

**CHAPTER 7:  
STATE AND FEDERAL PERMITS  
FOR PROJECTS NEAR OR ON  
LEVEES**

*Note: If project is near or on a levee, it is recommended that the Central Valley Flood Protection Board and/or U.S. Army Corps of Engineers be contacted as early in the project development process as possible.*

## 7.1 ENCROACHMENT PERMITS

### 7.1.1. Projects That Require Encroachment Permits

If your project site is located near or on a levee, you could be required to apply for a Central Valley Flood Protection Board (CVFPB) encroachment permit.

The following are examples of when this permit process may apply:

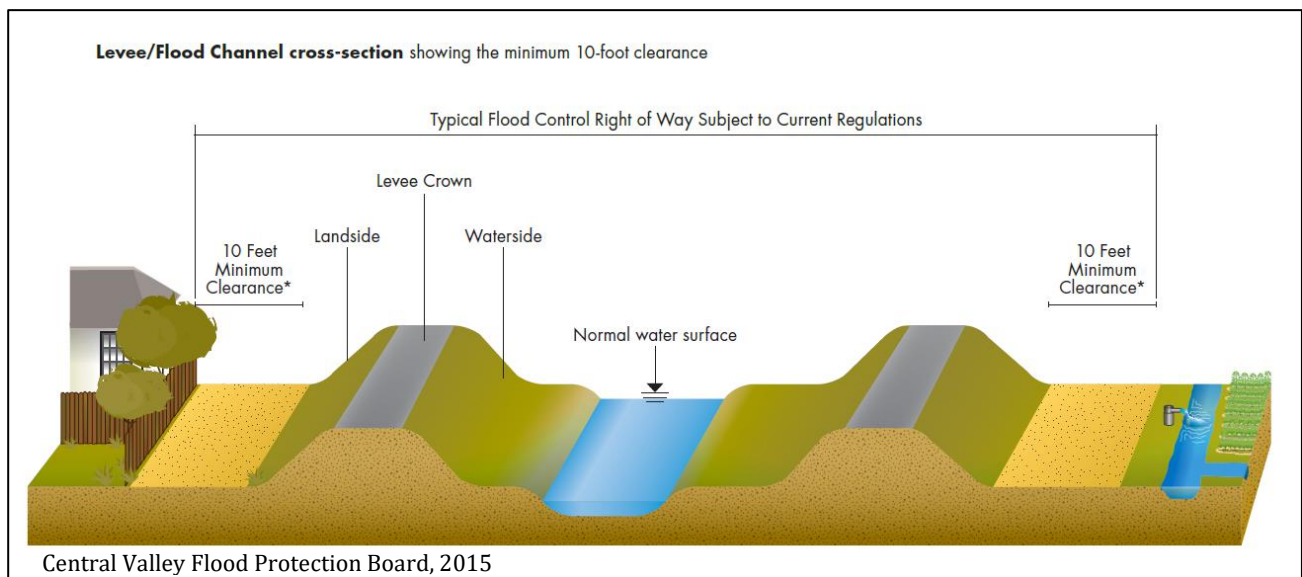
- Project is within an Adopted Plan of Flood Control, as defined by the California Code of Regulations, Title 23, Chapter 1, Article 2, which can be viewed online at <http://cvfpb.ca.gov/docs/regulations/CCRTitle23Division1Vol32.pdf>.
- Project is within the flood control right of way for levees shown on **Exhibit 7.1** below.
- Project is near or on a regulated Central Valley stream as listed in [Table 8.1 in Title 23](#).
- Project may impact the current or future State Plan of Flood Control (please contact the Board Office at (916) 574-0609 if you have questions about the impact of your project or email at [cvfpbquestions@water.ca.gov](mailto:cvfpbquestions@water.ca.gov)



#### Central Valley Flood Protection Board's Area of Jurisdiction

As stated in the California Code of Regulations, Title 23, Article 1, Section 2(b), "the area of the Board's jurisdiction includes the entire Central Valley, including all tributaries and distributaries of the Sacramento and San Joaquin Rivers, the Tulare and Buena Vista Basins."

