



COUNTY OF ORANGE

RESOURCES & DEVELOPMENT MANAGEMENT DEPARTMENT

Bryan Speegle, Director

300 N. Flower Street
Santa Ana, CA

P.O. Box 4048

Santa Ana, CA 92702-4048

Telephone: (714) 834-2300

Fax: (714) 834-5188

**December 4, 2007 Board Meeting
Agenda Item 23**

DATE: November 30, 2007

TO: Darlene J. Bloom, Clerk of the Board of Supervisors

FROM: Director, Resources & Development Management Department

SUBJECT: Status of emergency action for the East Garden Grove-Wintersburg Channel (Facility No. C05) North Levee Emergency Project from 3,800 feet downstream of Graham Street to Graham Street, approved on October 16, 2007 (Agenda Item 32).

Background: On October 16, 2007 the Board of Supervisors declared an emergency condition pursuant to Section 22050 of the California Public Contract Code and authorized the Resources & Development Management Department (RDMD) to immediately initiate appropriate actions to address the flood threat and the potential for a significant public health and safety threat at the subject levee. Based on the Orange County Flood Control District (OCFCD) assessment, the Board of Supervisors determined that this section of levee has decayed to the point that even minor storms could result in the failure of the levee and inundation of the properties to the north, including homes.

This project includes installation of 3,730 linear feet of steel sheet piles which will be driven through the existing service road on top of the levee to a depth of approximately 45 feet below the levee surface. Installation of the sheet piles was part of a phased long term OCFCD plan to improve this levee; but is being done now to protect against the immediate possibility of levee failure. In order to facilitate rapid completion of the emergency work, the contractor will be allowed to work from 7 am until 8 pm Monday through Saturday, consistent with the City of Huntington Beach noise ordinance. The contractor is required to complete work in 75 working days (excluding weekends and holidays). The contract contains a \$10,000 per working day early completion incentive clause to encourage expeditious completion; and \$1,550 per calendar day in Liquidated Damages for each calendar day required in excess of the allotted contract time.

Construction Contract Status: On October 23, 2007, the Board of Supervisors awarded the contract to J.F. Shea Construction, Inc. (J.F. Shea) in the amount of \$7,999,050. This contractor has extensive experience with sheet pile projects, having successfully constructed nine previous sheet pile projects for OCFCD. In addition to awarding the construction contract, the Board also authorized the Director of RDMD, or his designee, to approve and sign the necessary City of Huntington Beach permits for Right-of-Way Encroachments for implementation of the East Garden Grove-Wintersburg Emergency Operations Plan.

In October, J.F. Shea placed the order for sheet piles to be manufactured and shipped to the site. Fabrication and delivery from the east coast steel mill requires a long lead time and the contractor is working with the manufacturer to obtain the earliest possible delivery date.

The Notice to Proceed was issued on November 1 thereby making Monday, November 5, 2007 the first working day in accordance with the contract. J.F. Shea has begun making submittals of

shop drawings and their Erosion Control Plan for approval and, the first week in December, plans to do potholing to locate a gas line that crosses the channel within the project limits.

Immediately following the October 16 emergency declaration, RDMD submitted a request to the California Coastal Commission (CCC) for issuance of an emergency Coastal Development Permit (CDP) for this project. The emergency permit with conditions of approval was issued on November 26 for execution by the County no later than December 17, 2007. Fifteen permit conditions were negotiated with the CCC and some concessions to the County were made including increasing the emergency permit duration. One condition required significant negotiations and involved groundwater and vegetation monitoring. The CCC ultimately required groundwater monitoring but, in response to County comments, made the vegetation monitoring contingent upon the groundwater data results. The cost to comply with the emergency permit conditions is estimated to be \$100,000 and includes hydrological and vegetation monitoring, as well as biological surveys. The delivery of sheet piles is expected mid-January and continues to be the critical path for this project. This schedule allows RDMD to comply with the emergency permit pre-construction conditions before the commencement of sheet pile installation.

