

MINUTES

MEETING OF THE RECLAMATION BOARD

July 20, 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 July 20, 2007 beginning at 9:30 a.m. in the Resources Building, 1416 Ninth Street, 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, Member
Ms. Teri Rie, Member

The following members of the staff were present:

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

Department of Water Resources staff present:

Ms. Lani Arena, Staff Counsel
Ms. Annalena Bronson
Mr. Robert Charney
Mr. Mike Mirmazaheri, Manager, Delta Levee Program
Mr. Keith Swanson, Acting Chief, Division of Flood Management

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

Mr. Lewis Bair
Mr. Roger Churchwell, San Joaquin County Public Works
Mr. Gilbert Cosio, MBK Engineers
Mr. Joe Countryman, MBK Engineers

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

Dr. Loretta Dean
Mr. Tom Eres, Hofman Ranch
Mr. Thomas Foley, Concerned Citizens for Responsible Growth
Ms. Patria Forster
Mr. George Hartmann, Reclamation District 2074
Mr. Les Heringer, M&T Ranch
Mr. Chris Neudeck, Kjeldsen, Sinnock & Neudeck
Mr. Dave Peterson, Peterson, Brustad & Pivetti
Mr. Thomas Rice, Rice River Ranch
Mr. Jim Sandner, U.S. Army Corps of Engineers
Mr. Scott Shapiro, Three Rivers Levee Improvement Authority
Ms. Judy Soutiere, U.S. Army Corps of Engineers
Mr. Tim Washburn, Sacramento Area Flood Control Agency

1. ROLL CALL

President Carter brought the meeting to order at 9:30 a.m. All Board members were in attendance.

2. CLOSED SESSION

The Board went to Closed Session to discuss litigation (Natural Resources Defense Council v. Reclamation Board; Case No. 06CS01228) pursuant to Govt. Code § 11126 (e)(2)(A)

3. APPROVAL OF MINUTES - April 20, 2007

Upon motion by Secretary Doherty, seconded by Vice-President Hodgkins and unanimously carried, the Board approved the April 20, 2007 Minutes as presented.

4. APPROVAL OF AGENDA

President Carter noted that Item 12 will be an information discussion only; no action will be taken. Upon motion by Secretary Doherty, seconded by member Teri Rie and unanimously carried, the Board approved the agenda as amended.

5. PUBLIC COMMENTS

Dr. Loretta Dean requested that overgrown sections of a bypass in the Sutter Wildlife Refuge be cleaned out.

Ms. Patria Forster echoed Dr. Dean's comments and also requested that the Tisdale Weir be cleaned out.

Mr. Les Heringer asked for the Board's help in solving a bank erosion problem at River Mile 192 ½ on the Phelan Levee in the M&T weir site.

6. REPORT OF ACTIVITIES OF THE DEPARTMENT OF WATER RESOURCES (DWR)

Division of Flood Management Acting Chief Keith Swanson began by noting that DWR is moving forward with an organizational change process designed to get DWR and stakeholders more actively engaged in the Flood Safe Initiative.

A blue ribbon task force on Delta risk management strategies is targeting January 2008 for a completed vision statement.

Regarding PL 84-99, the Orders 1 and 2 sites -- all 47 sites will be completed this construction season.

The Garmire Road Bridge is on track for May 2008 construction.

The Tisdale Bypass sediment removal is on schedule.

7. DEPARTMENT OF WATER RESOURCES AND RECLAMATION BOARD'S ROLE IN FEMA'S PROVISIONALLY ACCREDITED LEVEL (PAL) DESIGNATION PROGRAM

Staff Counsel Scott Morgan initiated discussion by referring to a request from FEMA to the Reclamation Board regarding certification of levees under the PAL program and FEMA's assumption that the Board was the levee owner. Mr. Morgan commented that the Reclamation Board has knowledge of the conditions of levees for Corps purposes -- which is entirely different than certification -- and that any information regarding certification would be an evaluation based on second hand testimony from the actual owners of the levees, which is the surrounding local community.

Ms. Judy Soutiere, the Flood Risk Manager for the Sacramento District, U.S. Army Corps of Engineers, clarified that, in terms of the federal levees, the Corps considers the Board to be the owner, although the Board may choose to delegate authority to local communities for maintenance. Further, the PAL agreement does not ask that levees be certified today; rather, that the information verifying certification be acquired within the next two years.

