

CENTRAL VALLEY FLOOD PROTECTION BOARD EXECUTIVE OFFICER'S REPORT May 18, 2018



PLAN IMPLEMENTATION AND COMPLIANCE BRANCH Status Report and Work Activities

Operational Programs

The work of the Plan Implementation and Compliance Branch (Branch) is organized into six Operational Programs (OP) that define the type of work being completed. Moving forward, the Branch will use this Executive Officer's Report to provide updates to the Board on work being accomplished within each OP. A general description of each OP is shown below, followed by a more detailed description of ongoing efforts and work accomplished in each OP. Subsequent updates to this report will not include the general description of each OP.

The OPs are defined as follows:

Operational Program: Central Valley Flood Protection Plan

Board staff participates in the development of each five year update to the Central Valley Flood Protection Plan (CVFPP) through attending planning meetings and ensuring that the Board's interests are addressed in the five year updates. Once DWR finalizes a draft update and provides that update to the Board, staff leads the public outreach effort through facilitation of public meetings in the form of hearings and workshops. The hearings provide the public with a forum to comment and discuss the draft CVFPP update and the workshops provide the Board a forum to consider public comments and discuss changes to the draft CVFPP. After the hearings and workshops are complete, staff facilitates the adoption process of each update to the CVFPP. This requires staff to develop a Resolution of Adoption and to present the adoption package to the Board for final approval. Once the CVFPP update is adopted, staff moves into implementation activities, including coordination with DWR and other agencies to develop implementation committees and workgroups that will complete various necessary implementation actions.

Operational Program: Section 408 System Alteration Permitting

Section 14 of the Rivers and Harbor Appropriation Act of 1899 authorized 33 USC Section 408, which allows the Secretary of the Army to grant permission to non-federal parties to alter public works as it is "not injurious to the public interest" and "will not impair the usefulness of the work." In California's Central Valley, this allows local and State authorities to make improvements to the federal flood control system ahead of normal US Army Corps of Engineers (USACE) process to improve the flood control system.

As California's agency responsible for flood risk reduction in the Central Valley, the Board approves permits for alterations to the State Plan of Flood Control (SPFC). The Board's system alteration permit requires USACE's 408 permission. The Board serves as the lead agency in obtaining USACE's Section 408 permission to alter the SPFC. Staff's role in approving alterations to the SPFC includes:

- Working with local agencies to formally initiate the 408 Process with USACE
- Coordinating with DWR and other State agencies on State interest in accordance with the Central Valley Flood Protection Plan, Governor's Water Action Plan, and current state priorities
- Reviewing design plans for compliance with Title 23 Regulations
- Reviewing environmental documents and ensuring compliance with CEQA and Title 23
- Developing a draft permit with special conditions, and making recommendations to the Board for approval
- Issuing approved system alteration permits for construction
- Monitoring construction progress in the field and issuing variance requests if necessary
- Ensuring adequate real estate interests are acquired
- Performing Project Closeouts including executing Operation, Maintenance, Repair, Replacement, and Rehabilitation agreements with local agencies, reviewing closeout documents, and coordinating Operations and Maintenance manual updates with USACE

Operational Program: USACE / Board Sponsored Studies and Projects

The State-federal flood protection system in the Central Valley is comprised of federally and State-authorized projects that the State of California has provided assurances of cooperation to the United States federal government. The construction of federal flood risk reduction projects are led by the U.S. Army Corps of Engineers (USACE) Civil Works division in accordance with federal laws, regulations, and policy.

The Board serves as the lead non-federal sponsor on agreements with USACE to conduct feasibility studies, design, or construction of Congressionally Authorized Projects on the State-federal flood protection system in the Central Valley in which USACE is the project lead. This process is in contrast with the Section 408 process in which non-federal sponsors are the lead project proponent and seek approval from the Board and USACE to alter the State Plan of Flood Control. Staff's roles and responsibilities in gaining this approval are as follows:

- Work with Local Agencies, DWR and USACE to track the progress of known potential projects
- Evaluate State interest and strategies to achieve federal interest
- Present to Board management and the Board for approval and execution of appropriate funding agreements
- Coordinate with DWR on progress of studies, designs, and Authorized Projects underway
- Update Board encroachment permits affected by the Board sponsored project
- Work with local agencies, DWR, and USACE to complete updates to the associated O&M manuals and system as-builts resulting from the project

For federal participation in the development of flood risk reduction studies and projects, non-federal sponsors are required to enter into agreements with USACE which set the scope, financial obligations, and the terms for completing the work by each party.

