

## MINUTES

### MEETING OF THE RECLAMATION BOARD

**June 16 & 26, 2006**

*[Note: The minutes for June 26 (continuation of June 16 meeting) begin on page 10]*

A regular meeting of The Reclamation Board (Board) was held on June 16, 2006 beginning at 8:00 a.m. in the Resources Building Auditorium, 1416 Ninth Street, Sacramento, California.

The following members of the Board were present:

Benjamin Carter, President  
Teri Rie, Secretary (June 26 meeting only)  
Rose Marie Burroughs, Member  
Lady Bug Doherty, Member  
Butch Hodgkins, Member

The following members of the staff were present:

Dan Fua, Acting General Manager  
Stephen Bradley, Chief Engineer  
Scott Morgan, Counsel  
Lori Buford, Staff Assistant

Department of Water Resources staff present:

Brian White  
Les Harder  
Rod Mayer  
Don Kurosaka  
Jeff Fong  
Steve Dawson  
Don Strickland  
Tim Kerr  
Ted Thomas  
Sterling Sotenson  
Oscar Hidy  
Mike Petersen  
Roger Lee

Also present (according to sign-in sheet and cards):

Mr. Mike Archer, MBK Engineers  
Ms. Michelle Azevedo, PDC  
Mr. Ramon Batista, River Islands of Lathrop (RI)  
Mr. Sean Bechta, EDAW, Inc.  
Ms. Peggy Bohl, Delta Alliance  
Mr. Juan Bohl, Delta Alliance  
Mr. Mike Brown, (?)  
Mr. Paul Brunner, Three Rivers Levee Improvement Authority

Mr. John Cain, Natural Heritage Institute  
Mr. Joe Countryman, MBK Engineers  
Ms. Susan Dell'Osso, RI  
Mr. William Draa, Banta ESD  
Mr. Uri Eliahu, RI  
Ms. Linda Fieck, Delta Protection Commission  
Mr. Thomas Foley, Concerned Citizens for Responsible Growth  
Mr. Darryl Foreman, So. Delta Water Agency  
Mr. Mark Fortner, MBK Engineers  
Mr. Glenn Gebhardt, River Islands of Lathrop  
Mr. Gennie Gatto, City of Lathrop  
Ms. Mary Grundman, Thornton Citizens for Responsible Growth  
Ms. Alicia Guerra, RI  
Ms. Patricia Haenggs, City of Sacramento  
Mr. Richard Hartzell, Sacramento Riverfront Association  
Mr. Gary Hester, American River Flood Control District  
Mr. Alex Hildebrand, So. Delta Water Agency  
Ms. Sarah Horsper, Natural Heritage Institute  
Ms. Lisa Kirk, Landowner  
Ms. Amy Macaux, National Resources Defense Council (NRDC)  
Mr. Richard Marshall, CA Central Valley Flood Control  
Mr. Steve Mayo, SJCOG, Inc.  
Mr. Stee McKee, Landowner  
Mr. Seth Merewitz, McDough, Holland & Allen  
Mr. Greg Miller, RI  
Mr. Barry Nelson, NRDC  
Ms. Penelope Niland, Landowner  
Ms. Marilyn Ponton, City of Lathrop  
Ms. Kate Poole, NRDC  
Dr. Dale Smith, Concerned Citizens for Responsible Growth  
Mr. Don Tropmann, Landowner  
Ms. Shanna Zuspan, City of West Sacramento

**1. ROLL CALL**

*President Carter brought the meeting to order at 8:00 am. All Board members were in attendance except for Teri Rie who was expected.*

**2. CLOSED SESSION [pursuant to Government Code Section 11126 (e)(2)(B)(i)]**

To consider Board Counsel's recommendations regarding reconsideration of Permit No. 18018 BD approved at the April 21, 2006 meeting, to cure potential violation of Bagley-Keene Act.

