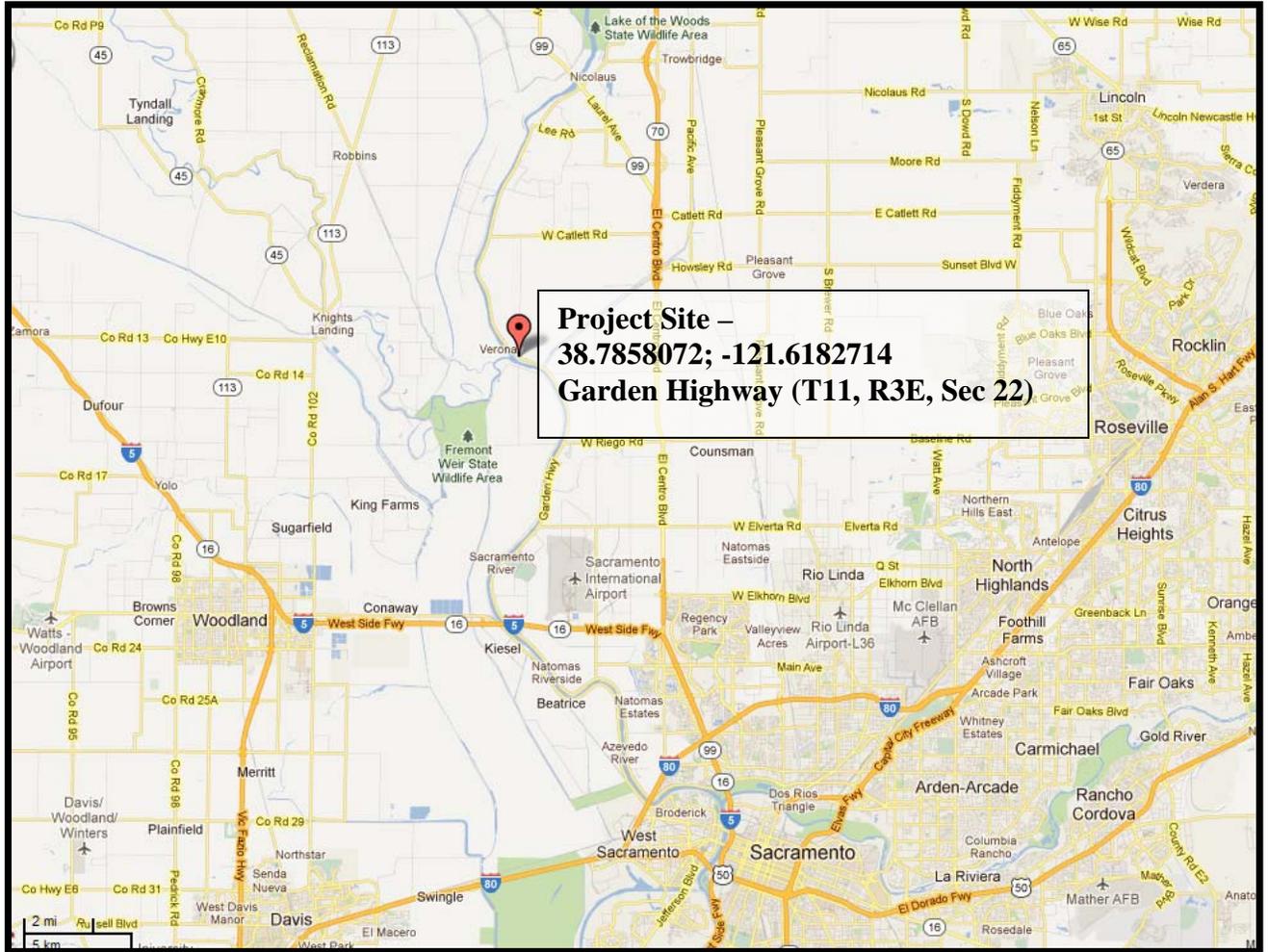
Staff recommends that the Board adopt the CEQA findings and approve the permit, conditioned upon receipt of a U.S. Army Corps of Engineers comment letter indicating that the District Engineer has no objection to the project, subject to conditions, and direct staff to file a Notice of Determination with the State Clearinghouse.

