

## **Appendix E**

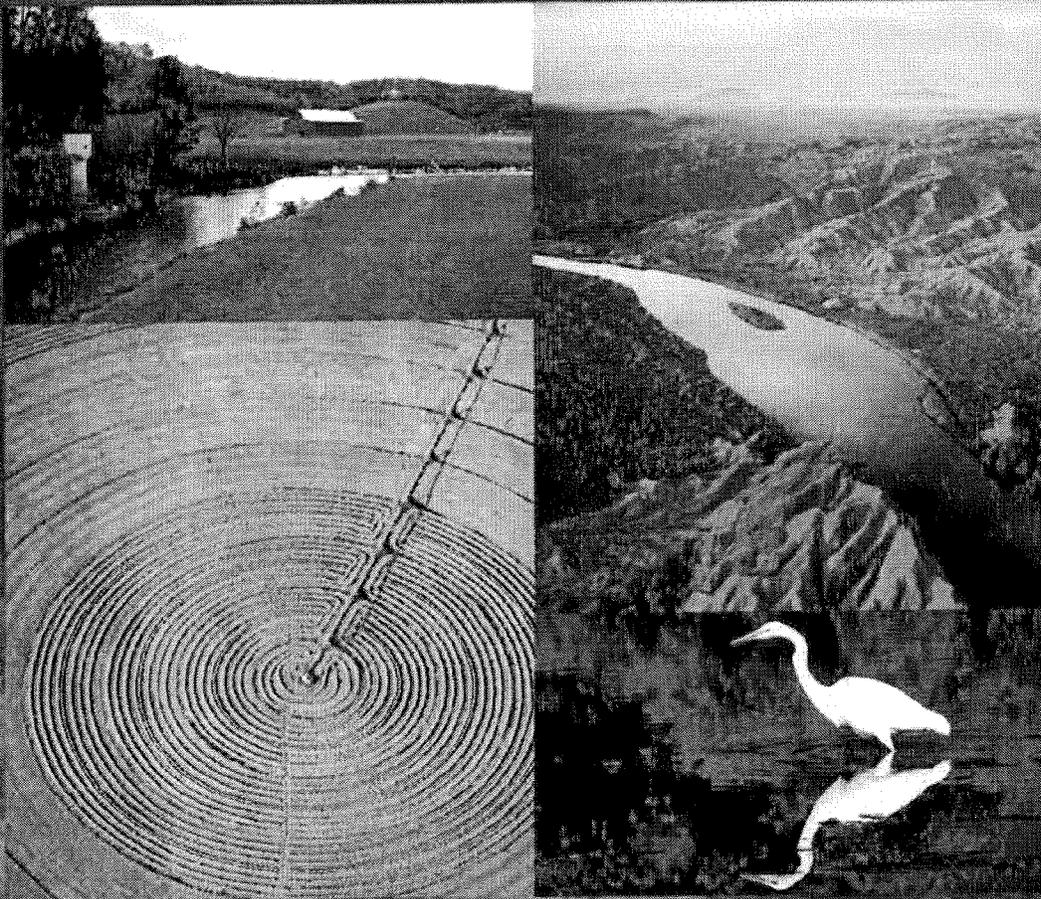
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Comment Letters and Reclamation's Response to Comments  
Set 4 of 5 (pages 80-89)