While the Board is the signatory to the major agreements that allow the projects to move forward, day to day project management activities for USACE Studies and projects are carried out by DWR's Flood Projects Office (FPO) on behalf of the Board. FPO coordinates with the Plan Implementation and Compliance Branch staff regularly to inform the Board of project progress, identify potential risks and issues, and coordinate activities that require Board Actions. FPO also allocates and manages payments for the State's required share of project costs as well as project management costs. Staff provides guidance to FPO project managers to resolve policy issues. FPO project managers work with staff to develop presentations to the Board to achieve Board approval on the major project agreements.

Operational Program: Adequate Progress

California Legislature passed Senate Bill 5 as part of the Flood Protection Act of 2008, which aimed to align flood risk reduction investments and land use decisions. The resulting changes to California Government Code (CGC) Sections 65865.5, 65962, and 66474.5 require cities and counties within the Sacramento-San Joaquin Valley, as defined in CGC Section 65007(h), to make findings related to an urban level of flood protection before approving certain land use decisions.

Adequate Progress is defined in CGC 65007, and states that in order for a city or county to make a finding of adequate progress, the local flood management agency for the city or county must provide DWR and the Board with information sufficient to determine substantial completion of the required flood protection, and must report annually to the Board on efforts in working toward completion of the flood protection system. The city or county associated with the local flood management agency can make a finding toward Adequate Progress based on the actions of the local flood management agency.

Operational Program: Safety Element Review

California Legislature passed AB 162 as part of the Flood Protection Act of 2008, which aimed to align flood risk reduction investments and land use decisions. The resulting changes to CGC in Section 65302.7, require each county or city located within the boundaries of the Sacramento and San Joaquin Drainage District (SSJDD), as defined in California Water Code Section 8501, to submit the draft safety element or draft amendment to the safety element of its general plan to the Board at least 90 days prior to the adoption of the safety element.

Staff reviews the draft or existing safety element and provides recommendations to the county or city within 60 days of the receipt of the draft or existing safety element.

Staff applies the criteria in CGC 65302.7 to evaluate submittals and may offer recommendations for changes to the draft or existing safety element regarding:

1. Uses of land and policies in areas subjected to flooding that will protect life, property, and natural resources from unreasonable risks associated with flooding.
2. Methods and strategies for flood risk reduction and protection within areas subjected to flooding.

Prior to the adoption of the draft element or draft amendment to the safety element, the county or the city shall consider the recommendations made by the Board. If the county or city determines not to accept all or some of the recommendations made by the Board, the county or city shall make findings that state the reasons for not accepting a recommendation and shall communicate those findings to the Board.

If the Board's recommendations are not available within the time limits required by CGC 65302.7, the county or city may act without those recommendations. The county or city shall consider the recommendations at the next time it considers amendments to its safety element.

Operational Program: Special Projects

Special Projects require staff to review and provide recommendations on a variety of projects that are not covered by the other Operational Programs to ensure compliance with either California Water Code, CGC, or California Code of Regulations (CCR), Title 23, Division 1.

Occasionally staff can modify and use existing processes to complete these out of the ordinary tasks. For instance, the already established permitting process is currently being used to permit the High Speed Rail encroachments that may not encroach into the State Plan of Flood Control, but do encroach into the Board's jurisdiction through designated floodways or regulated streams.

Another example of Special Projects is the process of deauthorizing or reutilizing existing State Plan of Flood Control facilities. An example of this is the nonstructural alternative being used for the Three Amigos project. This project will allow the interconnection of the natural floodplain with the existing river channel, resulting in 3,200 additional acres of adjacent floodplain while reducing flood risk and flood damages.

Staff provides review of proposed projects and processes to ensure that the Board's interests are always accounted for. This requires staff to work with applicants to ensure that proposed projects will be acceptable to the Board under CCR Title 23, Division 1. For non-ordinary projects, this may result in a hearing before the Board where staff presents the information to the Board and recommends a solution.