## **10.0 – LIST OF ATTACHMENTS**

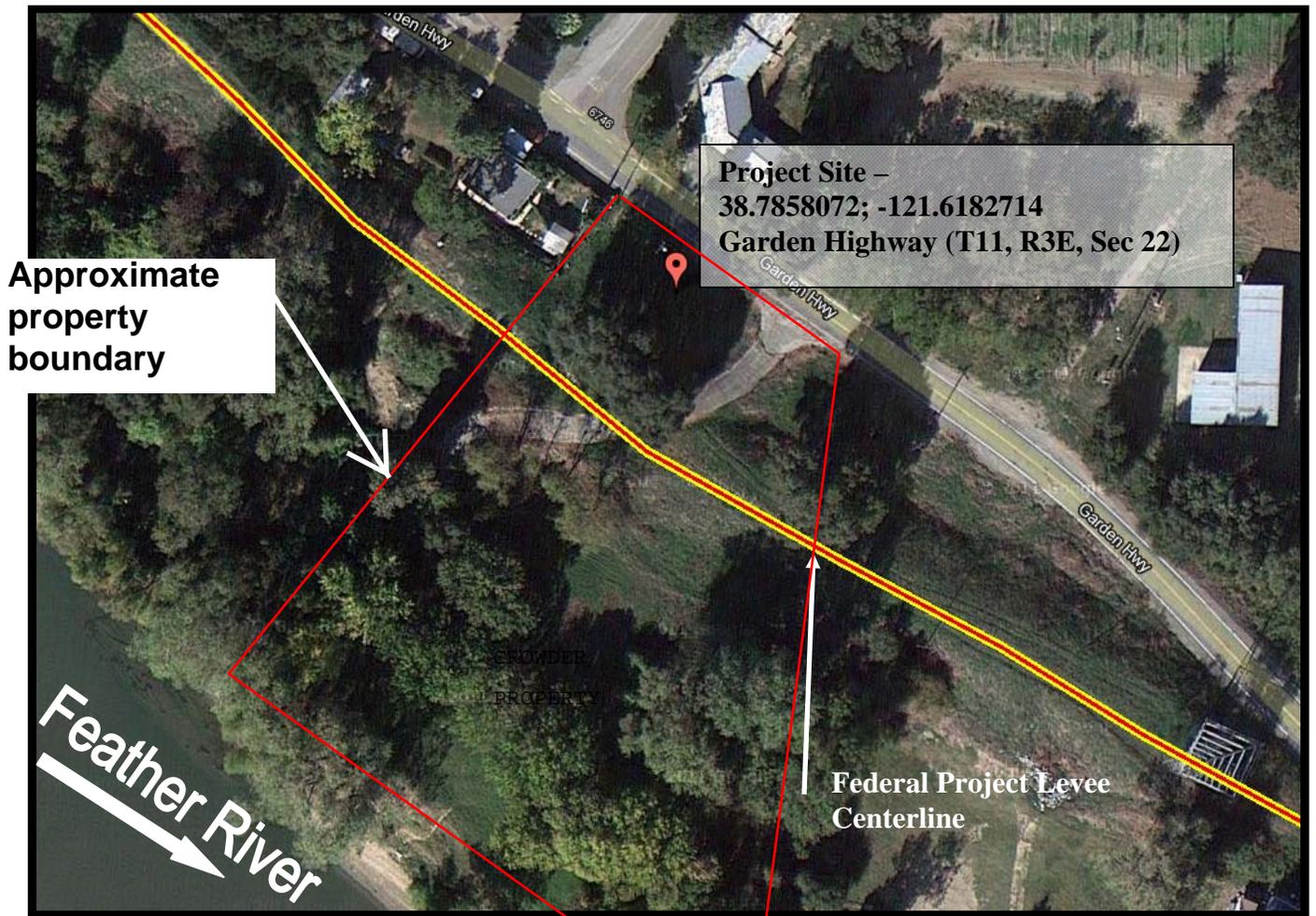
- A. Location Maps and Photos
- B. Draft Permit No. 18712
  - Exhibit A – USACE 208.10 comment letter (PENDING)
  - Exhibit B – RD1001 Endorsement letter dated December 21, 2011
  - Exhibit C – Covenant Agreement
- C. Application 18201 Board decision letter dated February 2, 2010
- D. DWR Cadastral Easement Exhibit dated December 19, 2009

Design Review:	Angeles Caliso
Environmental Review:	James Herota and Andrea Mauro
Document Review:	Len Marino and Michael Wright

