

**MINUTES**  
**MEETING OF THE RECLAMATION BOARD**  
**December 21, 2007**

NOTE: THE BOARD WILL CONSIDER TIMED ITEMS AS CLOSE AS POSSIBLE TO THE LISTED TIME, BUT NOT BEFORE THE TIME SPECIFIED. UNTIMED ITEMS MAY BE HEARD IN ANY ORDER. MINUTES ARE PRESENTED IN AGENDA ORDER, THOUGH ITEMS WERE NOT NECESSARILY HEARD IN THAT ORDER.

A regular meeting (Open Session) of the Reclamation Board was held on December 21, 2007, beginning at 9:07 a.m., at The Reclamation Resources Building, 1416 Ninth Street, Auditorium, Sacramento, California.

The following members of the Board were present:

Mr. Benjamin Carter, President  
Mr. Butch Hodgkins, Vice President  
Ms. Lady Bug Doherty, Secretary  
Ms. Rose Marie Burroughs  
Ms. Teri Rie  
Mr. John Brown  
Ms. Emma Suarez

The following members of the staff were present:

Mr. Jay Punia, General Manager  
Mr. Stephen Bradley, Chief Engineer  
Mr. Eric Butler, Senior Engineer  
Mr. Dan Fua, Supervising Engineer  
Mr. Scott Morgan, Legal Counsel  
Ms. Lorraine Pendlebury, Staff Assistant

Department of Water Resources (DWR) staff present:

Mr. Steve Dawson  
Mr. Eric McGrath  
Mr. George Qualley  
Mr. Rod Mayer

Also Present:

Mr. Nick Avdis, Self  
Mr. John Bassett, SAFCA  
Mr. Melvin Borgman, Self  
Mr. Paul Brunner, TRLIA  
Mr. Stein Buer, SAFCA  
Mr. Joe Countryman, MBK Engineers  
Mr. Bill Hampton, Levee District 1  
Mr. Tom Eres, Hofman Ranch  
Mayor Heather Fargo, SAFCA, City of Sacramento  
Mr. Thomas Foley, Concerned Citizens for Responsible Growth  
Ms. Linda Hovis, Self  
Mr. Richard Marshall, California Central Valley Flood Control Association  
Ms. Denise Reichenberg, California State Parks  
Mr. Thomas Rice, Rice River Ranch  
Mr. Jim Sandner, USACA  
Mr. Jeff Schneider, Self  
Mr. Scott Shapiro, TRLIA  
Mr. John Shiels, RD 1000, SAFCA, River Oaks Community Association  
Mr. Patrick Tully, Sacramento River Property Association  
Mr. Jeffrey Twitchell, Levee District 1  
Mr. Robert Wallace, Self  
Mr. Tim Washburn, SAFCA  
Mr. Bill Yeates, Garden Highway Community Association

**1. ROLL CALL**

*General Manager Punia called the roll. All Board Members were present.*

**2. APPROVAL OF AGENDA**

*General Manager Punia and Chief Engineer Bradley stated a staff recommendation that Item 5C -- Application No. 18227, Three Rivers Levee Improvement Authority, Feather River Phase 4, Segment 2 - Setback Levee -- be removed from the day's agenda, citing lack of a staff report and other information.*

*Vice President Hodgkins remarked that he would like to hear the Item discussed, further suggesting that, when DWR and Corp personnel speak on the Item, Board Members could ask very specific questions and determine after that discussion whether they wanted to hear additional testimony or move forward with the Application.*

*After additional discussion, Secretary Doherty motioned, seconded by Member Suarez, that the Item remain on the Agenda as presented; the Board approved the Motion as noticed, with Member Burroughs dissenting.*

### **3. PUBLIC COMMENT**

*Mr. Robert Wallace asked that the Board begin putting on the Agenda, and discussing, the issue of protection for Pleasant Grove and South Sutter County, especially regarding the Pleasant Grove Creek Canal.*

*Mr. Melvin Borgman suggested that the Board commission a study of the entire system from the East Bay through the Delta, and emphasized that no project should be approved that does not significantly reduce water elevations in the river system.*

### **4. THREE RIVERS LEVEE IMPROVEMENT AUTHORITY (TRLIA) MONTHLY REPORT**

*Mr. Paul Brunner, TRLIA Executive Director, gave a very brief report, highlighting that TRLIA has made significant progress with the state regarding Prop 1E funding and they foresee having some type of agreement signed in the late January '08 time period.*

*Mr. Thomas Rice, Rice River Ranch, asked the Board and staff to continue to hold TRLIA to their agreement to make proper and timely execution of the full agreement between Rice River Ranch and TRLIA, a required condition of the actual encroachment permit.*

### **5. APPLICATIONS**

#### **A. Mitigation for Tisdale Bypass Rehabilitation Project at Colusa-Sacramento River State Recreation Area -- Application No. 18312 BD, Colusa County**