*President Carter along with agreement from the Board, moved the Closed Session to the end of the agenda, where it will be determined if there is sufficient reason with the advice of legal counsel to enter into Closed Session.*

**3.\* APPROVAL OF MINUTES – March 17, April 21 and May 19, 2006**

*The minutes for the above listed meetings will be brought back to the Board at their July 18 Board meeting for approval. This was due to the lack of clerical support by Division of Flood Management staff.*

**4.\* APPROVAL OF AGENDA**

*Upon motion by Ms. Doherty, seconded by Mr. Hodgkins, and unanimously carried, the Board approved the June 16, 2006 agenda as amended to: 1) move Item No. 2 to the end of the agenda; and 2) Item No. 15C will be removed from the agenda and will be considered at a future meeting.*

**5. PUBLIC COMMENTS**

*There were two individuals that had public comments.*

*Ms. Mary Grundman, representing Thornton Citizens for Representative Government, expressed concerns with Reclamation District 348.*

*Mr. Richard Hartzell, Sacramento Riverfront Association, expressed concerns regarding the negative declaration on the Pocket emergency riprap work.*

**6. REPORT OF ACTIVITIES OF THE DEPARTMENT OF WATER RESOURCES (Rod Mayer)**

*Mr. Rod Mayer, Acting Chief of the Division of Flood Management, presented DWR's Report of Activities. (The report is attached hereto and made a part of these minutes.) The Board also heard a report from Mr. Don Kurosaka, DWR's Project Manager for the Governor's Emergency Levee Erosion Repair Project, provide an update and status where DWR stands on the project. Mr. Richard Hartzell, Sacramento Riverfront Association, Mr. Tim Kerr, DWR Project Manager, and Mr. Richard Marshall, Executive Director of the California Central Valley Flood Control Association also provided testimony. The Board directed staff to work with the U.S. Army Corps of Engineers to resolve levee erosion issues in the Sacramento Pocket area.*

**7. LEGISLATIVE UPDATE (Brian White)**

*Mr. Brian White, Chief, Legislative Affairs Chief, provided a legislative update (policy-related to DWR) to the Board. Legislative Bills: AB 140; AB 798; AB 802; AB 1665; AB 1899; and SB 1796.*

**8. STATE OF EMERGENCY – BOARD ACTIONS (Dan Fua)**

*Mr. Dan Fua, Acting General Manager of the Reclamation Board advised the Board that he exercised the following actions: 1) issued encroachment permits for the 16 DWR-lead critical sites repair projects; and 2) signed – "Joint Use" agreement with RD 554 to transfer and share the right to jointly use existing property rights owned by the district – "Notice of Determination" for the Mitigated Negative Declaration for Sacramento*

*Pocket area levee erosion sites – “Mitigated Negative Declaration” for five critical erosion site repair projects performed by the Sacramento River Bank Protection Project – State Land Commission’s conditional authorization to proceed to allow DWR and the Board access to Commission’s land during construction of the critical sites.*

**9. THREE RIVERS LEVEE IMPROVEMENT AUTHORITY MONTHLY REPORT** *(Paul Brunner)*

*Mr. Paul Brunner, TRLIA’s Authority Director, provided their monthly report to the Board. (The report is attached hereto and made a part of these minutes.) Phase 1 was completed in the 2004 timeframe. They are actively in the field on Phase 2 (raising the Western Pacific levee and doing levee work in that area) and regarding Phase 3 (along the Bear River); they are taking down the existing levee and replacing it with a setback levee. TRLIA has approached the Corps to get 408 Approval (simultaneous removal). If the Corps approves this process, TRLIA will come back to the Board at a future meeting to request approval of a simultaneous degradation of the levee. Additionally, an effort is on going with environmental restoration activities on the Bear River. Regarding Phase 4, TRLIA has a design for the slurry walls for the Yuba River that has just been disseminated to the public for review and bids. Mr. Brunner also provided an update on funding issues for the project. Mr. Seth Merewitz also provided testimony in regarding to funding. The Board also heard testimony from Mr. Tom Foley, Director of Concerned Citizens for Responsible Growth, expressed their concern of opposition for this project. Board Member Hodgkins requested Mr. Brunner to provide progress reports to graphically present the number of building permits that are issued in his monthly report.*

**CONSENT**

**10.\* CONSENT CALENDAR**

A. Application No. 18055, City of Sacramento, Sacramento County *(Mike Mirmazaheri)*

Consider approval of the 16,500 foot long bike trail and associated landside ramps on the levee crown of left bank of the Steelhead Creek.