**Project Vicinity**



Project Location



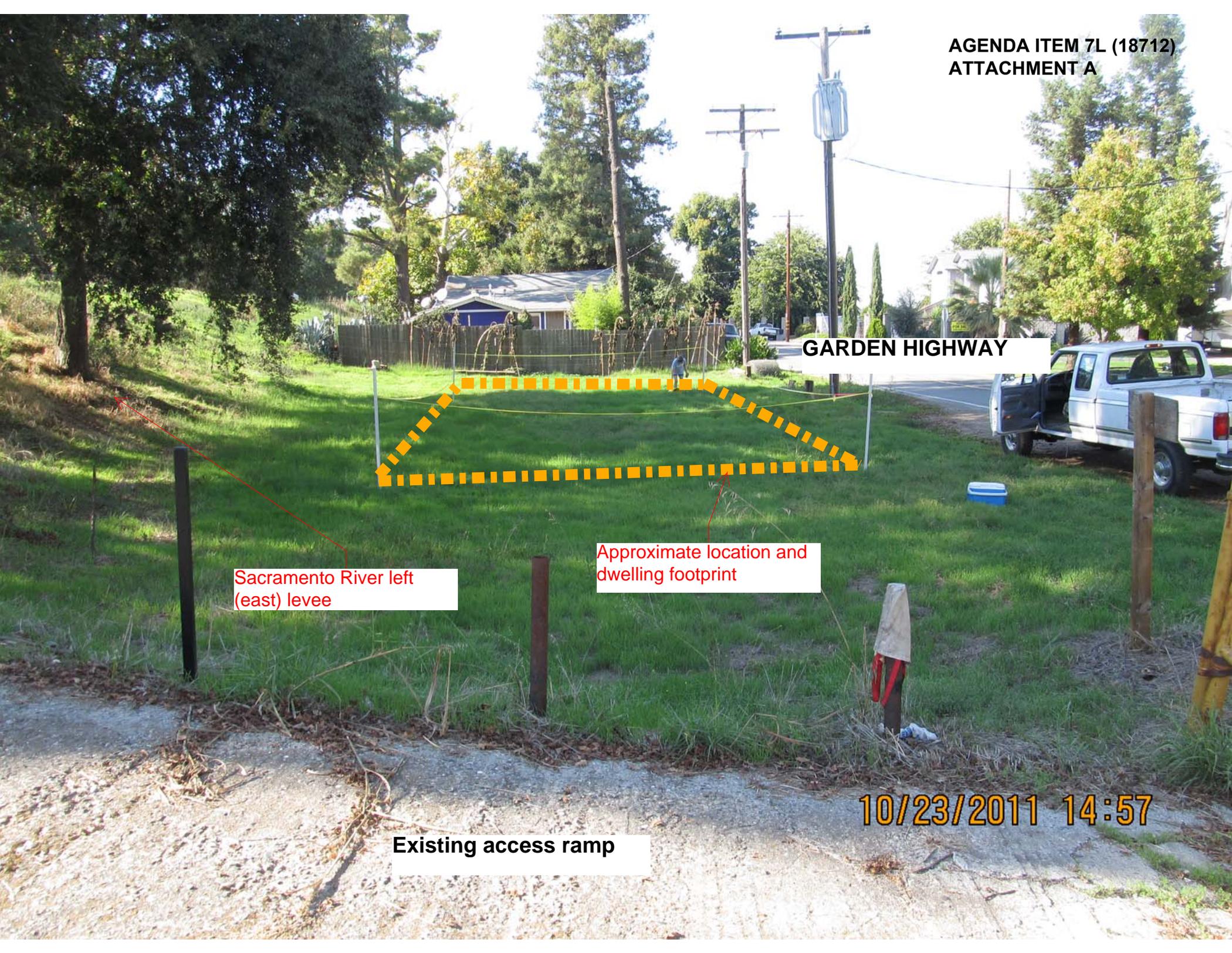
GARDEN HIGHWAY

Sacramento River left  
(east) levee

Approximate location and  
dwelling footprint

Existing access ramp

10/23/2011 14:57



**AGENDA ITEM 7L (18712)  
ATTACHMENT A**



Application 18712 – Site Photos (source: Board staff site visit on 4/22/2009)