After carefully considering the emergency permit conditions and their associated cost, RDMD has concluded that we have reached a reasonable compromise with the CCC and that the emergency permit is acceptable based on the scope and need for this project. In addition, with the acceptance of the emergency permit, the emergency sheet pile installation would be fully authorized by the CCC and OCFCD would not be exposed to liability for penalties and damages under the Coastal Act. Therefore, RDMD recommends that the Board approve the acceptance of this emergency permit. OCFCD would still be required to submit a regular Coastal Development Permit within 180 days of the emergency permit.

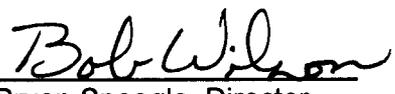
COMPLIANCE WITH CEQA: The subject project is Statutorily Exempt from the provisions of CEQA pursuant to Section 25269 of the CEQA Guidelines.

THE FOLLOWING RECOMMENDED ACTIONS ARE REQUESTED FOR BOARD CONSIDERATION ON December 4, 2007:

Acting as the Board of Supervisors for the Orange County Flood Control District:

- 1. Find by 4/5 vote that there is a need to continue the emergency action approved on October 16, 2007 for the East Garden Grove-Wintersburg Channel (Facility No. C05) North Levee Emergency Project from 3,800 feet downstream of Graham Street to Graham Street pursuant to Section 22050 of the Public Contract Code of the State of California, and direct RDMD to report again on the status of this emergency on December 18, 2007.**
- 2. Approve acceptance of the Coastal Development Permit for the Subject project and authorize the Director of RDMD or his designee to sign the permit.**

If you have any questions or would like additional information, please contact either Ignacio Ochoa at 834-2308, or Victor Valdovinos at 567-7801.


for Bryan Speegle, Director

Attachment: CCC Emergency Permit No. 5-07-025-G

cc: Thomas G. Mauk, County Executive Officer
Alisa Drakodaidis, Deputy CEO

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

**EMERGENCY PERMIT**

DATE: NOVEMBER 26, 2007

EMERGENCY PERMIT: 5-07-025-G

APPLICANT: Orange County Flood Control District,
Attn: Nadeem Majaj, P.E., District Manager

LOCATION: East Garden Grove-Wintersburg Channel, North Levee downstream
of Graham Street (Station 74+00 to Station 36+00), City of
Huntington Beach, Orange County

EMERGENCY WORK PROPOSED: Installation of approximately 3,800 linear feet of 30- to 40-foot deep steel sheet piles to harden the levee and prevent a breach by flood waters. The sheet piles will be driven into the levee through the unimproved, unvegetated levee-top road. The sheet piles will be installed using a "Giken Driver" to press the sheet piles into place in lieu of hammering or using vibration techniques. All work will be conducted within the Orange County Flood Control District (OCFCD) right-of-way. No dredging or import of material is proposed.

This letter constitutes approval of the emergency work you or your representative has requested to be done at the location listed above. I understand from your information that an unexpected occurrence in the form of heavy storm run-off causing channel bank erosion of an existing levee requires immediate action to prevent or mitigate loss or damage to life, health, property or essential public services. 14 Cal. Admin. Code Section 13009. The Executive Director hereby finds that:

- (a) An emergency exists which requires action more quickly than permitted by the procedures for administrative or ordinary permits and the development can and will be completed within 30 days unless otherwise specified by the terms of the permit;
- (b) Public comment on the proposed emergency action has been reviewed if time allows; and
- (c) As conditioned the work proposed would be consistent with the requirements of the California Coastal Act of 1976.

The work is hereby approved, subject to the attached conditions.