General Manager Punia commented that, after discussion between Board and DWR staff, it was concluded that what FEMA is looking for is 100-year certification and that DWR is the more appropriate state agency to represent the PAL agreements.

President Carter asked if the Board would be comfortable with an arrangement that has DWR signing PAL agreements for the state on behalf of the Board when, in terms of ownership, the Board is actually the custodian of the levees for the state.

Vice President Hodgkins agreed and cited concerns regarding an already overworked Board staff being assigned the additional responsibility for the signings.

George Hartmann, an attorney representing RD 2074, stated that the Board is clearly the owner of the levees and thus has a non-delegable duty to sign the PAL's.

Ms. Lani Arena, Staff Counsel for DWR, stated that DWR clearly has the authority to sign the PAL's. DWR has been working with FEMA on creating a customized agreement that verifies the 100-year level of flood protection requirement and that this agreement would be signed "state of California, by DWR" without specifying ownership of the levee beyond saying it is owned by the state of California.

President Carter suggested that the Board, when discussing their future agenda later today, could decide at that time whether or not to hold a special meeting to make a decision on the signing issue.

8. THREE RIVERS LEVEE IMPROVEMENT AUTHORITY (TRLIA) MONTHLY REPORT

Mr. Paul Brunner, Executive Director for TRLIA, told the Board that they are still awaiting response on their application for funding under Props. 1E and 84, and that further delays in response time may jeopardize the upcoming construction schedule.

Mr. Thomas Rice, Rice River Ranch, asked the Board to help steer TRLIA toward a more useful and appropriate approach regarding finding a better solution for the proposed levee construction along Rice River Ranch and its neighbor's properties. He further stated that he still has not received copies of the raw data regarding borings on the properties. In response to a question from President Carter, Mr. Scott Shapiro of TRLIA said the raw data regarding the borings would be transmitted next week.

REQUESTED ACTIONS

9. APPLICATIONS

There were no applications.

PROJECT OR STUDY AGREEMENTS

10. FOLSOM DAM SAFETY AND FLOOD DAMAGE REDUCTION JOINT FEDERAL PROJECT (JFP)

Approve Resolution 07-03

- 1. Certify the Folsom Dam Safety and Flood Damage Reduction Final Environmental Impact Statement/Environmental Impact Report**
- 2. Adopt Findings, including a Statement of Overriding Considerations**
- 3. Approve the Mitigation Monitoring Program**
- 4. Approve the selection of Alternative 3, the Joint Federal Project Gated Auxiliary Spillway with potential 3.5 foot parapet all raise**
- 5. Approve the Folsom Dam Safety and Flood Damage Reduction Joint Federal Project (JFP)**

Mr. Robert Charney updated the Board on the various projects; he also stated that information regarding specific timeframes for the dam raise and the restoration was still unknown.

Secretary Doherty commented on the tremendous level of collaboration and cooperation that went into achieving the project specifications.

Upon motion by Secretary Doherty, seconded by Ms. Rie and unanimously carried, the Board approved Resolution 07-03 in its entirety.

11. CONSIDER APPROVING A LETTER TO USACE REGARDING PROJECT ALTERATION PROCESS

Upon motion by Vice President Hodgkins, seconded by Secretary Doherty and unanimously carried, the Board approved the letter, subject to potential revisions of a non-substantive nature.

12. PROPOSED RECLAMATION BOARD POLICY

Consider proposed policy for mitigating hydraulic impacts due to improvements to the Sacramento and San Joaquin Rivers flood control projects

President Carter reiterated that Item 12 is an information discussion only; no action will be taken by the Board.

An extensive discussion took place regarding underlying assumptions, appropriate mitigation and compensation, overall versus localized system improvement, 1957 design versus existing conditions, risk and liability, accurate measurement of impacts, and other elements.

President Carter stated that he and Vice President Hodgkins are committed to working with staff to craft language that will provide both Board staff and applicants some perspective on how the Board is going to handle the issues involved.