**Exhibit 7.1: Typical Flood Control Right of Way Subject to Current Regulations**



### 7.1.2. Types of Work That Require an Encroachment Permit

An encroachment permit from the CVFPB is required for any work conducted in a regulated stream, designated floodway, and/or on any federal flood control project levee slopes to include the area 10-feet landward of the landside levee toe. Such activities might include but are not limited to: the placement, construction, reconstruction, removal, or abandonment of any landscaping, culvert, bridge, conduit, fence, projection, fill, embankment, building, structure, obstruction, encroachment or works of any kind, and including the planting, excavation, or removal of vegetation, and any repair or maintenance that involves cutting into the levee, wholly or in part, within an area for which there is an adopted plan of flood control.

### 7.1.3. Obtaining an Encroachment Permit Application

An electronic copy of the Permit application can be downloaded from the CVFPB website at <http://cvfpb.ca.gov/permitting/encroachment-permit-information-and-application-forms/>. To get answers to questions, or to request a hardcopy of a permit application, contact the CVFCB at (916) 574-0609 or email at [cvfpbquestions@water.ca.gov](mailto:cvfpbquestions@water.ca.gov).

### 7.1.4. Getting an Encroachment Permit Application Approved by CVFPB

An application must comply with the CVFPB's regulations in accordance with Title 23 of the California Code of Regulations and the California Environmental Quality Act, and should be endorsed by the responsible local or State maintaining agency. If you need assistance in identifying your maintaining agency, please contact the CVFPB. If your application is incomplete, it will be returned to you. The CVFPB will acknowledge receipt of your application in writing within 10 working days of receipt and will notify you within 30 calendar days whether the application is complete or requires additional data.

When the application package is complete, the CVFPB's technical staff performs an extensive review of the proposed work to ensure it is compliant with current standards before a decision is made on

#### Contact Information

Central Valley Flood Protection Board

Phone: (916) 574-0609

Email: [cvfpbquestions@water.ca.gov](mailto:cvfpbquestions@water.ca.gov)

Website: <http://www.cvfpb.ca.gov>

#### Helpful Links

- [Encroachment Permit Information and Application Forms](#)
- [Environmental and CEQA Considerations](#)
- [Permit Application Review Process](#)
- [Encroachment Permit Application Submittal Information](#)
- [Executive Officer Delegated Permits](#)
- [Frequently Asked Questions](#)
- [Need for Encroachment Permit Brochure](#)

#### Maps for Determining if Permit is Needed

Maps (for location purposes in determining if a permit is needed). Please use the link below for the updated map link and click on the **BAM Viewer**

Floodway Map Link

<http://gis.bam.water.ca.gov/bam/>

Note: If your project is within or 300 feet of the Designated Floodway or regulated stream, you may need an encroachment permit from the Central Valley Flood Protection Board. Please contact the Board for direction at (916) 574-0609, or by e-mail at [cvfpbquestions@water.ca.gov](mailto:cvfpbquestions@water.ca.gov).

approval and issuance of the permit. Most applications also require review and comment by the U.S. Army Corps of Engineers, Sacramento District (Corps).

**7.1.5. Non-Compliance with CVFPB or Corps Standards**

If your proposed project does not meet current standards, it may be denied, or may need to be revised to comply with Title 23 and/or Corps standards.

Always obtain a CVFPB encroachment permit prior to commencing any project on or near a Federal/State levee/flood control structure or within the CVFPB’s jurisdictional area.

Text in this section excerpted from Central Valley Flood Protection Board’s brochure “Need for an Encroachment Permit” at <http://www.cvfpb.ca.gov/docs/CVFPBBrochure-EncroachmentPermit.pdf>.

**Exhibit 7.2**

**Reclamation Districts**

In addition to attaining encroachment permits from the CVFPB, you may need to obtain an encroachment permit from the local reclamation district if you are doing work on or near a levee.

Reclamation districts are special purpose districts authorized to reclaim land subject to flooding. The main focus of reclamation districts is reclamation works, defined as public projects designed for the “watering, unwatering, or irrigation of district lands,” in other words for flood control, drainage and water supply. (Cal. Water Code § 50013.). There are several reclamation districts in the Delta portion of Sacramento County (See list below).