**AGENDA ITEM 7L (18712)  
ATTACHMENT A**

**EXTERIOR ELEVATIONS**

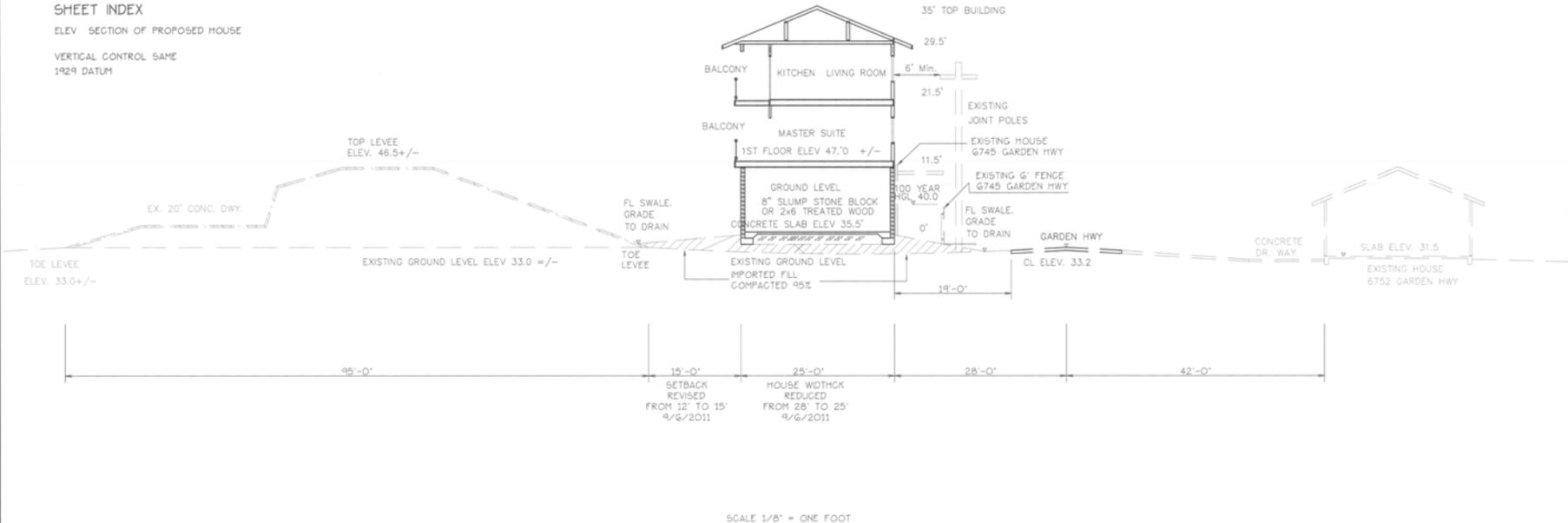
SCALE 1/8" = ONE FOOT

**SITE DATA**  
EXISTING ZONING R1

LOCATION	AREA SQ FT
GROUND FLOOR	1250 SQ FT
2ND FLOOR	1400 SQ FT
3RD FLOOR	1400 SQ FT
LIVING SPACE	2800 SQ FT
TOTAL	4050 SQ FT
LOT AREA	104,544 SQ FT
LOT COVERAGE	1.5% OK

**SHEET INDEX**

ELEV SECTION OF PROPOSED HOUSE  
VERTICAL CONTROL SAME  
1929 DATUM



SCALE 1/8" = ONE FOOT

SETBACK  
REVISED 9/6/11

MATERIAL OPTION ADDED  
REVISED 12/1/11

**SECTION OF RIVER HOUSE**

VERORNA RIVER HOUSE  
PROPOSED ADDRESS

6757 GARDEN HWY.  
NICOLAUS, CA  
APN 34-200-017

REVISIONS	NO.	DATE	
CROWDER ENGINEERING 39 TIMBERWOOD CT SACRAMENTO, CA 95833 PHONE (916) 552-0200 FAX (916) 557-4626 EMAIL: EC@CROWDER.COM			
JEFF AND PAT CROWDER 39 TIMBERWOOD CT SACRAMENTO, CA 95833			
SECTION VERORNA HOUSE			
STATE OF CALIFORNIA CITY OF SACRAMENTO			
12/15/2011			
ELEV			
XREF: RH_SECT.DWG FILE: RH_SECT15P.DWG			

Thu Dec 15 16:32:02 2011  
 Thu Dec 15 16:46:02 2011

**DRAFT**

STATE OF CALIFORNIA  
THE RESOURCES AGENCY  
**THE CENTRAL VALLEY FLOOD PROTECTION BOARD**

**PERMIT NO. 18712 BD**

**This Permit is issued to:**

Jeffrey E. & Patricia J. Crowder  
39 Timberwood Court  
Sacramento, California 95833

To construct a three-story, 2,800 square-foot concrete block and wood frame house on the landside of the levee along Garden Highway. Located at the south corner of the Garden Highway / Vernon Street intersection (Section 22, T11N, R3E, MDB&M, Reclamation District 1001, Sacramento River, Sutter County).

**NOTE:** Special Conditions have been incorporated herein which may place limitations on and/or require modification of your proposed project as described above.

(SEAL)

Dated: \_\_\_\_\_ Executive Officer

**GENERAL CONDITIONS:**

**ONE:** This permit is issued under the provisions of Sections 8700 – 8723 of the Water Code.

**TWO:** Only work described in the subject application is authorized hereby.

**THREE:** This permit does not grant a right to use or construct works on land owned by the Sacramento and San Joaquin Drainage District or on any other land.

**FOUR:** The approved work shall be accomplished under the direction and supervision of the State Department of Water Resources, and the permittee shall conform to all requirements of the Department and The Central Valley Flood Protection Board.

**FIVE:** Unless the work herein contemplated shall have been commenced within one year after issuance of this permit, the Board reserves the right to change any conditions in this permit as may be consistent with current flood control standards and policies of The Central Valley Flood Protection 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. 18712 BD**

**THIRTEEN:** Within one year from completion of the construction of the work authorized under this permit, the permittee shall provide the Sacramento and San Joaquin Drainage District, acting by and through the Central Valley Flood Protection Board of the State of California, a permanent easement granting all flood control rights for the area 10 feet from the landward levee toe. For information regarding existing Central Valley Flood Protection Board Easements, please contact Angelica Aguilar at (916) 653-5782.

**FOURTEEN:** This permit is not valid until the enclosed Agreement Establishing a Covenant Running with the Land has been signed, notarized, and returned to the Central Valley Flood Protection Board.

**FIFTEEN:** 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.

**SIXTEEN:** Any additional encroachment(s) on the levee section or waterward berm, require an approved permit from the Central Valley Flood Protection Board and shall be in compliance with the Central Valley Flood Protection Board's regulations (Title 23 California Code of Regulations).

**SEVENTEEN:** 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, Reclamation District 1001 or any other agency responsible for maintenance.

**EIGHTEEN:** Upon receipt of a signed copy of the issued (not approved only) permit 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.

NINETEEN: The Central Valley Flood Protection Board and Department of Water Resources shall not be held liable for any damages to the permitted encroachment(s) resulting from flood fight, operation, maintenance, inspection, or emergency repair, to the extent allowed by law.

TWENTY: 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 to the extent allowed by law.

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: The permittee is responsible for all liability associated with construction, operation, and maintenance of the permitted facilities and 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 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.

TWENTY-THREE: 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.