B. Application No. 18064, City of Sacramento, Sacramento County *(Mike Mirmazaheri)*

Consider approval of the 1.5 mile bike trail and associated landside ramps on the levee crown of left bank of the American River.

C. Sacramento River Bank Protection Project, Cache Creek North Levee Setback Projects  
*(Deborah Condon)*

Consider approval of Resolution No. 06-19 to delegate authority to the President to sign an agreement under Section 215 of WRDA 1986 between the Reclamation Board and the U.S. Army Corps of Engineers to receive federal cost-share credit for construction of setback levees along Cache Creek in Yolo County.

D. Interagency Agreement, State Lands Commission *(Jeff Fong)*

Consider approval of Resolution No. 06-21 to renew an interagency agreement with the State Lands Commission for technical and consulting services on oil and gas matters and authorize the General Manager to execute the agreement.

*Upon motion by Mr. Hodgkins, seconded by Ms. Doherty, and unanimously carried, the Board approved the Consent Calendar as presented.*

## **REQUESTED ACTIONS**

### **11.\* PROJECT OR STUDY AGREEMENTS**

- A. American River Common Features (Pocket Area Geotechnical Element Reaches 2 & 90) (Annalena Bronson)

Consider approval of Resolution No. 06-22 to:

1. Adopt Mitigated Negative Declaration;
2. Adopt Mitigated Monitoring Plan; and
3. Approve the construction of the Project.

*Ms. Annalena Bronson and Mr. Tim Kerr, DWR Project Managers, presented the above item to the Board. After considerable discussions, it was the pleasure of the Board to address this issue at the end of the day. If at that time the Board does not have sufficient time to review the revised Resolution submitted, then this item will be continued to the following month for consideration of approval. Mr. Les Harder, DWR Deputy Director, provided an explanation on challenges of the Sacramento Pocket area project*

### **12.\* PROPERTY MANAGEMENT**

None.

*There were no Property Management items.*

### **13.\* ENFORCEMENTS**

None.

*There were no Enforcement items.*

### **14.\* RECONSIDERATIONS**

- A. River Islands Fill Permit No. 18018 BD, Califia, LLC, San Joaquin River, Lathrop  
(Scott Morgan)

Consider petitions for reconsideration of Permit No. 18018 BD as approved by Board action at April 21, 2006, meeting.

*Legal Counsel Scott Morgan (Reclamation Board) presented the above item to the Board and requested reconsideration of a permit decision from the April 21 Board meeting. Reconsideration regarding specific action taken at the April 21, 2006 Board meeting went beyond the scope of the specific information provided for in the agenda. Therefore, there may have been a violation of notice requirements of Bagley-Keene.*

**Upon motion by Mr. Hodgkins and seconded by Ms. Doherty. At this time, public comments were heard by Ms. Peggy Bohl; Ms. Kate Pool (representing Mr. John Cain); and Ms. Susan Dell'Osso. Thereupon, the Board voted unanimously to reconsider the decision made at the April 21 Board meeting regarding Permit No. 18018 BD.**

- B. Reconsideration of River Islands Fill Permit Application No. 18018 BD, Califia, LLC, San Joaquin River, Lathrop (Scott Morgan)

Consider setting aside, modifying or taking other action relative to Permit No. 18018 BD as approved by Board action at April 21, 2006, meeting. *(Note: No action will be taken unless Board votes to reconsider Permit No. 18018 BD.)*

*Legal Counsel Scott Morgan (Reclamation Board) presented the above item to the Board and requested the Board to rescind Permit Application 18018 BD taken on April 21, 2006.*

**Upon motion by Ms. Doherty, seconded by Mr. Hodgkins. At this time, public comments were heard by Ms. Susan Dell'Osso; and Ms. Kate Pool (representing Mr. John Cain). Thereupon, the Board voted to rescind Permit Application 18018 BD taken on April 21, 2006. Motion passed 4 (yes) and 1 (no – Teri Rie).**

## 15. APPLICATIONS

- A. Application No. 18080, Principal Real Estate Investors, West Sacramento (Mike Mirmazaheri)

Consider approval of Application No. 18080 (Panattoni/CALSTRS building) to place fill material along approximately 230 linear feet and construct an asphalt roadway on the landside levee slope and fill area on the right (west) bank levee of the Sacramento River in West Sacramento.

