

Meeting of the Central Valley Flood Protection Board
August 24, 2012

Staff Report – Stipulated Cease and Desist Order for Enforcement Action 2012-145

Mr. Ron Smith, Yolo Bypass,
Yolo County

1.0 – ITEM

Staff recommended approval of Stipulated Cease and Desist Order for Enforcement Action 2012-15 which ordered the removal of code violations and unauthorized encroachments constructed in the Yolo bypass.

2.0 – RESPONDENT/PROPERTY OWNER

Mr. Ron Smith
2665 Sorney Loop Road,
Rescue, CA 95672-9483
Assessor’s Parcel Number (APN) 033-190-010, 033-440-060

Note: CVFPB and Board are used interchangeably in this document when referring to the Central Valley Flood Protection Board.

3.0 – LOCATION

The code violations are located on the Yolo Bypass approximately 10.3 miles southeast of the City of Davis and 1.5 miles west from Sacramento Deep Water Ship Channel west levee in Yolo County. Figures 1a and 1b show the vicinity map and an aerial view of the property, respectively.

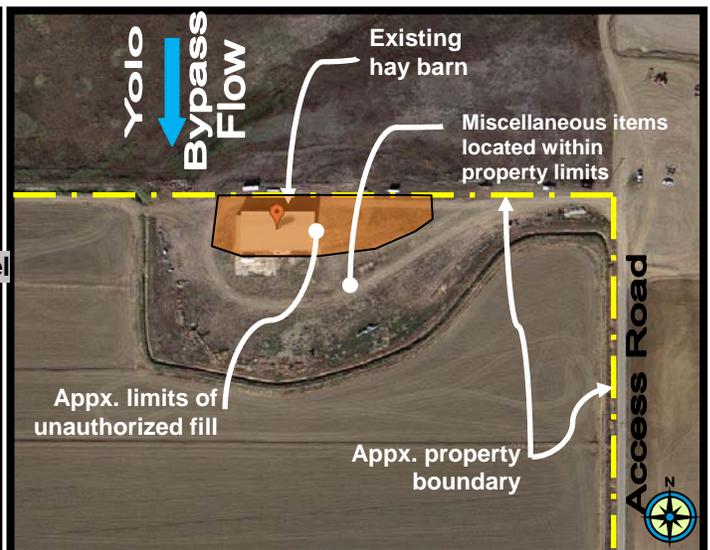
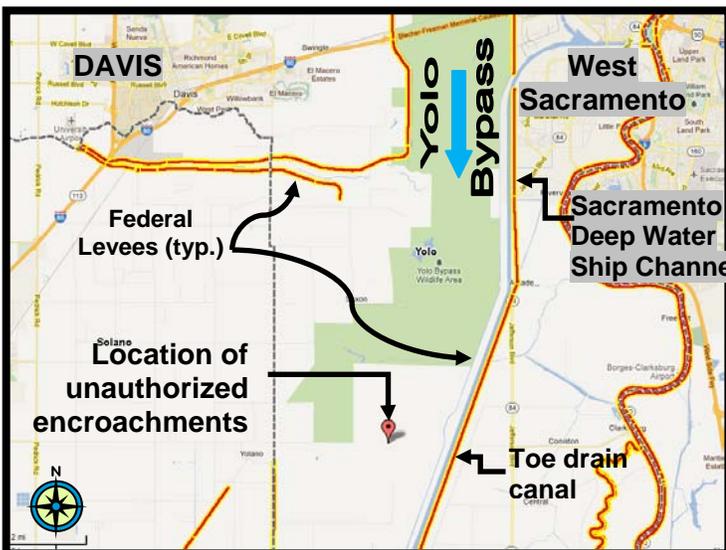


Figure 1a- Vicinity Map of property (Source: Google maps)

Figure 1b- Aerial view of the property (Source: Google Maps)

4.0 – STATUS

An appeal hearing for the respondent was held by the CVFPB on June 22, 2012. The respondent appealed the Cease and Desist Enforcement Notice and Order for Enforcement Action 2012-145. At that hearing, the CVFPB voted to uphold the Cease and Desist Enforcement, but stayed the Cease and Desist Enforcement until the August 24, 2012 CVFPB meeting to give CVFPB Staff and the respondent an opportunity to come to an agreement on how the violations would be addressed.