Very Truly Yours,

Peter M. Douglas
Executive Director

By: 
Sherilyn Sarb

Title: Deputy Director

CONDITIONS OF APPROVAL:

1. The enclosed form must be signed by the permittee and returned to our office within 15 days.
2. Only that work specifically described above and for the specific property listed above is authorized. Any additional work requires separate authorization from the Executive Director.
3. The work authorized by this permit must be completed within 120 days of the commencement of sheet pile installation. OCFCD shall notify the CCC five days prior to the installation.
4. In exercising this permit the permittee agrees to hold the California Coastal Commission harmless from any liabilities for damage to public or private properties or personal injury that may result from the project.
5. This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies (e.g. City of Huntington Beach, California Department of Fish and Game, U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers).
6. Construction Responsibilities and Debris Removal

The permittee shall comply with the following construction related requirements:

- (a) No construction materials, debris, waste, oil or liquid chemicals shall be placed or stored where it may be subject to wave erosion and dispersion, stormwater, or where it may contribute to or come into contact with nuisance flow;
 - (b) Any and all debris resulting from construction activities shall be removed from the site within 1 week of completion of construction;
 - (c) No machinery or construction materials not essential for project implementation shall be allowed at any time in channel waters;
 - (d) If turbid conditions are generated during construction, a silt curtain shall be utilized to minimize and control turbidity to the maximum extent practicable;
 - (e) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;
 - (f) All debris and trash shall be disposed of in the proper trash and recycling receptacles at the end of each construction day;
 - (g) The discharge of any hazardous materials into coastal waters or any receiving waters shall be prohibited.
 - (h) All temporary construction access measures (e.g. access ramps) shall be removed in their entirety upon completion of the emergency work and the area restored to the pre-construction condition.
7. Authorization of this emergency permit shall not preclude implementation, through the regular coastal development permit process, of other hazard avoidance and/or protective response options.
 8. The steel sheet pile shall be installed within the existing channel levee and shall be no more than approximately 3,800 linear feet long.
 9. The applicant shall monitor for direct and indirect impacts to wetlands inside and outside the channel, including but not limited to changes to wetland hydrology and vegetation that are influenced by the proposed project. The wetlands to be monitored outside the channel are those identified as the 'CP' wetland on the attached 'Exhibit L'. PRIOR TO COMMENCEMENT OF DEVELOPMENT, the

County shall submit a wetland monitoring plan, prepared by an appropriately qualified professional, for the review and approval of the Executive Director that shall, at minimum, comply with the following:

- a. Monitoring for hydrological impacts should begin prior to construction and should, if feasible, include a full tidal cycle (i.e. a spring/neap/spring cycle - or about 2 weeks);
 - b. Hydrological monitoring wells should be used in order to detect changes to hydrological input to the CP wetlands adjacent to the channel. Monitoring wells should be at least 6 ft deep, and deeper where necessary to adequately detect wetland hydrological changes. At a minimum, the applicant shall install, within the applicant's right-of-way, at least one monitoring well on the interior side of the sheetpile, and one monitoring well on the exterior side of the sheetpile as close to the base of the levee as is feasible. In addition, within the "CP" wetland, wells in at least 2 locations along the channel and at least 2 distances away from the channel should be monitored. If feasible, these wells should be existing wells for which there are historical data. Continuous monitoring of the wells (i.e. with data loggers) is preferred, however, manual monitoring on at least a twice-daily basis would also be acceptable; such monitoring shall begin immediately following the completion of the sheet pile installation and shall continue for at least six months, including at least 2 months during the period between 1 December and 31 March. Reports of groundwater levels in monitoring wells shall be submitted to Commission staff at monthly intervals for review and acceptance by the Executive Director.
 - c. If a significant reduction in the groundwater contributions to the CP wetland are deemed by the Executive Director to have occurred, then vegetation monitoring shall commence to document species diversity and abundance within zones at various distances from the flood control channel that include monitoring wells. Such monitoring plans shall be submitted for review and approval of the Executive Director;
 - d. Post-construction vegetation monitoring shall take place in April or May following installation of the sheet piles and then annually for 3 years;
 - e. A report documenting the monitoring along with an analysis of whether wetland impacts have occurred as a result of sheetpile installation and recommended mitigation, shall be submitted for the Executive Director's review and approval monthly following the installation of the sheetpiles for six months, and annually thereafter for 3 years. If any impacts to wetland habitat occurs, that can be attributed to the sheetpile installation, the applicant shall mitigate at a minimum 4:1 (mitigation to impact) ratio. A mitigation plan shall be submitted in conjunction with the follow-up regular coastal development permit application.
10. This emergency permit does not authorize any riparian impacts. If any inadvertent impacts to riparian habitat occurs, the applicant shall mitigate at a minimum 3:1 (mitigation to impact) ratio.
 11. Construction activities shall, to the maximum extent feasible, avoid any work during times that sensitive species are known to utilize, or could be disturbed by work within, the subject area. A biological survey shall be completed prior to initiation of construction activities and shall provide recommendations for a biological monitor to be present during construction, if necessary.
 12. Pre-project site biological conditions shall be documented through photographs of the site, mapping and other appropriate documentation prior to commencement of