*Mr. Mike Mirmazaheri, DWR Chief of the Floodway Protection Section, introduced Mr. Mike Petersen, DWR Project Manager, who presented the staff report on the above project and recommended approval of the project.*

***Upon motion by Ms. Doherty, seconded by Mr. Hodgkins and unanimously carried, the Board approved Application No. 18080 that is to approve the draft permit and authority to sign the final encroachment permit is delegated to the Acting General Manager. Member Rie requested that the motion be amended to include findings that CEQA has been complied with.***

B. River Islands Application No. 18018, Califia, LLC, San Joaquin River Lathrop  
(Steve Bradley)

1. Consider approval of Application No. 18018-1 to place fill between an existing interior private levee and San Joaquin River and Old River project levees in Reclamation District 2062. **[Note: No action will be taken unless the Board votes to reconsider and rescinds or otherwise modifies Permit No. 18018 BD.]**
2. Consider approval of Application No. 18018-2 to construct structures, including private residences, and associated appurtenances on fill placed on and adjacent to San Joaquin River and Old River project levees in Reclamation District 2062. **[Note: No action will be taken unless the Board votes to reconsider and rescinds or otherwise modifies Permit No. 18018 BD.]**

At this time, President Carter agreed to hear public comments prior to lunch break by Mr. Mike Brown (landowner) expressed his support of the above project.

Chief Engineer Steve Bradley (Reclamation Board) presented the above application in two parts. Part No. 1 is placement of fill against the levee only, and Part No. 2 will deal with the encroachments on that fill and the definition of some of the boundaries within that fill. President Carter then asked for further public comments. The Board heard from Ms. Dell'Osso; Mr. Uri Eliahu; Ms. Alicia Guerra; Ms. Kate Poole; Mr. John Cain; Mr. Barry Nelson; Mr. Ramon Batista for Mr. Steve Mayo; Mr. Sean Bechta; Mr. Steve McKee; Ms. Linda Fiack; Mr. Tom Foley; Dr. Dale Smith; Mr. Darryl Foreman; Mr. William Draa; Mr. Gennie Gatto; Ms. Marilyn Ponton; Mr. Glenn Gebhardt; and Mr. Alex Hildebrand.

**Member Rie made a motion to approve encroachment permit applications numbers 18018-1 and 18018-2 (approve a variance for the non-habitable structures in Zone A for park purposes and make findings that CEQA has been complied with, and delegated staff to finalize the permit language). Motion dies for lack of a second.**

**Member Doherty made a motion to approve 18010-1 with CEQA findings. Member Hodgkins seconded the motion. Roll call vote: Mr. Hodgkins-yes; Ms. Rie-yes; Ms. Burroughs-no; Ms. Doherty-yes; and Mr. Carter-yes. Motion passes 4 to 1 (no vote by Ms. Burroughs).**

**Upon motion by Ms. Rie, seconded by Ms. Doherty, to continue Application 18018-2 to a time and place as agreed to by the Board and the applicant. Legal Counsel clarified motion to table the current item until later and then proceed with other items on the agenda, then adjourn to another time and place, and take up the items that have not been considered yet at this meeting. Member Rie re-stated her motion to continue the hearing and leave the hearing open to allow further input from the Corps on this matter so we can move forward with this permit (motion stands). Second is withdrawn, motion fails. Board Member Doherty moved to table the present discussion and continue it at a later date, but continue with our current meeting. Hearing no second, motion fails.**

C. River Islands CPM Permit Application No. 18023, Califia, LLC, San Joaquin River, Lathrop  
(Steve Bradley)

Consider approval of Application No. 18023 to degrade and breach existing project levees and construct setback levees along selected areas of San Joaquin River, Old River, and Paradise Cut in Reclamation District 2062; place landside fill against existing and relocated project levees; and construct structures, including private residences, and associated appurtenances on the fill area.

*Removed from agenda.*

**16. PERMIT ACTIONS**

None.

*There were no Permit Action items.*

**17. SUB-COMMITTEE FORMATION**

CITY OF WEST SACRAMENTO (Dan Fua)

Consider a request by the City of West Sacramento to establish a Sub-committee of the Board.