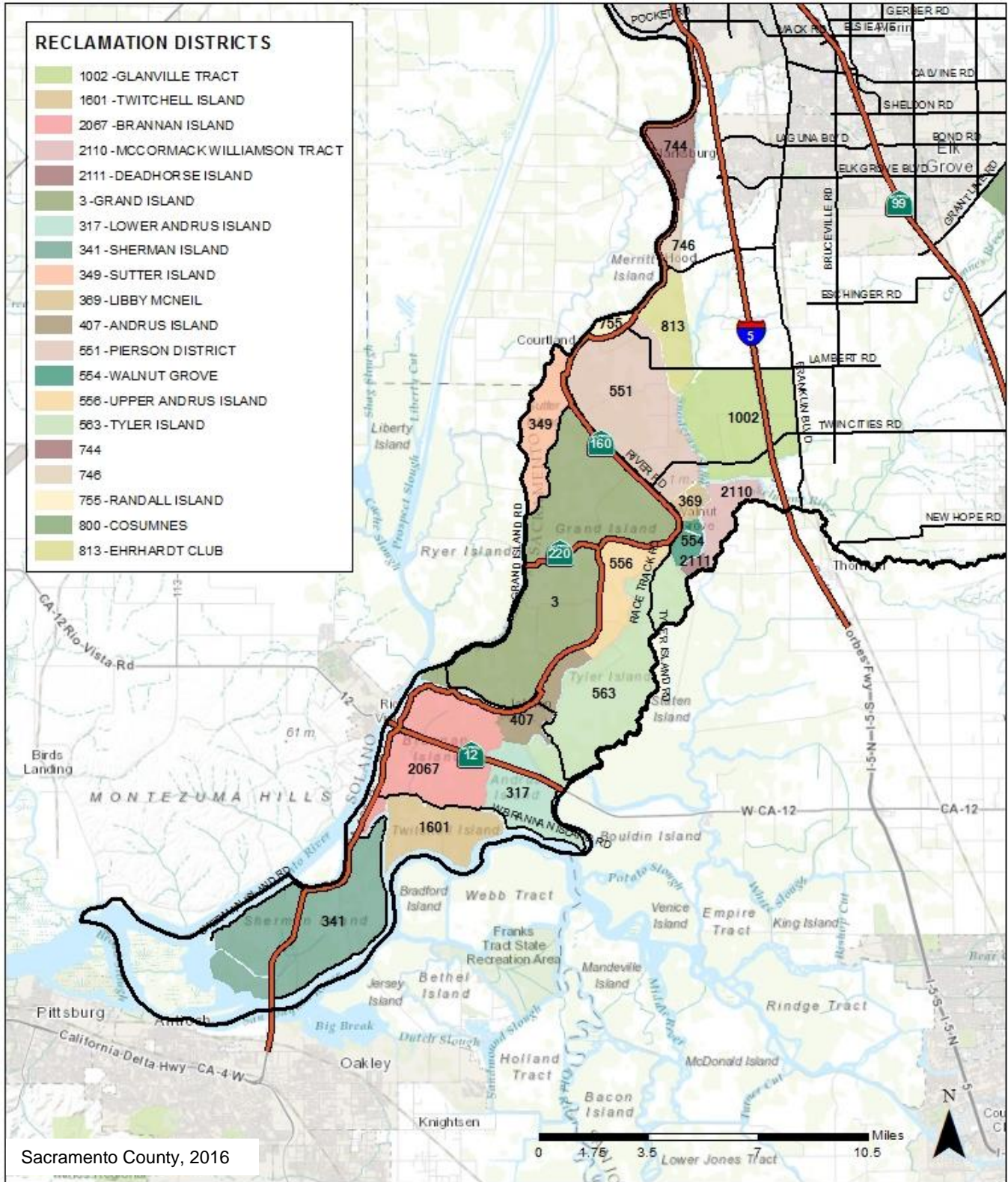
Please see **Exhibit 7.3** (pg. 79) to determine your project’s reclamation district.