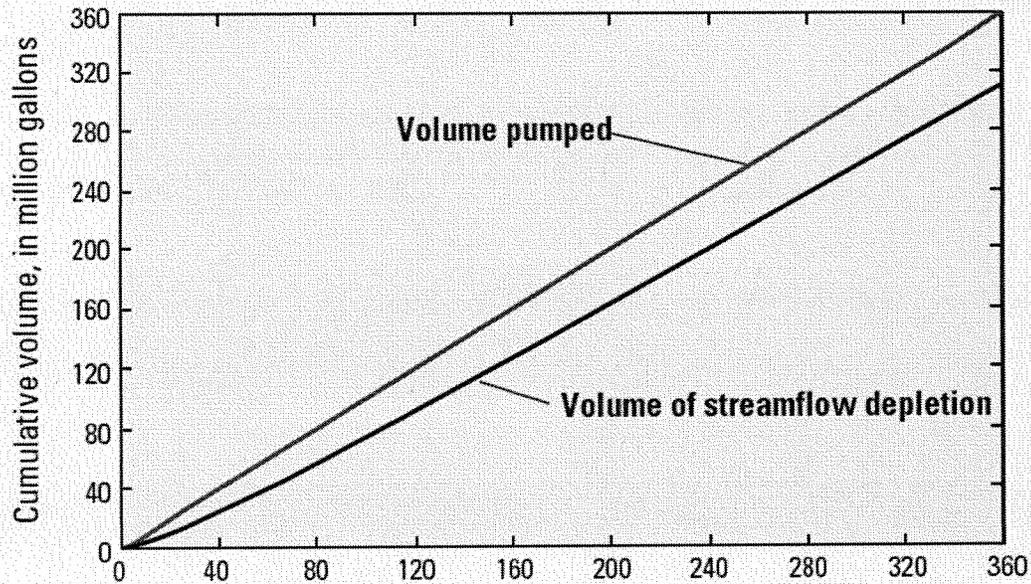
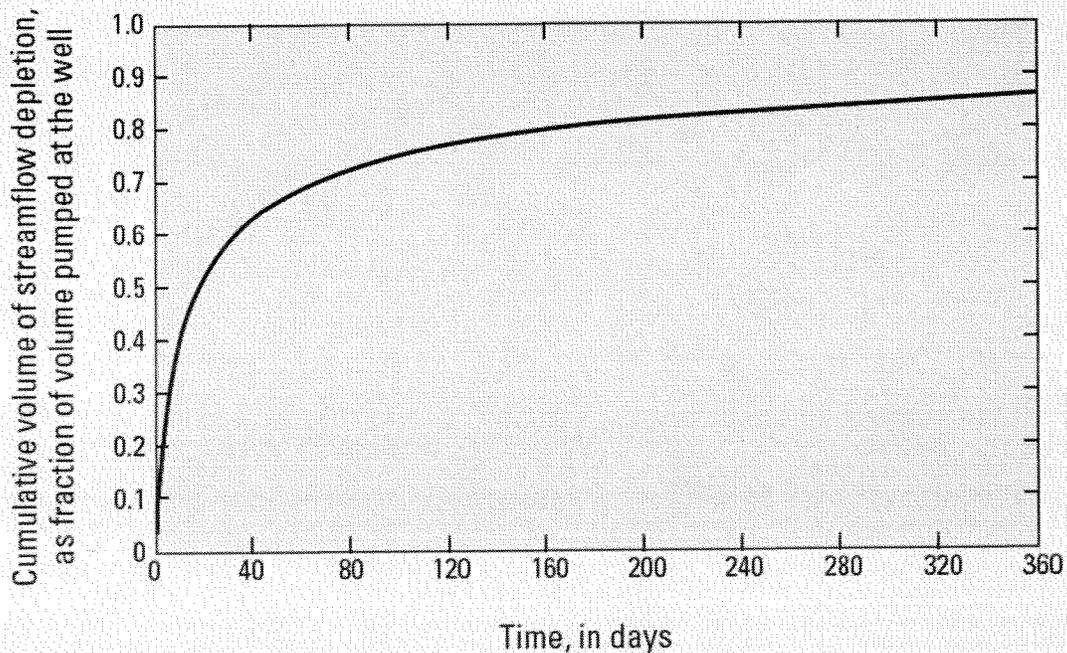
Groundwater Resources Program

# Streamflow Depletion by Wells—Understanding and Managing the Effects of Groundwater Pumping on Streamflow



Circular 1376

U.S. Department of the Interior  
U.S. Geological Survey

**A****B**

**Figure B-2.** Cumulative volume of streamflow depletion resulting from pumping at a well located 250 feet from a stream. The well is pumped at a rate of 1 million gallons per day. In graph A, streamflow depletion is expressed as the total (cumulative) volume of depletion that has occurred since the initiation of pumping, in million gallons; in graph B, the cumulative volume of depletion is expressed as a fraction of the cumulative volume of groundwater pumped at the well, which is a dimensionless quantity. [Volumes of streamflow depletion were calculated from the rates of streamflow depletion shown in figure B-1.]



Emerson, Rain <remerson@usbr.gov>

## Re: Comment Letter: Warren Act Contract for Conveyance and Storage of Groundwater from 4-S Ranch and SHS Ranch to Del Puerto Water District

Dan Kelly <dkelly@somachlaw.com>

Fri, May 30, 2014 at 7:07 PM

To: "Emerson, Rain" <remerson@usbr.gov>

Cc: William Harrison <wharrison@delpuertowd.org>, Ernest Conant <econant@youngwooldridge.com>, Bob Kelley <wildcatkel@stevinsoncorp.com>, ahansen@delpuertowd.org, Kevin Kelley <kfk@berliner.com>, Stuart Somach <ssomach@somachlaw.com>

Rain -

SWD-8

I am attaching a NOV that I received today from the Central Valley Flood Protection Board regarding alleged unauthorized levee encroachments on the 4-S Ranch. I believe these encroachments are part of the conveyance for the project described in the Warren Act contract.

SWD-9

In addition, and as suggested in my prior comment letter, I understand that the pumping and conveyance of water as contemplated in the Warren Act contract could have an adverse impact on wetlands present adjacent to the East Side Canal. I'm informed that the project proponent confirmed, at a Merced County Board of Supervisor's meeting last week, that the wells for this project (adjacent to the East Side Canal) are pumping water as shallow as 37 feet. I also understand that the project may involve new wells installed adjacent to the East Side Canal.

