

**RECLAMATION DISTRICT 828
AGENDA FOR
BOARD OF TRUSTEES SPECIAL MEETING
10:00 A.M., SEPTEMBER 11, 2019
3121 WEST MARCH LANE, SUITE 100
STOCKTON, CALIFORNIA**

Call to Order

Agenda Items

1. Public Comment. Under Government Code section 54954.3, members of the public may address the Board concerning any item that has been described in this notice for the September 11, 2019, Reclamation District No. 828 Special Meeting. The public may comment on each item on the agenda as it arises.
2. Temporary Entry Permit. Approve Temporary Entry Permit for San Joaquin County
3. Resolution 2019-06. Adopt Resolution Delegating Authority to Approve Temporary Permits
4. Approve Payment of Bills.
5. Adjournment.

This agenda shall be made available upon request in alternative formats to persons with a disability, as required by the Americans with Disabilities Act of 1990 (42 U.S.C. § 12132) and the Ralph M. Brown Act (California Government Code §54954.2). Persons requesting a disability related modification or accommodation in order to participate in the meeting should contact Daniel J. Schroeder at 209-948-8200 during regular business hours, at least twenty-four hours prior to the time of the meeting.

Materials related to an item on this Agenda submitted to the Trustees after distribution of the agenda packet are available for public inspection in the office of the District Secretary at Neumiller & Beardslee, 3121 West March Lane, Suite 100, Stockton, California during normal business hours.

**AGENDA PACKET
RECLAMATION DISTRICT 828
September 11, 2019**

<u>ITEM</u>	<u>COMMENTARY</u>
1.	Self-explanatory.
2.	Please see attached.
3.	Please see attached.
4.	Self-explanatory.
5	Self-explanatory.

ITEM 2

TEMPORARY ENTRY PERMIT

RD 828: Reclamation District No. 828

Permittee: San Joaquin County, Department of Public Works

AFFECTED PROPERTY: Portion of RD 828 levee along [DESCRIPTION], San Joaquin County, State of California.

RD 828 does hereby grant to Permittee permission to enter upon the above referenced property, solely for the purposes of removing debris, including boats and large items, by transporting the debris from the Smith Canal channel up the waterside and landside of RD 828 levee for removal from the property and disposal (the "Project").

This Temporary Entry Permit (hereinafter referred to as the "Permit") is granted upon the following conditions, which, by acceptance of this Permit, Permittee agrees to observe and perform:

1. With the execution of this Permit, the undersigned Permittee acknowledges that the Permittee has read and agrees to be bound by all of the terms and provisions of this Permit. The Permittee shall indicate the acceptance of this Permit, and the terms and conditions hereof, by executing the form of acceptance on one copy of the Permit and returning it to RD 828. The Permit shall not become effective until RD 828 receives the Permit accepted and signed by Permittee. Permittee also acknowledges that the District does not own all of the land adjacent to the levee and will obtain permission from the landowners prior to commencing work on the Project.
2. This Permit is subject to the following terms and conditions:
 - a. The term of this Permit shall expire at midnight on September 21, 2019.
 - b. Permittee agrees to either reimburse Permitter for any damage to RD 828's property, on the above-referenced property (hereinafter "Affected Property") occurring by reason of the exercise of the rights granted herein, or to replace or restore said property.
 - c. In the event the RD 828 Engineer deems the safety of the RD 828 levee is being jeopardized, he may order all or any portion of the work stopped, in which case Permittee agrees to immediately comply with the order.
3. Permittee will hold and save RD 828 harmless of and from any liability which may be incurred through injury to person or damage to property arising out of or connected with the Project described above in this Permit and due to Permittee's negligence or willful misconduct.
4. Permittee shall acquire no easement or property right in or to the property or right of way of RD 828 by virtue of this Permit and RD 828 does not hereby relinquish any right or title therein.
5. Except as herein otherwise provided, all costs of the above described Project shall be borne by Permittee.
6. Permittee may make no alteration or improvement of any portion of RD 828's property, easements, and/or right of way not specifically herein permitted without the further permission of RD 828.

7. Upon the failure of Permittee to conform to any of the covenants and conditions herein specified, this Permit shall, at the option of RD 828, cease and terminate and RD 828.
8. The grant of this Permit shall not be deemed to include the right to pass over property not belonging to or under the control of RD 828, it being specifically understood and agreed that the Permittee shall obtain the approval of all necessary other landowners before entering and/or passing over private property.
9. Disclosures and Acknowledgements:
 - A. Permittee acknowledges that the premises could be flooded from many causes, including without limitation, the following:
 - a. Levee overtopping and levee failure due to natural causes such as winds, tides, barometric pressure changes, rainfall, rainfall runoff, earthquakes, levee settlement and rodents.
 - b. Levee overtopping and levee failure due to man-related causes including negligence of the landowner, any Reclamation District and any other governmental agency such as inadequate or improper levee maintenance, flood fighting and/or patrol, dredging, water releases, obstructing water flows and water diversions.
 - c. Failure of the drainage system due to natural or man-related causes, including negligence of owner, any reclamation district, and any governmental agency.
 - d. Failure to construct, repair, maintain or operate levees, drainage or irrigation facilities or other facilities whether due to limited funding or otherwise.