*Mr. Eric McGrath, DWR Division of Flood Management, gave a presentation that culminated in asking the Board's approval of an encroachment permit to perform mitigation planting for the Tisdale Bypass Channel Rehabilitation Project.*

*Secretary Doherty asked that the record reflect that it was unfair that the Board had to provide mitigation when the situation in the Tisdale Weir was caused by the neglect of the state; and further, that this lack of fairness was an issue that the Board would need to address in future projects.*

*Vice President Hodgkins stated that this neglect was the result of inadequate funding for maintenance that DWR is required to do.*

*Upon motion by Member Rie, seconded by Secretary Doherty, the Board approved the encroachment permit.*

**B. Levee District No. 1 of Sutter County, Application No. 18191, Sutter County**

*Supervising Engineer Fua gave a presentation on Levee District No. 1, asking the Board to consider sending a letter to the U.S. Army Corps of Engineers, under Section 408 of the U.S. Code, Title 23, requesting approval of their proposed project. He concluded by stating to the Board the staff recommendation that the letter be sent.*

*Legal Counsel Morgan recommended a slight change to the text of the letter -- that the third paragraph, which now begins:*

*“If the proposed project, upon completion, is formally incorporated within the federal project . . .”*

*be changed to*

*“If the Corps approves this request, the Board will consider authorizing the proposed work by way of its own permit process. If the proposed project is ultimately approved by the Board and, upon completion, is formally incorporated within the federal project . . .”*

*Upon motion by Member Rie, seconded by Member Brown, the Board approved the staff recommendation that the letter, incorporating the above modification to the third paragraph, be sent.*

**C. Application No. 18227, Three Rivers Levee Improvement Authority, Feather River, Phase 4, Segment 2 - Setback Levee**

*Chief Engineer Bradley stated that staff had not received needed information (including CEQA findings) to finish its staff report in a timely fashion and thus was not able to make an official recommendation on the permit. He suggested that the Board ask for the 408 letter from the Corps. When the 408 comes back approved, with any needed changes, the Board could then issue the permit.*

*General Manager Punia requested that the Board refrain itself from approving the permit without the staff report (and without the CEQA findings) as it would send a bad example and not serve the Board well in the future. He assured the Board that staff would do everything possible to bring a completed staff report before the Board in time for the January Board meeting.*

*Members commented on the unfortunate situation the Board found itself in. President Carter stated that the Board was now faced with the choice of making a decision to move forward without a staff report and without the benefit of essentially independent review of the Applicant's information; or the choice of not moving forward and potentially putting people at risk for flooding.*

*Steve Dawson, DWR Floodway Protection Section, commented that the review process is to resolve all technical issues associated with the project and, at this time, they had not received*

*concrete answers from the Corps. However, he stated that he believed that the Board could generate a permit that would potentially be an authorization on the project and concept only, but not technical approval. It would include technical guidelines contained in Title 23, and thus be the same as a technical permit, with the added conditions that it would not be valid until certain steps had been met and done in the future. These would be technical steps only, not policy. The Board could look at this under policy, make their decision, and delegate through the General Manager, the ability to make the technical decisions through due process.*

*Mr. Scott Shapiro, TRRIA, stated that TRRIA recognizes that they don't have a draft permit in front of the Board today and thus it would be difficult for the Board to approve the issuance of a permit. What TRRIA was seeking was for the Board to make the key and essential policy considerations that needed to be made; i.e., is the alignment acceptable? Should a setback levee be constructed? Is this a project that should go forward?*

*Further, Mr. Shapiro stated that, although a staff report is not completed, this is the ninth time the Board has been briefed on this project and thus much information is in front of the Board to aid in their decision making process. In addition, the permit needs to be in place so funding can start to flow from DWR the day that the contract is signed. This is important now because of the need to get land acquisition in place so the construction can start and the project can be finished in 2008.*

*Mr. Jim Sandner, Corps of Engineers, Sacramento District, stated that the Corps made the determination that they could make a recommendation that they would have no objection to the Board granting a permit subject to certain conditions; and one of those conditions was that they would have to go through the 408 process and receive approval for their project all the way up through the Chief of Engineers. He reiterated that the Corps was trying to accommodate the Board and the Applicant by providing a letter that indicated the Corps would not object to a conditional permit.*

*Mr. Rod Mayer, DWR, pointed out that DWR did issue a December 11<sup>th</sup> '07 memo to General Manager Punia indicating that DWR concurred on the alignment for the proposed setback levee and that they had no objection to the Board taking action as was agendized.*

*Mr. Tom Eres, Hofman Ranch legal counsel, stated that, since the highly qualified Board staff had made no recommendation as yet, that the process should be delayed until they do. He also stated that it was unclear to him whether or not an adequate system-wide hydraulic analysis had been completed.*

*Mr. Tom Foley, CCRG, stated that the Board should follow the recommendation of their staff; and that not doing so would show a blatant disregard for the public interest and for public safety.*

*Mr. Bill Hampton, Levee District 1 General Manager, stated that the District was fully behind the TRRIA setback levee.*