Ongoing Efforts of Each Operational Program

Operational Program: Central Valley Flood Protection Plan

Staff attended the third OMRR&R Work Group Meeting on May 9, 2018. The work group is sponsored and managed by DWR and is a collaborative venue for experts in flood system

operations and maintenance to share ideas, including how to overcome the many challenges related to OMRR&R of the State Plan of Flood Control, and how to meet the CVFPP supporting goal of improving operation and maintenance.

At the third meeting, the group discussed a new tool being developed by DWR that will contain various information on all of the local maintaining agencies, including federal and State inspection results. The group also discussed and brainstormed challenges and solutions related to deferred maintenance and channel maintenance. The next OMRR&R Work Group meeting is scheduled for June 13, 2018.

Operational Program: Section 408 System Alteration Permitting

- **Sutter Butte Flood Control Agency (SBFCA) Feather River West Levee Project**
Staff continues to process fourteen permit applications for the encroachments along the Feather River West Levee Project Area B. Additional applications are expected from SBFCA in the coming months.
- **West Sacramento Area Flood Control Agency – Southport Levee Improvement Project**
AECOM continues to construct the new set back levee in accordance with the approved plans and specifications. The existing levee at the far north and south ends of the site is beginning to be degraded in order to be tied into the proposed levee. All work is being inspected by DWR, WSP (project construction managers), and the USACE. Soil samples are also regularly taken and tested by multiple geotechnical firms.
- **Lookout Slough Restoration Project (potential new project)**
Staff, DWR, USACE, Ecosystem Investment Partners, Blackburn Consulting, and Wood Rodgers met and discussed the steps necessary to begin the USACE 408 process for creating more than 3000 acres of habitat restoration. This will happen by degrading a portion of the existing levee along the west side of the Yolo bypass within RD 2068. A new setback levee is also proposed along Duck Slough and Liberty Island Road. The existing Cache Slough levee will be strengthened to accommodate the project and prevent increased water surface elevations upstream of the Cache Slough complex.
- **Lower San Joaquin Restoration Project (potential new project)**
Application was submitted to reinforce approximately 2 miles of levee along the Eastside bypass to improve levee stability and reduce seepage. This may include modifications to the existing Eastside Bypass Control Structure, and replacement of the existing culvert at the Dan McNamara Road crossing at the Eastside bypass.
- **Deer Creek Flood and Ecosystem Project (potential new project)**
Staff, USACE, and Yuba County participated in a conference call on April 11, 2018 to discuss steps necessary to initiate the USACE 408 process. Deer Creek Watershed

Conservancy (DCWC) received a \$2 million grant to develop an EIS/EIR for this project. The project includes a 408 setback levee and other ecosystem improvements.

- **Time Variance Requests**

Staff continued issuing Time Variance Requests for several agencies, including High Speed Rail Authority and City of Modesto.

Operational Program: USACE / Board Sponsored Studies and Projects

- **Sutter Butte Flood Control Agency (SBFCA) Sutter Basin Project**

Staff is working with USACE, SBFCA, and DWR for the proposed Sutter Basin Flood Risk Management Project (SBFRMP) along the 4.9 miles of in-place improvements to the Feather River West Levee from the Star Bend setback levee near Tudor Road downstream to Cypress Avenue. If a federal New Start or other funding plan is granted, two Board actions are expected in the coming months, including consideration to approve a Project Partnership Agreement (PPA) with USACE and SBFCA and a Local PPA with SBFCA. With the current timeline, the PPA may be presented to the Board for approval as early as the June 2018 Board meeting.

Operational Program: Adequate Progress

Staff provided Adequate Progress information to DWR legal counsel for legal analysis in early April. Staff expects to coordinate with DWR on future Adequate Progress work.

Operational Program: Safety Element Review

Staff reviewed and submitted recommendation letters to General Plan Safety Element documents submitted by cities and counties located within the boundaries of the Sacramento and San Joaquin Drainage District. Per California Government Code in Section 65302.7, staff reviewed and submitted recommendation letters to three agencies in 2016, and five agencies in 2017. No agency submittals have been received in 2018.

Operational Program: Special Projects

There are no Special Projects updates for May.