TWENTY-FOUR: No construction work of any kind shall be done during the flood season from November 1 to April 15 without prior approval of the Central Valley Flood Protection Board.

TWENTY-FIVE: No excavation shall be made for any purpose within the levee section or within 10 feet of the waterward or landward levee toes without a Central Valley Flood Protection Board permit.

TWENTY-SIX: Ditches, power poles, standpipes, distribution boxes, and any other aboveground structures shall be located a minimum distance of 10 feet beyond the landward levee toe.

TWENTY-SEVEN: The area 10 feet wide and adjacent to the landside levee toe shall be cleared of trees and brush and maintained free of woody vegetation.

TWENTY-EIGHT: No trees shall not be planted within 15 feet of the waterward or landward levee toe.

TWENTY-NINE: All trees shall be trimmed and maintained to provide 5 feet of vertical clearance above the ground surface.

THIRTY: The levee crown roadway shall be kept clear for vehicular traffic and parking shall be prohibited at all times.

THIRTY-ONE: No materials or equipment shall be stored on the levee section.

THIRTY-TWO: Debris that may accumulate on the permitted encroachment(s) and related facilities shall be cleared off and disposed of outside the floodway after each period of high water.

THIRTY-THREE: The residence shall be located a minimum distance of 10 feet from the landside levee toe.

THIRTY-FOUR: The area shall be graded to drain away from the landside levee toe.

THIRTY-FIVE: Any damage to the levee crown roadway or access ramps shall be promptly repaired to the condition that existed prior to utilization.

THIRTY-SIX: Any lock on the gate must be accessible to maintenance and inspection personnel and must not be casehardened.

THIRTY-SEVEN: Keys shall be provided to the local maintenance agency and the Department of Water Resources for all locks on gates providing access to the floodway, levee ramp, levee toe, and along the levee crown.

THIRTY-EIGHT: This permit is not valid until the Central Valley Flood Protection Board has received written notification from the U.S. Army Corps of Engineers (Corps) that the Corps has no opposition to this project. The permittee shall comply with all conditions set forth in the letter from the Corps once it is received, which shall be attached to this permit as Exhibit A and incorporated by reference.

DRAFT

**TRUSTEES**  
ROBERT SCHEIBER  
ROY C. OSTERLI II  
JAMES HUDSON  
ERIC ROLUFS  
JOHN TARESH

OFFICE OF

**OFFICERS**  
ROBERT SCHEIBER, PRESIDENT  
ROY C. OSTERLI II, VICE PRESIDENT  
DIANE FALES, SECRETARY/ MANAGER

**BOARD OF TRUSTEES  
RECLAMATION DISTRICT 1001**  
1959 CORNELIUS AVENUE  
RIO OSO, CALIFORNIA 95674  
530 656-2318 or 530 633-2586  
FAX 530 656-2165  
EMAIL: [rd1001@syix.com](mailto:rd1001@syix.com)

December 21, 2011

Central Valley Flood Protection Board  
Ms. Angeles Caliso  
3310 El Camino Avenue Room 151  
Sacramento, CA 95821

Re: Endorsement of house project - Garden Highway/Feather River Levee 12.7

Dear Ms. Caliso:

Reclamation District 1001 Board of Trustees has reviewed Jeff Crowder's request to build a three-story, 2,800 square-foot house located along the Garden Highway on Verona Townsite-APN 34-200-017. The District has no opposition to this project allowing for an acceptable distance of a fifteen foot levee toe setback.

If I can be of further assistance, please don't hesitate to contact me.

Yours truly,



Diane Fales  
Secretary/Manager

Cc: Jeff Crowder

**TRUSTEES**  
ROBERT SCHEIBER  
ROY C. OSTERLI II  
JAMES HUDSON  
ERIC ROLUFS  
JOHN TARESH

**OFFICERS**  
ROBERT SCHEIBER, PRESIDENT  
ROY C. OSTERLI II, VICE PRESIDENT  
DIANE FALES, SECRETARY/ MANAGER

**OFFICE OF**

**BOARD OF TRUSTEES  
RECLAMATION DISTRICT 1001  
1959 CORNELIUS AVENUE  
RIO OSO, CALIFORNIA 95674  
530 656-2318 or 530 633-2586  
FAX 530 656-2165  
EMAIL: [rd1001@syix.com](mailto:rd1001@syix.com)**

January 11, 2011

County of Sutter  
Community Services Department  
Leanne Mueller, Senior Planner  
1130 Civic Center Blvd  
Yuba City, CA 95993

Re: Jeff Crowder House Plans

Dear Leanne:

In reviewing plot plans submitted by Jeff Crowder for a Variance Exception on Verona Townsite – APN 34-200-017, the District has no opposition to this project. He has allowed an acceptable distance of twelve feet from the levee toe.

If you have any questions, please contact me.

Yours truly,



Diane Fales  
Secretary/Manager

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

**The Central Valley Flood  
Protection Board**  
c/o Department of Water Resources  
Real Estate Branch  
1416 Ninth Street, Room 425  
Sacramento, CA 95814

--- SPACE ABOVE IS FOR RECORDER'S USE ---

No fee shall be charged by the recorder for services rendered to the State (Government Code Section 7383).