The Stipulated Cease and Desist Order (Attachment A) was developed over the given time through discussions by CVFPB Staff and the respondent and represents the actions that have been agreed upon in order to address the violations.

5.0 – STAFF RECOMMENDATION

Staff recommends the CVFPB approve the Stipulated Cease and Desist Order for Enforcement Action 2012-145 for the removal of code violations on the respondent's property in the Yolo Bypass.

6.0 – LIST OF ATTACHMENTS

A. Stipulated Cease and Desist Order for Enforcement Action 2012-145

Report Prepared by: Michael Wright
Document Review: Len Marino, Robin Brewer

CENTRAL VALLEY FLOOD PROTECTION BOARD

3310 El Camino Ave., Rm. 151
SACRAMENTO, CA 95821
(916) 574-0609 FAX: (916) 574-0682
PERMITS: (916) 574-2380 FAX: (916) 574-0682



Sent Via Overnight Mail, Return Receipt Requested

August 13, 2012

Mr. Ronald Smith
2665 Sorney Loop Road
Rescue, California 95672

Subject: Stipulated Cease and Desist Order

Enforcement Action: 2012-145

Property Owner: Mr. Ron Smith

Property Information: Parcel APN 033-190-010 and 033-440-060 located in Yolo Bypass, Yolo County

Dear Mr. Smith:

Please find attached the Stipulated Cease and Desist Order (Order) for Enforcement Action 2012-145 provided for your signature. **Please sign and date page No. 3 and return to the Central Valley Flood Protection Board c/o Michael Wright on or before August 21, 2012.**

This Order will be presented to the Central Valley Flood Protection Board (CVFPB) at the August 24, 2012 Board meeting.

Hearing Location: State of California
Resources Building
First Floor Auditorium
1416 Ninth Street
Sacramento, CA 95814.

If the violations described in the Cease and Desist Enforcement Notice dated February 27, 2012 have not been addressed in accordance with the Cease and Desist Enforcement Notice, or the attached Stipulated Cease and Desist Order has not been signed by you prior to August 21, 2012, CVFPB Staff will recommend that the CVFPB proceed with Enforcement Action 2012-145.

Please contact Michael C. Wright, Chief of the Enforcement Section by telephone at 916-574-0698 or by E-mail at mcwright@water.ca.gov if you have any questions.

Sincerely,


Jay S. Punia
Executive Officer

cc's and Attachments: (please see attached list)

Mr. Ron Smith
August 13, 2012
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Attachment 1: Stipulated Cease and Desist Order for Enforcement Action 2012-145 (2 copies)

cc: Ms. Robin Brewer, Office of the Chief Counsel
Mr. Len Marino, CVFPB

CENTRAL VALLEY FLOOD PROTECTION BOARD

3310 El Camino Avenue, Suite 151
SACRAMENTO, CA 95821
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PERMITS: (916) 574-0685 FAX: (916) 574-0682



August 13, 2012

Subject: **Stipulated Cease and Desist Order for Enforcement Action 2012-145**

This Stipulated Cease and Desist Order for Enforcement Action 2012-145 ("Stipulated Order"), is entered into by and between the Executive Officer of the Central Valley Flood Protection Board ("CVFPB") on behalf of the CVFPB and Mr. Ron Smith ("Respondent") (collectively the "Parties") and constitutes an order by settlement pursuant to Government Code section 11415.60.

This Stipulated Order refers to the respondent's property in the Yolo Bypass approximately 10.3 miles south east of the City of Davis, and approximately 1.5 miles west of the Sacramento Deep Water Ship Channel.