*Acting General Manager Dan Fua, briefed the Board on the above item and introduced Ms. Shanna Zuspan, City of West Sacramento, who requested the Board to form a Sub-committee to participate in fact finding and discuss issues that arise for the encroachment permit for the Triangle Promenade which will be presented to the Board for approval at a future meeting. President Carter then asked for volunteers. Volunteers are Board Members Hodgkins, Doherty and Rie.*

**AT THIS TIME, PRESIDENT CARTER RETURNED TO ITEM NO. 11.**

**(Continuation – Item No. 11A)** American River Common Features (Pocket Area Geotechnical Element Reaches 2 & 90) (Annalena Bronson)

*Ms. Annalena Bronson, DWR Project Manager, requested the Board to approve Resolution No. 06-22, to adopt a mitigated negative declaration and approve the construction of the project. The Board also heard testimony from Mr. Bob (last name not presented).*

**Upon motion by Mr. Hodgkins, seconded by Ms. Doherty, and unanimously carried, the Board approved Resolution No. 06-22 as presented.**

**AT THIS TIME, PRESIDENT CARTER ENTERTAINED A MOTION TO CONTINUE THE MEETING. UPON MOTION BY MS. RIE, SECONDED BY MR. HODGKINS, AND UNANIMOUSLY CARRIED, THE BOARD MEETING WAS AJOURNED AT 6:30 PM TO RECONVENE ON MONDAY, JUNE 26, 2006.**

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**RECONVENE RECLAMATION BOARD MEETING FROM JUNE 16, 2006.**

**June 26, 2006**

The Reclamation Board reconvened their meeting from June 16, 2006. The meeting began at 10:00 am at the Joint Operations Center (JOC), 3310 El Camino Avenue, Room LL20, Sacramento, California.

The following members of the Board were present:

Benjamin Carter, President  
Teri Rie, Secretary  
Rose Marie Burroughs, Member  
Lady Bug Doherty, Member  
Butch Hodgkins, Member

The following members of the staff were present:

Dan Fua, Acting General Manager  
Stephen Bradley, Chief Engineer  
Scott Morgan, Counsel  
Lori Buford, Staff Assistant  
Jill Phinney

Department of Water Resources staff present:

Les Harder  
Ricardo Pineda

Also present (according to sign-in sheet and cards):

Ms. Susan Dell'Osso, River Islands of Lathrop (RI)  
Mr. Thomas Foley, Concerned Citizens for Responsible Growth  
Mr. Bennie Gatto, Planning Commissioner, City of Lathrop  
Mr. Glenn Gebhardt, River Islands of Lathrop  
Ms. Alicia Guerra, RI  
Mr. Jim Sander, U.S. Army Corps of Engineers  
Dr. Dale Smith, Concerned Citizens for Responsible Growth

**1. ROLL CALL**

*President Carter brought the meeting to order at 10:00 am. All Board members were in attendance except for Teri Rie who was expected. President Carter reported that this meeting is a continuation from the June 16, 2006 Board meeting and the remaining items to cover on the agenda are 15B.2,*

18, 19, 20, item 2 & 21. Whereupon President Carter brought the Board up to speed as to where the meeting from June 16 ended (Item No. 15B-2) and also stated that there were a number of individuals that did not have the opportunity to speak during the Public Comment period. President Carter, therefore announced that the Board would hear public comments from various individuals in regards to the above agenda item.

## **PUBLIC COMMENTS**

Mr. Tom Foley provided a written statement, at which time Member Doherty read into the record. (Mr. Foley did not read his statement since a "amplification system" (PA) system was not available.) The statement was in regards to the encroachment permit for Application No. 18018-2 (River Islands of Lathrop) to construct structures, including private residences, and associated appurtenances on fill placed on and adjacent to San Joaquin River and Old River project levees in RD 2062. The Board also heard comments from Dr. Dale Smith, on behalf of "Concerned Citizens for Responsible Growth," who also presented a written statement that he read into the record. (The statements are attached hereto and made a part of these minutes.) Both statements stated why the "Concerned Citizens for Responsible Growth" were in opposition to the above application.