*Prior to voting, at the request of Counsel Morgan, Mr. Shapiro went through the details of the major issues involved to provide Board members the chance to ask any needed clarifying questions.*

*After further discussion, member Vice President Hodgkins motioned, seconded by Member Brown, that the resolution be approved as drafted, with the exception of changing condition 5, which authorizes the general manager to issue the permit upon receipt of sufficient plans and specifications to make a technical determination that the project will perform as designed and as represented. Should any policy issues arise, those will be referred back to the Board in a public meeting and the permit will continue, and will include all Corps conditions.*

*General Manager Punia called the roll and the motion was approved, with Member Burroughs adamantly dissenting.*

*President Carter made a final comment -- that this was not the process the Board wants to use in the future. The Board does not want to be put into this position or situation again. He hoped that SAFCA, LDI, West Sacramento and San Joaquin were listening to his comment.*

**D. Application No. 18159-2, Sacramento Area Flood Control Agency, Natomas Levee Improvement Program, Natomas Cross Canal, Sutter County**

- 1. Consider approval of a letter to the Sacramento District, U.S. Army Corps of Engineers, requesting Section 408 approval to alter the federal flood control project levee along the south (left) bank of the Natomas Cross Canal in Sutter County.**
- 2. Consider approval of Draft Permit No. 18159-2 to place fill to raise and realign approximately 5.3 miles of levee, and to construct approximately 4.3 miles of seepage cutoff wall in the levee along the south (left) bank of the Natomas Cross Canal in Sutter County.**

*Senior Engineer Butler provided a short review of the staff's report on the application.*

*Mr. John Bassett, SAFCA Director of Engineering, then provided information on project specifics and historical background and noted that SAFCA's objectives are to get to 100 year protection levels as soon as possible, and to provide a 200-year protection level over time and ensure that development does not substantially increase expected damages of an uncontrolled flood.*

*Mr. Joe Countryman, MBK Engineers, explained how MBK conducted their analysis of hydraulic impacts of the Natomas Levee Improvement Program.*

*Senior Engineer Butler stated that he thought SAFCA's hydraulic analysis was sound; that, for now, he is comfortable with the level of hydraulic analysis that has been performed. Further, he*

*recommended that the Board not make any CEQA findings today; that it is not necessary to make CEQA findings on the Section 408 issue.*

*Mr. Jim Sandner, Corps of Engineers, reiterated that the Corps will be doing a full and complete review under the 408 process and the Corps would not object to a conditional permit that is subject to their approval under the 408 process.*

*Mr. George Qually, DWR, stated that DWR felt it would be entirely appropriate for the Board to take the actions recommended to issue the letter to the Corps for the 408 review and to issue a conditional permit to keep the process moving forward; that it is an essential project, and DWR supports moving forward with it.*

*Senior Engineer Butler summarized that the staff recommends that the Board approve sending the letter to the Corps requesting 408 approval and, as part of that request, that the Board find that the proposed alterations, specifically the Natomas Cross-Canal Phase 2 Levee Improvements, are in the best interest of the state and will not have any detrimental effect on the Sacramento River Flood Control Project. He also recommended that the Board direct SAFCA to perform additional hydraulic modeling and to share those results with all interested parties.*

*Several members of the public then addressed the Board, stating their support of or opposition to the Application.*

*Upon motion by Member Suarez, seconded by Member Brown, the Board unanimously approved sending the 408 letter (Item D1 above).*

*Upon motion by Secretary Doherty, seconded by Member Burroughs, and per recommendation of staff, the Board decided to defer Item D2 to a future Agenda with member Rie voting "No."*

**6. BOARD COMMENTS AND TASK LEADER REPORTS -- Postponed**

**7. REPORT OF THE ACTIVITIES OF THE GENERAL MANAGER**

*General Manager Punia reported that Chief Engineer Steve Bradley has been selected to lead the development of the State Plan of Flood Control and thus will leave the Board at the end of December '07 and start the new job in January '08. A job announcement for a new Chief Engineer will be placed into the job opportunity bulletin during the next week.*

*As part of the Memorandum of Understanding process between the Board and DWR, Virginia Cahill, an attorney from the Attorney General's Office, will represent the Board starting January '08.*

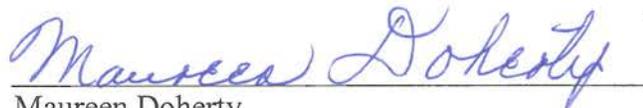
*Regarding the Budget Change Proposal, staff continues to work with DWR and Department of Finance to obtain additional resources, and progress is being made.*

**8. FUTURE AGENDA -- Postponed**

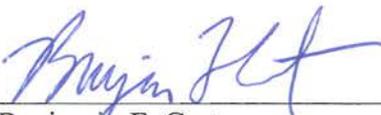
9. ADJOURN

*President Carter adjourned the meeting at 5:23 p.m.*

Dated: March 21, 2008

  
Maureen Doherty  
Secretary

The foregoing minutes were approved:

  
Benjamin F. Carter  
President