**AGREEMENT ESTABLISHING A COVENANT  
RUNNING WITH THE LAND**

This AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_,  
(Day) (Month) (Year)

by and between Jeffrey E. & Patricia J. Crowder, hereinafter referred to as "OWNER(S)",  
and the Sacramento and San Joaquin Drainage District, acting by and through The Central  
Valley Flood Protection Board of the State of California, hereinafter referred to as the  
"BOARD", for valuable consideration, the receipt and adequacy of which are hereby  
acknowledged.

1. This AGREEMENT applies to residential and commercial structures, related  
improvements, and real property, hereinafter referred to as "OWNER'S PROPERTY",  
acquired by OWNER(S) by grant deed recorded \_\_\_\_\_, as Document  
(Date)  
Number \_\_\_\_\_, Official Records of Sutter County.  
(Number)

2. These covenants and equitable servitudes shall bind the OWNER(S), any successors,  
executors, heirs, administrators, and assigns. It is the express intent of OWNER(S) and  
the BOARD that these covenants and equitable servitudes touch and concern and that the  
burdens run with the OWNER'S PROPERTY and inure to the benefit of and be binding on  
their successors, executors, heirs, administrators, and assigns.

3. OWNER(S) acknowledge that OWNER'S PROPERTY or a portion thereof is located  
within an adopted plan of flood control and subject to California Code of Regulations, Title  
23, Division 1, hereinafter referred to as the "REGULATIONS".

4. OWNER(S), being fully aware that there is a risk that improvements on the OWNER'S  
PROPERTY may sustain flood damage and may cause flood damage elsewhere, agrees  
for OWNER(S), any successors, executors, heirs, administrators, and assigns to comply  
with all terms of this AGREEMENT and all conditions of the BOARD'S Permit No. 18712  
BD, attached as Exhibit A, and any future changes therein, as on file with The Central  
Valley Flood Protection Board at 3310 El Camino Avenue, Sacramento, California, and  
any BOARD permit governing improvements to which improvements made pursuant to  
Permit No. 18712 BD are physically attached, and to the REGULATIONS.

5. OWNER(S) agrees for OWNER(S), any successors, executors, heirs, administrators, and assigns to release, hold harmless, defend, and indemnify the State of California, its agencies, officers, employees and agents from any and all claims, costs, expenses, and liability for any damages from flood, river, or reservoir operation to OWNER'S PROPERTY and any and all claims, costs, expenses, and liability caused by or contributed to by OWNER(S) improvements or by OWNER(S) failure to comply with the terms and conditions of the BOARD'S Permit No. 18712 BD and any future changes therein, as on file with The Central Valley Flood Protection Board at 3310 El Camino Avenue, Sacramento, California, or any BOARD permit governing improvements to which improvements made pursuant to Permit No. 18712 BD are attached, or for failure to comply with the REGULATIONS.

6. The BOARD will provide timely notice to the OWNER(S) before changing any condition contained in Permit No. 18712 BD.

7. The BOARD holds title to interest in real property that is benefited by the covenants and equitable servitudes described above. These interests in real property owned by the BOARD constitute a part of the flood control system of the State over which the BOARD exercises authority pursuant to the laws of the State of California, including Water Code Section 8710.

8. This AGREEMENT shall be recorded in the Official Records of Sutter County.

The BOARD hereby accepts the covenants set forth above.

OWNER(S): SACRAMENTO AND SAN JOAQUIN  
DRAINAGE DISTRICT  
ACTING BY AND THROUGH  
THE STATE OF CALIFORNIA

\_\_\_\_\_  
Signature of Property Owner

\_\_\_\_\_  
Jay S. Punia  
Executive Officer

\_\_\_\_\_  
Printed Name of Property Owner

\_\_\_\_\_  
Signature of Property Owner

\_\_\_\_\_  
Printed Name of Property Owner

**CENTRAL VALLEY FLOOD PROTECTION BOARD**

3310 El Camino Ave., Rm. LL40  
SACRAMENTO, CA 95821  
(916) 574-0609 FAX: (916) 574-0682  
PERMITS: (916) 574-0685 FAX: (916) 574-0682



February 2, 2010

Mr. Jeff Crowder  
39 Timberwood Court  
Sacramento, California 95833

Dear Mr. Crowder:

Your application to the Central Valley Flood Protection Board requesting a variance to the Regulations to authorize the construction of a 3,100-square-foot, two-story residence on the left (east) bank overflow area of the Feather River, was denied by the Board at its December 17, 2009 meeting.

Should you have any questions, please contact Mr. Curt Taras, Chief, Floodway Encroachment and Enforcement Branch at (916) 574-2378 or via e-mail at [ctaras@water.ca.gov](mailto:ctaras@water.ca.gov).