Permittee hereby expressly assumes the risk of direct and indirect loss and damage to Permittee, its contractors, employees, volunteers, and agents arising out of any of the above causes listed in subparagraphs a, b, c, and d, inclusive, and hereby waives the right, including the right on the part of any insurer through subrogation, to make any claim pertaining to the same as against RD 828, its officers, agents, employees, contractors and the landowners within RD 828
 - B. With the execution of this Permit, the Permittee acknowledges that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and the Permittee agrees to and will comply with such provisions before commencing the performance of the work of this Permit.
10. If and in the event that in the sole discretion of RD 828 an emergency exists or may arise which requires that work be performed on the levee, banks, slopes or other RD 828 facilities in the immediate area of said Project, then and in that event RD 828 reserves the right to take such action as it deems necessary, and Permittee hereby gives to said RD 828, its agents, employees or contractors, the right and permission, at Permittee's cost and expense, to remove, from the levee or the vicinity of the levee, any and all equipment, materials, supplies and appurtenances owned and/or used by the Permittee in connection with the Project. If reasonably possible, RD 828 shall give advance notice to the Permittee to enable the Permittee to take such action as may be necessary to correct the situation at the earliest time reasonably possible. An emergency means a sudden or unexpected occurrence involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property or essential public services. If made in good faith, the decision of RD 828 as to when an emergency situation exists shall be final and RD 828

shall have no liability or responsibility to the Permittee, its employees, agents or contractors in the exercise of the power herein reserved.

- 11. The Permittee shall not at any time block the roadway on the crown of the levee or the access of RD 828 over the levees of RD 828. All automobiles, equipment and materials used by the Permittee in connection with this Project shall be parked or placed off of the said roadway. Any temporary storage of vehicles, equipment and materials required on the levee shall be subject to the prior approval of RD 828. Any vehicles, equipment, materials, and/or other types of levee encroachments stored by the Permittee without the prior approval of RD 828 shall be cause for its removal from the levee at the Permittee's expense.
- 12. All covenants of Permittee herein shall also be deemed conditions of this permit.
- 13. Permittee understands and agrees that any information gathered on Permittor's property in accordance with activities described in this Permit and for other incidental purposes as may be required is highly sensitive and strictly confidential, and shall be maintained by Permittee with the utmost confidence. Permittee agrees that such information about the Permittor's property, operations, practices, the land's environmental data, etc. obtained by the implementing agency or any of its employees, officers agents, contractors and/or representatives shall remain strictly confidential and shall not be disclosed or revealed to outside sources, except as required by law or pursuant to terms imposed by permitting agencies. Permittee represents that the information gathered is not currently intended for use in any other DWR program.

ACCEPTANCE BY PERMITTEE

PERMITTEE HEREBY ACCEPTS THE ABOVE PERMIT AND AGREES TO COMPLY WITH ALL OF THE REQUIREMENTS THEREOF. THIS PERMIT DOES NOT RELIEVE THE PERMITTEE FROM OBTAINING ANY AND ALL OTHER APPROPRIATE PERMITS REQUIRED BY OTHER PUBLIC AGENCIES.

Dated: _____, 2019.

SAN JOAQUIN COUNTY, DEPARTMENT OF PUBLIC WORKS

By _____
Name/Title: _____

Permittee's Address, Telephone and Fax Numbers:

1810 East Hazelton Avenue
Stockton, CA 95205
Phone: (209) 468-3000
Fax: (209) 468-2999

APPROVED BY RD 828

Date: _____, 2019.

RECLAMATION DISTRICT NO. 828

By _____
Mr. Daniel J. Schroeder, District Secretary

District's Address, Telephone and Fax Numbers:
3121 West March Lane, Suite 100
Stockton, CA 95219
Telephone: (209) 948-8200
Facsimile: (209) 948-4910

ITEM 3

RECLAMATION DISTRICT NO. 828

RESOLUTION 2019-06

RESOLUTION DELEGATING AUTHORITY TO APPROVE TEMPORARY ENCROACHMENT PERMITS

WHEREAS, Reclamation District No. 828 (“District”) from time to time is requested to approve temporary encroachment permits and temporary entry permits (collectively referred to as “Temporary Permit”) to allow entry and/or work by third parties on the levees within the District; and

WHEREAS, Temporary Permit requests are the type of requests that are administrative in nature, though the District having no staff, the Trustees are generally required to approve said permits; and

WHEREAS, the Trustees desire to delegate authority to the President of the Board, or in the President’s absence, any other Trustee to approve Temporary Permit requests subject to the recommendation of the District Engineer and District Counsel to avoid the necessity and delay of a District Board meeting to approve the requests; and

NOW, THEREFORE, BE IT RESOLVED BY THE TRUSTEES OF RECLAMATION DISTRICT 828 that it delegates to the President of the Board, or in the President’s absence, any other Trustee the authority to approve requests for Temporary Permits with a duration not to exceed one year, subject to the recommendation of the District Engineer and District Counsel.

PASSED AND ADOPTED BY THE TRUSTEES OF RECLAMATION DISTRICT 828 this 11th day of September, 2019 by the following vote:

AYES: _____

NOES: _____

ABSENT: _____

ABSTENTION: _____

RECLAMATION DISTRICT NO. 828,
a political subdivision of the
State of California

By: _____
PRESIDENT

ATTEST:

SECRETARY

CERTIFICATION

I, _____, Secretary of Reclamation District 828, do hereby certify that the foregoing is a full, true and correct copy of a resolution of Reclamation District 828 duly passed and adopted at a meeting of the Board of Trustees thereof held on the ____ day of _____, 2019.

Dated: _____, 2019

SECRETARY, Reclamation District 828