work and submitted with any required follow-up coastal development permit application.

13. Public access along the top of the levee shall be considered as part of the follow-up application required in Special Condition No. 15. The proposed sheet piles shall be installed in a manner that preserves the opportunity for the incorporation of future public access/bike trail along the top of the levee in the follow-up application.
14. PRIOR TO THE COMMENCEMENT OF THE PROPOSED DEVELOPMENT, the County shall provide for the review and approval of the Executive Director final engineering calculations for the proposed sheet piles.
15. Follow-Up

Within 180 days of the date of this permit, the permittee shall submit a complete application for a regular Coastal Development Permit, or revise, complete and where feasible consolidate pending Coastal Development Permit Applications 5-07-025 and 5-07-353, to address levee/channel improvements. Such application shall include an analysis, prepared by an appropriately qualified professional (e.g. engineer with expertise in channel environments), of alternative methods of addressing the condition of the channel, including but not limited to, the following alternatives: no-project and sheet piles with and without earthen levee buttress. The alternatives analysis shall identify which alternative is the least environmentally damaging feasible alternative and identify the applicant's preferred alternative along with the reasons for selecting the preferred alternative.

The follow-up application submittal shall also, at minimum, address the following issues: preparation of the levee to make formal public pedestrian and/or bicycle access possible; mitigation of any adverse impacts upon biological resources at the subject site; upstream and downstream erosion effects.

This emergency work is considered to be temporary work done in an emergency situation. If the property owner wishes to have the emergency work become a permanent development, a Coastal Development Permit must be obtained. A regular permit would be subject to all of the provisions of the California Coastal Act and may be conditioned accordingly. These conditions may include provisions for public access (such as an offer to dedicate an easement) and/or a requirement that a deed restriction be placed on the property assuming liability for damages incurred from hazards.

If you have any questions about the provisions of this emergency permit, please call the Commission office in Long Beach (562) 590-5071.

Attachments: Exhibit L - Depicting Location of "CP" Wetland

Enclosures: Acceptance Form
Coastal Permit Application Form

cc: City of Huntington Beach

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT
PO Box 1450
200 Oceangate, 10th Floor
LONG BEACH, CA 90802-4416
(562) 590-5071 FAX (562) 590-5084
www.coastal.ca.gov



EMERGENCY PERMIT ACCEPTANCE FORM

TO: CALIFORNIA COASTAL COMMISSION
SOUTH COAST DISTRICT
PO Box 1450
200 Oceangate, 10th Floor
LONG BEACH, CA 90802-4416
(562) 590-5071 FAX (562) 590-5084

RE: **Emergency Permit No. 5-07-025-G**

INSTRUCTIONS: After reading the attached Emergency Permit, please sign this form and return to the South Coast District Office within 15 working days from the permit's date.

I hereby understand all of the conditions of the emergency permit being issued to me and agree to abide by them.

I also understand that the emergency work is TEMPORARY and that a regular Coastal Permit is necessary to make it a permanent installation. I agree to apply for a regular Coastal Permit within 60 days of the date of the emergency permit (i.e., by January 27, 2008), OR I will remove the emergency work authorized by such permit in its entirety within 150 days of the date of the emergency permit (i.e., by April 26, 2008).

Signature of property owner or
Authorized representative

Name

Address

Date of Signing