

CENTRAL VALLEY FLOOD PROTECTION BOARD MEETING AGENDA ITEM NO. 7



LEGAL UPDATE WATER CODE AMENDMENTS TITLE 23 UPDATE UPDATED ENFORCEMENT PROGRAM

March 28, 2014

SENATE BILL 753



SB 753 signed into law In 2013

- Amends the Water Code regarding the Board's authority to remove or modify encroachments
- Section 8579 adds a 30-day statute of limitations to seek judicial review of any permit or enforcement order issued by the Board
- Section 8732 authorizes a hearing or partial hearing before a committee of one or more members of the Board, a qualified neutral hearing officer or the executive officer or chief engineer

SENATE BILL 753



SB 753 signed into law In 2013

- Repeals Sections 8700 – 8709
- Authorizes the Board to:
 - Delegate the authority to issue NOV to individuals or agencies
 - Institute service of process procedures
 - Issue Cease and Desist Orders
 - Provide an enforcement order hearing process
 - Institute the ability to order administrative fines and place lien for abatement costs and attorney's fees
 - Adopt emergency regulations implementing the statutes
- Establishes a Flood Risk Management Fund

EMERGENCY REGULATIONS



- Board members and staff with legal counsel collaborated on Title 23 emergency update and succeeded in implementing changes effective January 2014
- The team is concurrently processing permanent regulations (public hearing scheduled for May 2014) designed to be in effect by July 2014
- The regulations set forth hearing procedures, notice requirements, settlement authority, define maintenance activities and emergency action, and provide for permit revocation proceedings, lien procedures, and reconsideration of Board decisions

2013-2017 STRATEGIC PLAN



Strategic Plan adopted on June 28, 2013

- Goal 1: Preserve the Integrity and Function of the Flood Protection Systems in the Central Valley
 - Objective 1.2: Expand enforcement capacity and authority
 - Strategy 1.2.3: Resolve encroachments that are in conflict with assurances provided to USACE and that compromise system performance
 - Strategy 1.2.5: Obtain additional enforcement authority through legislation and update regulations accordingly
 - Strategy 1.2.6: Establish authority to issue administrative fines without going to court

2013-2017 STRATEGIC PLAN



Strategic Plan adopted on June 28, 2013

- Goal 1: Preserve the Integrity and Function of the Flood Protection Systems in the Central Valley
 - Objective 1.3: Work with Local Maintaining Agencies to assure effective levee maintenance and improvement
 - Strategy 1.3.1: Work with LMAs to concentrate resources on high-risk areas
 - Strategy 1.3.3: Create regulatory structures to delegate authority to LMAs and, upon their request, enable them to initiate enforcement actions

STRATEGIC PLAN



- Other Strategies include:
 - 1.2.1 – Create comprehensive database
 - 1.2.2 – prioritize encroachments
 - 1.2.4 – develop real property data
 - 2.1.1 – assure Board commitments in adopting resolution are met

UPDATED ENFORCEMENT PROGRAM



- With the collaboration of Board Chief Engineer and Chief Counsel, together with Board and DWR staff, a comprehensive program was designed and currently in its implementation stage
 - **Updated Enforcement Program**
 - Respondents are afforded fair and equal treatment
 - Encroachments detrimental to the system are dealt with quickly and effectively
 - Public is educated to minimize future encroachment issues

ENCROACHMENT REMOVAL PROGRAM



- Many parts to this program (which you will hear about in detail in a few minutes), including:
 - Education and training for LMA partners
 - Pamphlet for public distribution highlighting the process and inviting early participation
 - Standardized NOV forms for LMA and enforcement staff use
 - A flowchart of various responsibilities, timelines and decision points through the process
 - A Pilot Program rollout

ENCROACHMENT REMOVAL PROGRAM



Expanded Enforcement Authority Michael C. Wright