<b>Dist. No.</b>	<b>Dist. Name</b>	<b>Phone Number</b>
3	<a href="#">Grand Island</a>	(916) 316-0722
317	<a href="#">Lower Andrus Island*</a>	(916) 776-2544
341	Sherman Island	(916) 826-8406
349	Sutter Island	(916) 775-1516
369	Libby McNeil	(916) 776-1661
407	<a href="#">Andrus Island*</a>	(916) 776-2544
551	Pierson District	(916) 775-1941
554	Walnut Grove	(916) 776-1945
556	Upper Andrus Island	(916) 776-2092 or 1731
563	Tyler Island	(916) 776-2544
744		(916) 775-1941
755	Randall Island	(916) 775-1379
813	Ehrhardt Club	(916) 871-4060
1002	Glanville Tract	(916) 775-1674
1601	Twitchell Island	(916) 257-4241
2067	<a href="#">Brannan Island*</a>	(916) 776-2544
2110	McCormack Williamson Tract	(916) 776-1531
2111	Dead Horse Island	(916) 776-1701

\*Brannan-Andrus Levee Maintenance District (BLMD) has oversight over the levee



Exhibit 7.3: Reclamation Districts in Delta Portion of Sacramento County



## 7.2 SECTION 10 and 404 PERMITS

### 7.2.1. Projects That Require Section 10 Permits

If your project site is in, over or under navigable waters of the United States, a Section 10 permit from the U.S. Army Corps of Engineers (Corps) is required. Navigable waters of the United States are defined as waters that have been used in the past, are now used, or are susceptible to use as a means to transport interstate or foreign commerce up to the head of navigation. Projects that will require a Section 10 permit include:

- Piers, docks, wharves, bulkheads, marinas, ramps
- Dredging and excavation
- Bank stabilization

### 7.2.2. Projects That Require Section 404 Permits

Section 404 of the Clean Water Act requires Corps approval prior to discharging dredged or fill material into the waters of the United States. Waters of the United States include essentially all surface waters, including all navigable waters and their tributaries, all interstate waters and their tributaries, all impoundments of these waters (e.g., reservoirs), all wetlands adjacent to these waters, and certain isolated wetlands. Typical projects that require Section 404 permits include:

- Discharging fill or dredged material in waters of the U.S., including wetlands
- Construction of residential, commercial, institutional or recreational developments
- Construction of revetments, groins, breakwaters, levees, dams, dikes, and weirs
- Placement of riprap and road fills
- Installation of underground utility lines

**Exhibit 7.4** (pg. 81) shows required permits based on the nature and location of the project.



#### Contact Information

U.S. Army Corps of Engineers, Sacramento  
District HQ Office

Phone: (916) 557-5100

Fax: (916) 557-5306

Email: [spk-pao@usace.army.mil](mailto:spk-pao@usace.army.mil)