Sincerely,

Jay S. Punia  
Executive Officer

Attachment:

Copy of signed Resolution 09-40

cc: Ms. Diane Fales, Manager  
Reclamation District 1001  
1959 Cornelius Avenue  
Rio Oso, California 95674

Mr. Ryan Larson, Acting Chief  
Flood Protection & Navigation Section  
Sacramento District  
U.S. Army Corps of Engineers  
1325 J Street  
Sacramento, California 95814-2922

Mr. Jeremy Arrich, Chief  
Flood Project Integrity and Inspection Branch  
Department of Water Resources

STATE OF CALIFORNIA  
THE RESOURCES AGENCY  
CENTRAL VALLEY FLOOD PROTECTION BOARD

RESOLUTION NO. 09-40

FINDINGS AND DECISION OF VARIANCE APPEAL HEARING FOR  
ENCROACHMENT APPLICATION NO. 18201  
MR. JEFF & MRS. PAT CROWDER, 39 TIMBERWOOD LANE, SACRAMENTO, CA 95833  
FEATHER RIVER, SUTTER COUNTY

**WHEREAS**, Mr. Jeff and Mrs. Pat Crowder (applicant) is owner of a vacant property known as Sutter County Assessor's Parcel No. 034-200-017, also known by the address of 6757 Garden Highway, Nicolaus, California 95828 in Section 22, Township 11 North, Range 3 East, Mount Diablo Base and Meridian; and

**WHEREAS**, the property is located upstream of the Verona Marina, on the left (east) bank levee located within the federal Sacramento River Flood Control Project completed August 1955; and

**WHEREAS**, one revoked Board permit and one previous application exists for this parcel; and

**WHEREAS**, Mr. Crowder (Applicant) took ownership of the parcel on March 9, 2004 and submitted Board Application on March 22, 2007 which was accepted by the Board and assigned Application No. 18201; and

**WHEREAS**, application No. 18201 requests variance to waive Board Standards to authorize the construction of a 3,100-square-foot, two story residence supported on piers, on the left (east) waterside bank of the Feather River; and

**WHEREAS**, Board staff has reviewed the application and determined that the proposed project would be in violation of CCR 23 Section 113 (b) (1), which states that "*dwellings and structures within an adopted plan of flood control must comply with the following requirements: (1) New dwellings, with the exception of dwellings for seasonal occupancy (nonflood season), are not permitted...*;" and

**WHEREAS**, the only exceptions to Section 113 are stated under the following special sections within Title 23:

1. Section 133: Left bank waterside berm and waterward levee slope of the Sacramento River between Natomas Cross Canal and American River, Reclamation District 1000.
2. Section 134: Yuba River Floodway between Daguerre Point Dam and the confluence with the Feather River.
3. Section 135: Butte Basin

**WHEREAS**, these special sections were established after long negotiations with federal, State and local stakeholders and partners, thorough analysis and careful consideration. The proposed project is outside of the areas covered under these special sections; and

**WHEREAS**, Allowing the construction of a residential dwelling within the floodplain would be inconsistent with floodplain management objectives stated in both Federal Executive Order 11988 and State Executive Order B-39-77; and

**WHEREAS**, Federal Executive Order 11988 directs federal agencies to provide leadership and take action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health, and welfare, and to restore and preserve the natural and beneficial values served by floodplains; and

**WHEREAS**, State Executive Order B-39-77 that states:

*“...throughout the state the magnitude of annual flood caused property losses and threats to human safety is increasing, largely as a result of unwise use and continuing development of the state’s floodplains and despite substantial efforts to control floods;...”*

*“...state agencies need to be more cognizant of long and short term flood risk and losses associated with occupancy of floodplains and more consistent in the evaluation of flood hazards in implementing their programs;...”*

**WHEREAS**, impacts the proposed home would have on the Flood Control System include:

- Inhibiting the anticipated expansion/strengthening of the levee in order to convey future flows;
- The levee appears to be constructed of sandy material, which is not desirable for levee construction. Evidence of slope erosion was recently found on this section of the levee and has been repaired. Additional encroachments will further complicate maintenance of the levee;
- Flood Fight: Home on the levee would prevent access for sand bagging and wave protection. Furthermore, additional emergency resources would be required to assist in the event of an evacuation;
- Stability: Bridge abutment at the levee crown will penetrate a minimum of 3 feet;
- Seepage: Utility, septic and pile penetrations could increase seepage; and

**WHEREAS**, the demand for riverfront residential property is high and is unlikely to change in the future. Approval of a variance in this case will lead to future challenges to the Board’s flood control policies and mission, as it may be perceived as setting a precedence indicating to the public that similar proposals are achievable by applicants wishing to live within the Feather River and other floodways throughout the Board’s Adopted Plan of Flood Control; and

**WHEREAS**, staff’s review also determined that the proposed driveway will require excessive alterations to the levee approach (as indicated on site plan dated March 29, 2009). Staff also believes that in the event of an emergency (flood, fire, etc), egress options at the site are limited; and

**WHEREAS**, hydraulic data submitted by applicant is not a complete hydraulic analysis for the project to address the effect the piles would have during high flow events. However, even if a hydraulic analysis were completed and could demonstrate that the proposed project does not

have a significant negative impact on the flood control project, permanent residences are prohibited in the floodway by regulations, and therefore a hydraulic analysis is not necessary for the Board to deny this application; and