This Stipulated Order is based on the Cease and Desist Enforcement Notice and Order dated February 27, 2012 which required the removal of code violations on the respondent's property in the Yolo Bypass and was heard by the CVFPB at the June 22, 2012 CVFPB meeting.

Violations shall be addressed as follows:

Item I: *Damaged Agricultural Barn*

Remove barn by September 30, 2012. Debris from barn shall be removed from Yolo Bypass prior to November 1, 2012.

Item II: *Elevated Earthen Equipment Pad*

Degrade pad to an elevation no higher than the floor elevation of the existing concrete pad by September 30, 2012. Soil from pad shall be evenly spread on the southern half of your parcel defined as APN 033-190-010.

Item III: *Leaking Diesel Fuel Tank in Regulated Floodway*

Apply for a CVFPB permit for the fuel tank. Fuel tank shall not be left in the floodway during flood season. If tank is in floodway during flood season, it shall either be securely anchored to prevent flotation, or shall be ready to move out of the floodway on short notice.

Item IV: *Ammonia Tank in Regulated Floodway*

Apply for a CVFPB permit for the ammonia tank. Ammonia tanks shall not be left in the floodway during flood season. If tank is in floodway during flood season, it shall either be securely anchored to prevent flotation, or shall be ready to move out of the floodway on short notice.

Item V: *Non-Anchored Equipment within the Floodway*

Remove all farm equipment and miscellaneous debris from the floodway prior to November 1 any year. No farm equipment or miscellaneous debris shall be on the site in the Yolo Bypass

from November 1 through April 15, any year. If farm equipment is in floodway during flood season, it shall either be securely anchored to prevent flotation, or shall be ready to move out of the floodway on short notice.

Item VI: *Soil Berms Blocking the Free Flow of Drainage*

Agricultural berms created for farming activities shall be less than 30" in height above adjacent farming fields. Soil berms exceeding 30" in height above adjacent fields shall be degraded prior to November 1, 2012 and shall remain less than 30" in height above adjacent fields.

Item VII: *Blockages of Ditches and Culverts*

Apply for a permit for all drainage structures and channel control gates. The drainage structures shall remain unblocked during flood season, between November 1st through April 15th and all concrete debris shall be removed. If the CVFPB does not approve the permit, then the structure, unpermitted fill, and concrete debris shall be removed from the ditches prior to November 1, 2012.

General Terms and Conditions:

- New applications will not be accepted for projects that are not associated with the seven items listed above, until the seven items have been addressed per this agreement. Once all seven items have been addressed pursuant to the terms of this agreement, the Cease and Desist Order for Enforcement Action 2012-145 shall be vacated.
- Respondent shall comply with all the terms and conditions of the Cease and Desist Order for Enforcement Action 2012-145 in conducting removal of the items listed above.
- The terms, provisions, and conditions in this Stipulation shall be binding upon and inure to the benefit of the Parties and each of them and their respective heirs, successors, and assigns.
- The Respondent shall be responsible for all liability associated with the actions taken pursuant to this stipulation, and shall defend and hold harmless the CVFPB and the State of California, including its agencies, departments, boards, commissions, and their respective officers, agents, employees, successors and assigns (collectively, the "State") from all liability or claims of liability associated therewith.
- Flood season for the Yolo Bypass is November 1st through April 15th.
- The property owner shall contact the Enforcement Section by telephone at (916) 574-0698, once the violations are addressed per this Stipulated Cease and Desist Order to schedule an inspection conference.

I agree to the terms of this Stipulated Cease and Desist Order:

RESPONDENT

STATE OF CALIFORNIA

By _____

Ronald Smith

By _____

Jay Punia
Executive Director
Central Valley Flood Protection Board

Date: _____

Date: _____

STATE OF CALIFORNIA

STATE OF CALIFORNIA

By _____

William H. Edgar
President
Central Valley Flood Protection Board

By _____

Jane Dolan
Secretary
Central Valley Flood Protection Board

Date: _____

Date: _____