1325 J Street, Room 1513

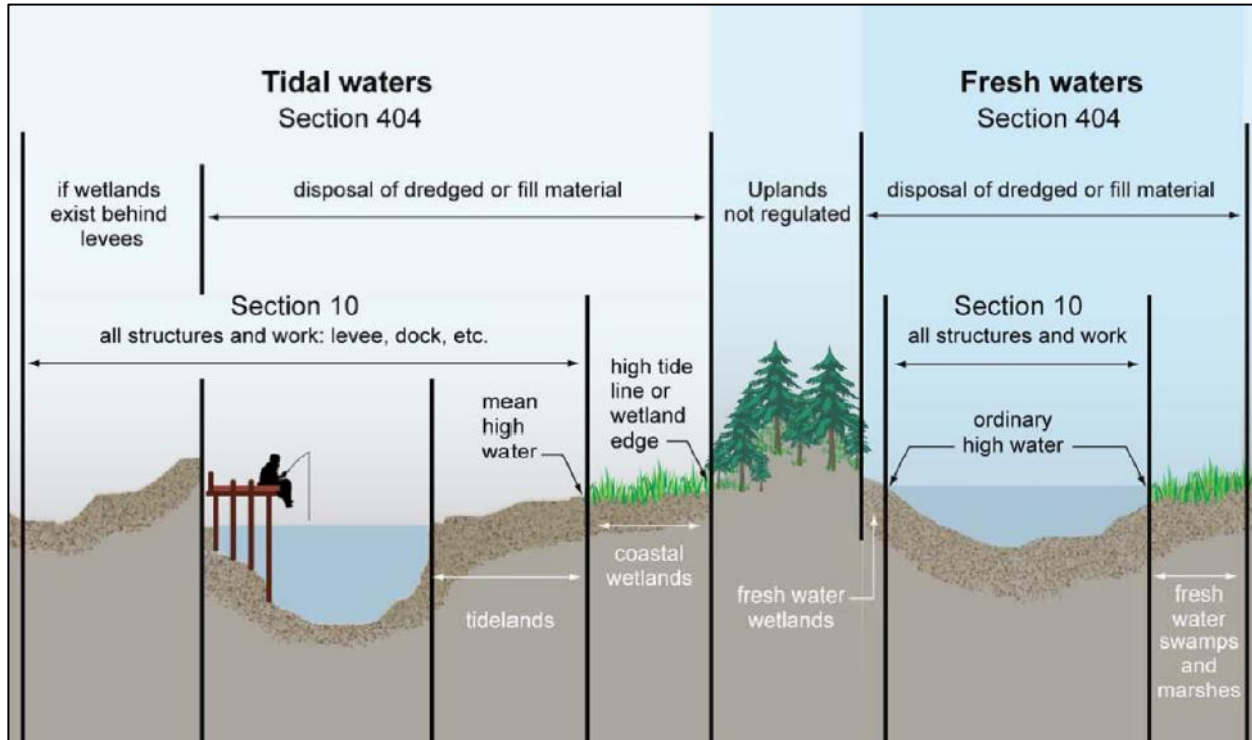
Sacramento, CA 95814

Website: <http://www.spk.usace.army.mil/>

#### Application Forms

- [Application Form](#)
- [Application Form Instructions](#)
- [Regulations and Guidance](#)

## Exhibit 7.4: Section 10 and 404 Jurisdiction Overview



U.S Army Corps of Engineers, 2015

### 7.2.3. Applying for a Corps Section 10 or 404 Permit

Since two to three months is normally required to process a routine application involving a public notice, you should apply as early as possible to be sure you have all required approvals before your planned commencement date. For a large or complex activity that may take longer, it is often helpful to have a "pre-application consultation" or informal meeting with the Corps during the early planning phase of your project. You may receive helpful information at this point which could prevent delays later. When in doubt as to whether a permit is required contact the district regulatory office.

The Corps issues three types of General Permits – Nationwide, Regional, and Programmatic; and two types of Individual Permits - Letters of Permission and Standard Permits. [Please see **Exhibit 7.5** (pg. 82) for description of these permits]. Most permits issued by the Corps such as Letters of Permission, Nationwide and General Permits do not have a permit fee. Standard Permits have fees of \$10 for individuals and

### Helpful Links

- [General Permits](#)
- [Nationwide Permits](#)
- [Letters of Permission](#)
- [Standard Permits](#)
- [Pre-Construction Notifications \(PCNs\) \(For Nationwide Permits\)](#)
- [Sacramento Regional Conditions Checklist \(For PCNs\)](#)
- [Wetland Delineation Minimum Standards](#)
- [Map and Drawing Standards](#)



\$100 for businesses, once the permit has been issued and accepted by the permittee.

Nationwide, only three percent of all requests are denied. Those few applicants who have been denied permits usually have refused to change the design, timing or location of the proposed activity. When a permit is denied, an applicant may redesign the project and submit a new application.

A permit may have mitigation measures which are described in **Exhibit 7.6** (pg. 83).

*The Corps of Engineers has a [training video](#) that will take you step-by-step through the application process.*

### **Exhibit 7.5**

#### **Types of Section 10 and 404 Permits**

##### **General Permits**

General Permits (GPs) cover categories of activities substantially similar in nature that cause only minimal adverse environmental impacts. General permits are issued state-wide, regional or programmatically.

**Nationwide GPs** are issued by Corps Headquarters for certain activities nationwide.

**Regional GPs (RGPs)** are issued on a regional basis and may require case-by-case reporting.

**Programmatic GPs (PGPs)** are founded on an existing state, local or other Federal program designed to avoid duplication of that program.