INFORMATIONAL BRIEFINGS

13. STATUS OF THE U.S. ARMY CORPS OF ENGINEERS' LEVEE CERTIFICATION GUIDELINES/PROGRAM

Mr. Mike Deering, Corps of Engineers at the Hydrologic Engineering Center in Davis, gave a presentation that included definitions for the new guidelines; roles and responsibilities as the Corps and FEMA work together; methodologies used for determining levee certification; the schedule for availability of the Engineering Technical Letter (ETL); the certification process; the notion of partial certification; and some of the technical criteria for certification.

14. DELTA LEVEES SUBVENTIONS PROGRAM GUIDELINES

Mr. Mike Mirmazaheri, Program Manager for the Delta Levee Program, briefed the Board on the goals of the program and historical and contemporary perspectives on funding.

Mr. Mirmazaheri hopes to come before the Board in the August meeting and provide specifics on maintenance cap amounts for the program and on 2007-2008 funding.

15. DOES THE DEFINITION OF A LEVEE NEED TO BE REDEFINED IN THE BOARD'S REGULATIONS?

Staff Counsel Nancy Finch commented that the Board is taking a look at the regulations in light of the Superior Court's ruling in NRDC versus the Reclamation Board.

Ms. Finch gave staff's recommendation -- that the Board directs the staff, both legal and engineering, to do additional work in determining the appropriate and necessary regulatory changes, whether it's modifying existing regulations or drafting new regulations or some sort of hybrid, and to bring back to the Board, in the next couple of months, the newly proposed language.

The Board unanimously directed staff to pursue the recommendation.

BOARD REPORTS

16. BOARD COMMENTS AND TASK LEADER REPORTS

Vice President Hodgkins asked for an update on the Interagency Collaborative Task Force; Mr. Punia said he would make sure that Board members receive updates from Task Force meetings.

President Carter requested that Ms. Burroughs receive notice on a more timely basis of the monthly meetings; Mr. Punia said he would make that happen.

Ms. Burroughs requested that a letter be sent to TRLIA asking for the results of the soil samples reviewed by the Corps, if any offers have been made on Feather River setback condemned land, and if the overall funding is still in place. Mr. Punia responded that he would send a letter to that effect.

Mr. Punia reported that staff is requesting two new engineering positions and one office technician's position for Fiscal Year '08-'09.

Board Member Rie suggested that they ask for three more hydrologists. President Carter discussed his concern that the Board was setting itself up for failure if it did not obtain additional staff. Mr. Punia assured the Board that he would do his best to bring on additional resources.

17. REPORT OF ACTIVITIES OF THE GENERAL MANAGER

Mr. Punia thanked the Board members who attended the Corps Change of Command ceremony.

Mr. Punia reported that SAFCA's 408 approval letter had been issued from the Corps and that they are still waiting for the TRLIA 408 approval letter.

18. FUTURE AGENDA

A. Direction to staff regarding deadlines for submittal of information for agenda items requiring Board action

B. August 17, 2007 Board Meeting

A. President Carter stated that a general part of their discussion regarding agenda items requiring Board action is to advise and put applicants on notice that the Board is not going to be as lenient as it has been in the past regarding deadlines for submittal of information. Secretary Doherty commented that the website is being re-done to reflect this.

The Board agreed that the applicant is strongly advised to work with staff well in advance of the Board meeting for action items and that, in general, deadlines for submittal of information are

30 days before the Board meeting for normal items and seven days before the meeting (in the hands of the Board) for action items.

B. President Carter affirmed that there will be an August 17th meeting. Following are some of the potential agenda items for that meeting:

President Carter and Vice President Hodgkins will work with staff on crafting language on hydraulic mitigation that the Board can consider as policy;

Mr. Heringer will give an informational briefing on the Phelan Levee;

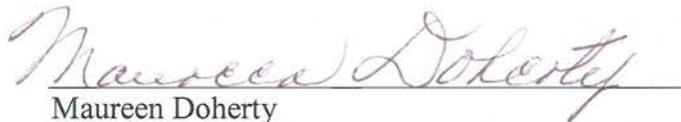
An informational briefing will be held on DWR's current position on PAL agreements that they have before them. FEMA will be invited to attend the briefing, which will include a public comment period.

TRLIA will be notified that review of their Feather River Segment 2 encroachment will be postponed until September.

19. ADJOURN

President Carter adjourned the meeting at 6:09 p.m.

Dated: SEPTEMBER 21, 2007


Maureen Doherty
Secretary

The foregoing minutes were approved:


Benjamin F. Carter
President