Ms. Susan Del'Osso, River Islands of Lathrop, clarified some issues raised and answered questions made by Mr. Foley and Dr. Smith. Ms. Dell'Osso, Mr. Glenn Gebhardt and Ms. Alicia Guerra, clarified and re-stated the intent of Application No. 18018-2.

Mr. Bennie Gatto, City of Lathrop Planning Commissioner, also addressed the Board in regards to Application No. 18018-2.

Mr. Jim Sander, Chief of Operations, U.S. Army Corps of Engineers (Corps), made some brief comments regarding statements that were made previously about whether the Corps was engaged in this particular project. "The Corps is currently working with the Board and the developer on completing an EIS for that entire project. And the Corps is more or less in agreement with what the Board recommend in its staff report, which is the question of easement as it relates to the levee profile."

After extensive discussions between the Board members and staff, DWR and Corps employees, and public individuals, the Board entertained a motion to either approve or disapprove Application No. 18018-2.

**Upon motion by Ms. Doherty, seconded by Mr. Hodgkins, the Board approved Application No. 18018-2 as recommended in the staff report with conditions in regards to Zone A (no encroachments allowed) & B (allow non-habitable structures) as stated by Mr. Steve Bradley, Chief Engineer for the Board. Additionally, the Board added the following statement to the motion...to allow staff to consider approving variances for public non-habitable structures and trees o the levee crown in Zone A. Roll call vote: Motion passes 4 to 1 (no vote by Ms. Burroughs).**

## **BOARD REPORTS**

### **18. BOARD COMMENTS AND TASK LEADER REPORTS**

*President Carter reported on the status/process of hiring the General Manager. Tentative dates to establish the questions and hold the interviews were July 11, 13 or 14, 2006. All Board members were invited to attend.*

*Member Rie reported that the 408 process for the River Islands project has moved forward onto Corps' headquarters. Additionally, Ms. Rie reported that the Corps continues to look for comments from the Board on guidance regarding the overall 408 procedure.*

*President Carter stated that a "special" meeting as been scheduled, as requested by Three River's Levee Improvement Authority, for July 10, 2006 to review their project and the Board's consent on going ahead with the Bear River levee degradation.*

### **19. REPORT OF ACTIVITIES OF THE GENERAL MANAGER**

*There was nothing to report from Dan Fua, Acting General Manager.*

### **20. FUTURE AGENDA**

*The Board discussed the July 21 agenda as presented in Board packet. President Carter requested three items be added: 1) Election of Officers; and 2) River Island's of Lathrop CPM permit. However after discussions with staff, it was decided that the CPM permit be delayed until staff has a better understanding of what the request is specifically. Board staff was directed to provide a summary (Informational Briefing) at the July 21 meeting after framing the application in terms of what's been requested from the Corps and what's being requested of the Board. And, where those requests are in their relative processes and what the Corps still needs to do before it can be completed. Additionally, a discussion regarding the 408 process and what kind of feedback the Board wants to give the Corps will take place at a future meeting.*

*Member Rie requested staff to provide copies of all environmental documents for anything if we have any last-minute requests from DWR, which requires approval of mitigated neg decs, EIRs or environmental assessments to the Board prior to the meetings. Member Hodgkins requested more comprehensive compacted documents be put together so there is a clear understanding of what the Board is asked to do.*

**AT THIS TIME, PRESIDENT CARTER BROUGHT UP ITEM NO. 2 "CLOSED SESSON" WHETHER OR NOT IT STILL NEEDED TO BE HELD.** Legal Counsel Morgan provided the circumstances and reason for the potential "Closed Session". The Board then entered into "Closed Session" at 2:13 pm to confer with counsel, who gave the Board advice regarding potential pending litigation. No decisions were made.

*The Board reconvened into "Open Session" at 2:22 pm.*

**21. ADJOURN AT 4:30 PM**

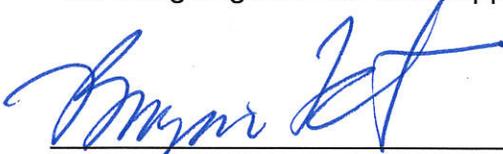
***Upon unanimous decision, the meeting was adjourned at 2:24 pm.***

Dated: October 20, 2996

Teri E. Rie  
Secretary



The foregoing minutes were approved:



Benjamin F. Carter  
President