GPs are valid for five years and may be re-authorized by the Corps.

RGPs and PGPs may only be issued following the publishing of a public notice, and preparation of a decision document to ensure that the authorized activities cause only minimal individual and cumulative environmental impacts. In the majority of cases, RGPs and PGPs contain conditions to further ensure that environmental impacts are minimal, including conditions for the submittal of a permit application prior to activities occurring within waters of the U.S. To ensure compliance with the RGP or PGP, you must carefully read all of the terms and conditions of an RGP or PGP prior to initiating construction activities in waters of the U.S.

##### **Individual Permits**

If an activity is not exempt and cannot be verified under a general permit, then a standard (or "individual") permit is needed.

**Continued Next Page**



## Standard Permits

A **Standard Permit (SP)** is one which has been processed through the public interest review procedures, including public notice and receipt of comments. Review through the SP process is only done for activities that do not qualify for authorization under a **Regional General Permit, Programmatic General Permit, Nationwide Permit, or Letter of Permission**. The SP process is the most time consuming and stringent process utilized by the Corps. You will be required to submit more information during the SP process than during any other permit process. For any activities requiring processing under an SP, you should anticipate that a decision will not be made for a minimum of 120-days from submittal of a completed permit application. If the project is controversial, has significant impacts to the environment, is not the least environmentally damaging practicable alternative, may impact Federally listed threatened and/or endangered species or cultural resource, or requires a Section 401 Water Quality Certification, the permit process will likely take substantially longer than 120-days.

## Letters of Permission

A Letter of Permission (LOP) is a type of individual permit issued through an abbreviated processing procedure which includes coordination with Federal and State fish and wildlife agencies, and a public interest evaluation, but without the publishing of an individual public notice. The LOP cannot be used to authorize the transportation of dredged material for the purposed of dumping it in ocean waters.

## Exhibit 7.6

### Mitigation of Impacts

Mitigation may be required by the Section 10 Permit or Section 404 Permit to reduce or remove the impact to the water body or wetland. Mitigation is defined as avoidance, minimization and compensation. There is “mitigation sequencing” which is as follows:

- First:
  - Avoidance: avoiding the impact.
  - Minimization: minimizing impact through best management practices (BMPs) and other measures.
- Then:
  - Compensation: replacing unavoidable impacts through restoration or creation.

Text in this section was excerpted from the U.S. Army Corps of Engineers, Sacramento website at <http://www.spk.usace.army.mil/Home.aspx> and the U.S. Army Corps of Engineer’s, Sacramento Powerpoint Presentation “Regulatory Program Workshop for Sacramento County Agencies” – presented on August 17, 2015.