**WHEREAS**, applicant provided staff a copy of the Freemont Landing Conservation Bank Mitigated Negative Declaration report, prepared by Wildlands, Inc., dated July 2009. Due to the size of the report, only Appendix A- Hydrodynamic Analysis is attached to the staff report (see Attachment F). A complete copy of the report can be obtained by contacting Wildlands, Inc; and

**WHEREAS**, in accordance with provisions of CFR Section 208.10, the Corps' District Engineer has reviewed a draft of this staff report and supports the staff recommendation to deny the permit application; and

**WHEREAS**, the Corps' review of the previous permit applications determined that the project is located in a floodway and may be subject to flooding and/or flood damage; the project is not consistent with the policies of the Corps Sacramento District, Navigation and Flood Control Unit; and the project is not consistent with Executive Order 11988, which recommends limiting development in flood prone areas; and

**WHEREAS**, staff believes there are reasonable alternatives for development of the parcel that are in compliance with the Board's Regulations. These include a future marina expansion, a campground and a dwelling/structure on the landside of the levee with appropriate setbacks; and

**WHEREAS**, for all these reasons, staff recommends the Board determine the project is exempt from CEQA and deny authorization of application No. 18201; and

**WHEREAS**, the Board has conducted a public hearing, has reviewed the application for encroachment permit and the Staff Report, and given the applicant the right to testify and present evidence on their behalf;

**NOW, THEREFORE, BE IT RESOLVED THAT,**

**Findings of Fact**

1. Prohibiting new permanent dwellings within the floodways, keeps citizens from residing in designated flood areas which prevent present and future occupants from being exposed to high safety risk.
2. Limiting development in the floodway is a key element to ensuring the channel capacity is maintained.
3. The Central Valley Flood Protection Board hereby adopts as findings the facts set forth in the Staff Report. The Board has reviewed the Figures, Attachments, and References listed in the Staff Report.

**CEQA Considerations**

When the Board is denying a project, no CEQA Determinations or findings are required. If the Board decides not to deny this project, then further CEQA review is necessary.

4. **Custodian of Record**. The custodian of the CEQA record for the Board is its Executive Officer, Jay Punia, at the Central Valley Flood Protection Board Offices at 3310 El Camino Avenue, Room LL40, Sacramento, California 95821.

**Findings pursuant to Water Code section 8610.5**

5. **Evidence Admitted into the Record**. The Board has considered all the evidence presented in this matter, including the application, Staff Report and addendum, CEQA findings and Corps recommendations. The Board has also considered all letters and other correspondence received by the Board and in the Board's files related to this matter.

The custodian of the file is Executive Officer Jay Punia at the Central Valley Flood Protection Board, 3310 El Camino Avenue, Room LL40, Sacramento, California 95821.

6. **Best Available Science**. In making its findings the Board has used the best available science relating to the issues presented by all parties. The accepted industry standards for the work proposed under this application as regulated by Title 23 have been applied to the review of this application.
7. **Effects on State Plan of Flood Control**. Denial of this project will maintain the floodway clear of obstructions and help prevent potential adverse impacts to the operation and maintenance of the Sacramento River Flood Control Project portion of the State Plan of Flood Control.
8. **Effects of reasonably projected future events**. Denial of this project will keep the flood channel clear of new permanent dwellings and allow for future maintenance, repair and expansion of the floodway and levees.

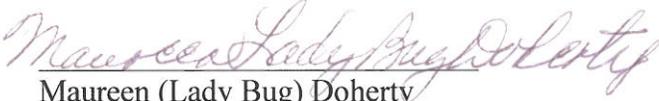
**Other Findings / Conclusions Regarding Permit Application**

9. The Board hereby denies authorization of Application No. 18201.
10. This resolution shall constitute the written decision of the Board in the matter of Permit Application No. 18201.

PASSED AND ADOPTED by vote of the Board on 12/17/09, 2009

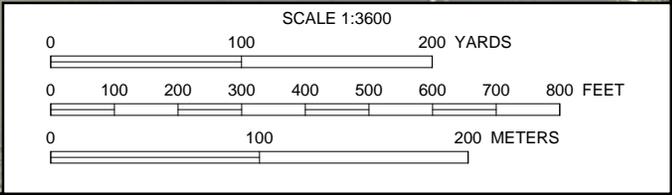
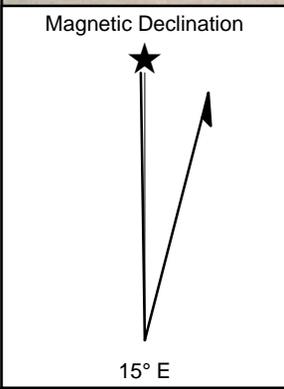


Benjamin F. Carter  
President



Maureen (Lady Bug) Doherty  
Secretary

AGENDA ITEM 7L (18712)  
ATTACHMENT D



Name: VERONA SW NW, CA  
Date: 12/17/2009  
Scale: 1 inch equals 300 feet

Location: 2047889 ft. N 6670419 ft. E NAD83  
Caption: SSJDD Levee Easement Deed 2416, Sacramento River, Sutter County,  
APN34-020-017