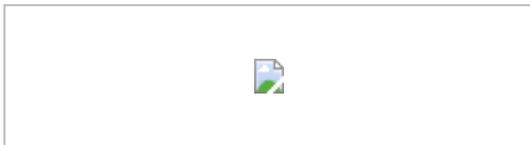
SWD-10

I am unaware of any studies that confirm the water involved in this transfer is, in fact, only percolating groundwater and that it does not have an adverse affect on surface water in the East Side Canal, Bear Creek, or other local watercourses. At the rates and volumes involved in this project - the Stevinson Water District remains concerned that the project will, at a minimum, increase the rate of percolation from surface water courses and create cones of depression that draw surface water to the groundwater wells.

SWD-11

By copy of this email to Del Puerto Water District, I would like this email and attachment contained in the official record of the DPWD Board's meeting when it considers this project.

Regards,  
Dan Kelly



**Daniel Kelly** | Attorney

500 Capitol Mall, Suite 1000 | Sacramento, CA 95814

**Office** 916.446.7979 | **Direct** 916.469-3833 | **Fax** 916.446.8199 | [dkelly@somachlaw.com](mailto:dkelly@somachlaw.com)

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dissemination, distribution or copying of this communication is strictly prohibited. You are also asked to notify us immediately by telephone at (916) 446-7979 or reply by e-mail and delete or discard the message. Thank you.

Emerson, Rain <[remerson@usbr.gov](mailto:remerson@usbr.gov)> , 5/14/2014 7:16 AM:

Mr. Kelly,

Thank you for providing comments. They have been received.

Rain Emerson

On Tue, May 13, 2014 at 4:56 PM, Dan Kelly <[dkelly@somachlaw.com](mailto:dkelly@somachlaw.com)> wrote:

Ms. Emerson -

Please see the attached and please confirm receipt.

Regards,  
Dan Kelly

**Daniel Kelly** | *Attorney*

500 Capitol Mall, Suite 1000 | Sacramento, CA 95814

**Office** 916.446.7979 | **Direct** 916.469-3833 | **Fax** 916.446.8199 | [dkelly@somachlaw.com](mailto:dkelly@somachlaw.com)

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Rain L. Emerson, M.S.

*Natural Resources Specialist*

Bureau of Redamation, South-Central California Area Office

1243 N Street, Fresno, CA 93721

Ph: 559-487-5196



**4-S Ranch Partners LLC - NOV No 2014-1068 - 05-30-2014.pdf**

5972K

**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 U.S. Certified Mail Return Receipt Requested**

**YOUR RESPONSE IS REQUIRED BY: JUNE 13, 2014**

May 30, 2014

4-S Ranch Partners LLC  
264 "I" Street  
Los Banos, California 93635

Subject: **Notice of Violation – Unauthorized Encroachments**  
**Enforcement Action: No. 2014-1068**

Dear 4-S Ranch Partners:

The State of California, Central Valley Flood Protection Board (CVFPB) staff has been informed of unauthorized encroachments located on the Bear Creek Bypass north and south levees, and the East Side Bypass north levee in Merced County, California.

You are receiving the attached Notice of Violation (NOV) because you are the landowner and the party responsible for the encroachments.

CVFPB staff has prepared the attached NOV formally noticing you to address the unauthorized encroachments in accordance with the California Water Code (Division 5, Part 4) and the California Code of Regulations (Title 23, Waters).

If you have questions about this letter or the NOV, please contact Ms. Alison Tang, Acting Chief of the Enforcement Section, at (916) 574-2389, or by e-mail at [Alison.Tang@water.ca.gov](mailto:Alison.Tang@water.ca.gov).

Sincerely,

A handwritten signature in blue ink that reads "Jay S. Punia".

Jay S. Punia, PE  
Executive Officer

Attachment: Notice of Violation

cc: (Please see attached list)

4-S Ranch Partners LLC

May 30, 2014

Page 2

cc: Mr. Reggie Hill (via electronic copy)  
Mr. Ryan Larson, USACE (via electronic copy)  
Mr. David Pesavento, DWR (via electronic copy)  
Mr. Len Marino, CVFPB (via electronic copy)  
Mr. Michael C. Wright, CVFPB (via electronic copy)

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## NOTICE OF VIOLATION

### NONCOMPLIANT ENCROACHMENTS

**YOUR RESPONSE IS REQUIRED BY: JUNE 13, 2014**

<b>Encroachment Owner:</b>	4-S Ranch Partners LLC	<b>Date:</b> May 30, 2014
<b>Property Owner:</b>	4-S Ranch Partners LLC	<b>Enforcement Action:</b> 2014-1068
<b>Mailing Address:</b>	264 "I" Street Los Banos, California 93635	<b>USACE ID:</b> n/a