## CHAPTER 7 LINKS

Section 7.1	
Encroachment Permit Application Forms	<a href="http://cvfpb.ca.gov/permitting/encroachment-permit-information-and-application-forms/">http://cvfpb.ca.gov/permitting/encroachment-permit-information-and-application-forms/</a>
Environmental and CEQA Considerations	<a href="http://cvfpb.ca.gov/permitting/ceqa/">http://cvfpb.ca.gov/permitting/ceqa/</a>
Permit Application Review Process	<a href="http://cvfpb.ca.gov/permitting/parp/">http://cvfpb.ca.gov/permitting/parp/</a>
Encroachment Permit Application Submittal Information	<a href="http://cvfpb.ca.gov/permitting/epasi/">http://cvfpb.ca.gov/permitting/epasi/</a>
Executive Officer Delegated Permits	<a href="http://cvfpb.ca.gov/permitting/delegated-permits/">http://cvfpb.ca.gov/permitting/delegated-permits/</a>
Frequently Asked Questions	<a href="http://cvfpb.ca.gov/permitting/faq/">http://cvfpb.ca.gov/permitting/faq/</a>
“Need for an Encroachment Permit” Brochure	<a href="http://cvfpb.ca.gov/docs/publications/CVFPBBrochure-NeedEncroachment%20Permit-10.11.pdf">http://cvfpb.ca.gov/docs/publications/CVFPBBrochure-NeedEncroachment%20Permit-10.11.pdf</a>
District 3 Grand Island Reclamation District	<a href="http://reclamationdistrict3.org/">http://reclamationdistrict3.org/</a>
District 317 Lower Andrus Island Reclamation District	<a href="http://www.balmd.org/home-levee-maintenance-district.html">http://www.balmd.org/home-levee-maintenance-district.html</a>
District 407 Andrus Island Reclamation District	<a href="http://www.balmd.org/home-levee-maintenance-district.html">http://www.balmd.org/home-levee-maintenance-district.html</a>
District 2067 Brannan Island Reclamation District	<a href="http://www.balmd.org/home-levee-maintenance-district.html">http://www.balmd.org/home-levee-maintenance-district.html</a>
Section 7.2	
Application Forms	
Application Form	<a href="http://www.publications.usace.army.mil/Portals/76/Publications/EngineerForms/Eng_Form_4345_2017Sep.pdf?ver=2017-11-29-071407-027">http://www.publications.usace.army.mil/Portals/76/Publications/EngineerForms/Eng_Form_4345_2017Sep.pdf?ver=2017-11-29-071407-027</a>
Application Form Instructions	<a href="http://www.usace.army.mil/Portals/2/docs/civilworks/permitapplicationinstructions.pdf">http://www.usace.army.mil/Portals/2/docs/civilworks/permitapplicationinstructions.pdf</a>
Regulations and Guidance	<a href="http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/FederalRegulation.aspx">http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/FederalRegulation.aspx</a>
General Permits	<a href="http://www.spk.usace.army.mil/Missions/Regulatory/Permitting/RegionalandProgrammaticGeneralPermits.aspx">http://www.spk.usace.army.mil/Missions/Regulatory/Permitting/RegionalandProgrammaticGeneralPermits.aspx</a>
Nationwide Permits	<a href="http://www.spk.usace.army.mil/Missions/Regulatory/Permitting/NationwidePermits.aspx">http://www.spk.usace.army.mil/Missions/Regulatory/Permitting/NationwidePermits.aspx</a>
Letters of Permission	<a href="http://www.spk.usace.army.mil/Missions/Regulatory/Permitting/LettersofPermission.aspx">http://www.spk.usace.army.mil/Missions/Regulatory/Permitting/LettersofPermission.aspx</a>
Individual Permits	<a href="http://www.spk.usace.army.mil/Missions/Regulatory/Permitting/StandardPermits.aspx">http://www.spk.usace.army.mil/Missions/Regulatory/Permitting/StandardPermits.aspx</a>
Pre-Construction Notifications (PCNs) (For	<a href="http://www.spk.usace.army.mil/Missions/Regulatory/Permitting/Nationwide-Permits/">http://www.spk.usace.army.mil/Missions/Regulatory/Permitting/Nationwide-Permits/</a>

Nationwide Permits)	
Sacramento Regional Conditions Checklist (For PCNs)	<a href="http://www.spk.usace.army.mil/Portals/12/documents/regulatory/nwp/SPKNWPRegionalConditionsChecklist%5BCA%5D.pdf">http://www.spk.usace.army.mil/Portals/12/documents/regulatory/nwp/SPKNWPRegionalConditionsChecklist%5BCA%5D.pdf</a>
Wetland Delineation Minimum Standards	<a href="http://www.spk.usace.army.mil/Portals/12/documents/regulatory/pdf/Minimum%20Standards.pdf">http://www.spk.usace.army.mil/Portals/12/documents/regulatory/pdf/Minimum%20Standards.pdf</a>
Map and Drawing Standards	<a href="http://www.spd.usace.army.mil/Missions/Regulatory/PublicNoticesandReferences/tabid/10390/Article/651327/updated-map-and-drawing-standards.aspx">http://www.spd.usace.army.mil/Missions/Regulatory/PublicNoticesandReferences/tabid/10390/Article/651327/updated-map-and-drawing-standards.aspx</a>
Application Process Training Video	<a href="http://w3.saj.usace.army.mil/permits/RDAvatarPRV201203/index.html">http://w3.saj.usace.army.mil/permits/RDAvatarPRV201203/index.html</a>