**Encroachment Locations:**

Bear Creek Bypass north levee, Unit 7, Levee Mile 2.48 (Latitude 37°15'21"N, Longitude 120°44'14"W)  
Bear Creek Bypass north levee, Unit 7, Levee Mile 2.62 (Latitude 37°15'28"N, Longitude: 120°44'30"W)  
Bear Creek Bypass south levee, Unit 8, Levee Mile 2.12 (Latitude 37°15'18"N, Longitude 120°44'6"W)  
East Side Bypass north levee, Unit 5, Levee Mile 5.56 (Latitude 37°14'20"N, Longitude 120°44'2."W)

**Local Maintaining Agency:** Lower San Joaquin Levee District

**Assessor Parcel Numbers:** 049-200-020-000, 049-200-019-000, and 049-220-016-000 (Merced County)

**Section A – Encroachment Violation**

**Description:** Pursuant to California Water Code (CWC) Section 8701, the Central Valley Flood Protection Board (CVFPB) may issue a Notice of Violation (NOV) to the person or public agency responsible for the encroachment, flood system improvement, or activity. A recent inspection by the CVFPB staff has determined that your encroachments, flood system improvement, or activity interferes with or obstructs the performance, maintenance, or operation of flood control facilities that are regulated by the CVFPB.

The following noncompliant encroachments have been identified:

1. The 18-inch-diameter PVC pipes installed to connect to existing 24-inch-diameter corrugated metal levee drainage pipes (CMP) at the locations indicated above prevent the 24-inch-diameter drain pipes and associated flap gates from operating in their flood protection capacity.

**Legal Authority:** The encroachments listed above in Section A violate the following State statutes and/or federal regulations:

1. CWC Section 8700 – It is unlawful to interfere with, obstruct the performance, maintenance, or operation of, or otherwise take action that may adversely affect the facilities of the State Plan of Flood Control, designated floodways, or streams that are regulated by the CVFPB.
2. CWC Section 8710 – CVFPB approval is required before commencement of construction on or near a levee, embankment, canal, or river (Sacramento or San Joaquin Rivers and their tributaries).

3. California Code of Regulations (CCR) Title 23 Section 6 – (Encroachment Permit) Every proposal or plan of work...within any area for which there is an adopted plan of flood control, must be approved by the CVFPB prior to commencement of work.
4. Code of Federal Regulations (CFR) Title 33, Section 208.10 – No encroachment...shall adversely affect the efficient maintenance and operation of local flood protection structures and facilities, which include levees, flood walls, drainage structures, closure structures, pumping plants, channels, floodways and miscellaneous facilities.

### **Section B – Corrective Action**

CCR Title 23 requires all unpermitted encroachments on a levee, within the levee, within 10 feet of the levee toes, or located in an easement held by the Sacramento-San Joaquin Drainage District (SSJDD) to be removed. Encroachments within the floodway that do not comply with state and federal laws cannot be permitted and must be removed by the responsible party at the responsible party's expense. Encroachments within the floodway and SSJDD easements that comply with state and federal laws require a CVFPB encroachment permit.

**The following corrective actions are necessary:** The encroachments listed above cannot be permitted and therefore require removal.

1. Disconnect the 18-inch diameter PVC pipes from the levee's 24-inch diameter CMPs, re-installing the flap gates and ensuring the flap gates are operational.
2. Any soil excavated within 10 feet of the levee toes during the pipe removal must be replaced and compacted to match the surrounding grade.
3. Any damage to the levee or facilities must be repaired to ensure proper functioning of the federal levee.
4. Provide the assigned CVFPB staff listed below with post-repair documentation, including photographs showing that the repairs have been completed.

### **Section C – Consequences of No Action or No Response**

You have until **June 13, 2014** to comply with the corrective action noted above in Section B. Failure to comply will result in CVFPB staff issuing you a Cease and Desist Order and the imposition of further remedial and enforcement actions, including, but not limited to, corrections of the violation by the CVFPB at the responsible parties' expense, and penalties. The penalties can range from \$500 to \$50,000 depending on the severity of the violation.

### **Section D – CVFPB Contact**

If you possess documentation from the CVFPB that allows you to maintain this encroachment, please provide those documents to the CVFPB staff for consideration as soon as possible.

The staff member assigned to this enforcement action is Ms. Alison Tang, Acting Chief of the Enforcement Section. E-mail: [Alison.Tang@water.ca.gov](mailto:Alison.Tang@water.ca.gov), desk: (916) 574-2389.

Signed,

  
Jay S. Punia, PE  
Executive Officer

Enclosures:

Figure 1 – Vicinity & Location Maps

Figure 2 – Photos of Encroachment Example, DWR Levee Inspection Report – Spring 2014