

MINUTES

MEETING OF THE RECLAMATION BOARD

June 8, 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 April 20, 2007 beginning at 12:30 p.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
Ms. Nancy Finch, Legal Counsel
Mr. Dan Fua, Supervising Engineer
Ms. Lorraine Pendlebury, Staff Assistant

Department of Water Resources staff present:

Mr. Mark Herold, Chief, Floodway Protection Section

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

Mr. Paul Brunner, Three Rivers Levee Improvement Authority
Mr. Tom Eres, Hofman Ranch
Mr. Thomas Foley, Concerned Citizens for Responsible Growth
Mr. Randy Margo, County of Yuba
Mr. Robert Naylor, representing Mr. and Mrs. Thomas Rice
Mr. Ric Reinhardt, Three Rivers Levee Improvement Authority
Mr. Thomas Rice, Rice River Ranch
Mr. Jim Sandner, United States Army Corps of Engineers
Mr. Scott Shapiro, Three Rivers Levee Improvement Authority
Dr. Dale Smith, Alfa Omega Associates

1. ROLL CALL

President Carter brought the meeting to order at 12:30 p.m. All Board members were in attendance.

2. APPROVAL OF AGENDA

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

REQUESTED ACTIONS

3. APPLICATIONS

Three Rivers Levee Improvement Authority - Application No. 18170, Yuba County

(A) Consider approval of Cooperation Agreement with TRLIA for the Left Bank Feather and Yuba River Levees Project as described in item (C)

(B) Consider approval of a letter to the U.S. Army Corps of Engineers requesting modification of federal flood control project as described in item (C)

(C) Consider approval of the strengthening of the left (east) bank level of Feather River by construction of slurry cutoff walls, stability berms, and waterside blankets between Levee Miles 13.3 to 17.1 and 23.6 to 26.1; and reshaping the levee crown on the left (south) bank levees of Yuba and Feather Rivers. The project is in Yuba County within Reclamation District 784.

Mr. Dan Fua, the Reclamation Board's Supervising Engineer, gave an overhead presentation on Application 18170, in which TRLIA is seeking an encroachment permit for modifications to the left bank of the Feather River and Yuba River levees

The draft Corps letter: to provide assurance to the Corps, the Corps requested that the Board accept the modified project, when completed, for operations and maintenance (O&M); and secondly to indemnify the U.S. Government for any liability arising out of the project. In summary, staff recommends that the Board:

(1) make findings that the environmental impacts of the project within the jurisdiction of the Board have been mitigated or avoided as a result of proposed changes, alterations, and mitigations incorporated in the project; (2) adopt mitigation measures set forth in the Three Rivers certified EIR relating to flood control and public safety; (3) incorporate by reference the Three Rivers mitigation and monitoring plan; (4) recognize that the project will not result in hydraulic impacts that will have a significant effect on the environment; (5) approve the draft revised letter to the U.S. Army Corps of Engineers to request a review of the proposed modification project; (6) approve the draft cooperation

agreements among Three Rivers, Yuba County, Reclamation District 784, and the State Reclamation Board; (7) approve the 50-foot easement required for Segment 1 to provide adequate room for levee expansion, modification and upgrades, flood fights, O&M, and buffer from urban encroachment; (8) approve Permit No. 18170 for the project and delegate the authority to the General Manager to finalize and issue the permit.

Discussion ensued and Mr. Punia relayed staff's recommendation that, per Jim Sandner of the U.S. Army Corp of Engineers, the draft revised letter be changed; that the words "modification" or "modify" in the letter should be changed to "alter" and "alteration."

Upon motion by Secretary Doherty, seconded by Ms. Rie and unanimously carried, the Board approved the revised letter, with changes.

Upon motion by Ms. Rie, seconded by Vice-President Hodgkins, and carried by a vote of 4-1, the cooperation agreement, minus the last sentence in paragraph 3B, which reads "local sponsors shall jointly and severally be liable to reimburse the Board or the government for the reasonable cost of performing that work," was approved.

Upon motion by Vice-President Hodgkins and seconded by Ms. Rie, the remaining items recommended by staff were approved by a vote of 4-1 (including the revised language on Condition 17). The remaining items include:

(1) that the Board make findings that the environmental impacts of the project within the jurisdiction of the Board have been mitigated or avoided as a result of the proposed changes, alterations, and mitigation measures incorporated into the project; (2) that mitigation measures set forth in TRLIA certified EIR relating to flood control and public safety are hereby adopted and TRLIA's mitigation monitoring plan is incorporated by reference; (3) that, based on the evidence presented to the Board, the project will not result in hydraulic impacts that will have a significant effect on the environment; (4) that the Board approve the 50-foot easement required for segment 1 to provide adequate room for levee expansion, modification, upgrades, flood fights, O&M, and a buffer for urban encroachment; (5) that the Board approve permit No. 18170 for the project and delegate the authority to the General Manager to finalize and issue the permit.

4. 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)

INFORMATIONAL BRIEFINGS

5. PHASE 4 FEATHER RIVER LEVEE REPAIR PROJECT (SEGMENT 2 - SETBACK LEVEE) BRIEFING

President Carter introduced Mark Herold from DWR as the new Chief of the Floodway Protection Section.

Mr. Scott Shapiro gave a briefing that provided the history of the setback levee, which has been contemplated for many years. In 2003 Yuba County Water Agency used Prop. 13 funds to do a feasibility study and programmatic EIR that identified the setback levee as a potential option. The setback would widen a section of the Feather River that narrows down in an extreme way. The levee is located from mile marker 17 up to about 22 ½; thus is about 5.9 miles and would replace a little over 6 miles of existing levee.

The Board previously approved this approach in May of 2006. DWR, although not making any funding commitment, said this was the kind of project they wanted to see funded. Many interested parties provided written support, including Sutter County, Friends of the River, the South Yuba River Citizens League, the Sierra Club, the Yuba County Water Agency, SAFCA, and others.

Primary benefits include superior flood protection, especially in the Marysville and Sutter County areas; consistency with the Flood Safe California program by meeting or exceeding each criteria of that program; and creation of up to 1,550 acres of habitat for restoration, mitigation or other uses.

The specific alignment of the setback and the integral part played by the various soil types represented (QA, QR, and QM). The QA soil is the more sandy soil; thus, TRLIA is trying to build the levee as much as possible on the better soil (the QR and QM soils). He detailed some of the most recent adjustments made to accommodate concerns expressed by some of the landowners.

In conclusion, Mr. Brunner commented that the alignment and adjustments were made based upon judgment about the criteria for a floodway, upon soil types, and by weighing many factors together.

Mr. Robert Naylor, representing Mr. and Mrs. Thomas Rice, commented that on May 23, TRLIA did agree to meet with Mr. Naylor and the Rice's, and that this meeting occurred 11 months into the process from the first EIR. Mr. Naylor questioned the logic used for deciding specific alignments that go through some of the small family farms, including the Rice farm. Mr. Naylor detailed what he and the Rice's felt were inconsistencies and imbalances in the current TRLIA approach. In summary, they do not see that the soils analysis justifies the alignment precisely where it is now and they asked the Board to consider urging and requiring TRLIA, as a condition of their permit, to make an adjustment that would save portions of the Rice farm parcels currently targeted as construction areas.

Mr. Thomas Rice reiterated Mr. Naylor's concerns regarding apparent inconsistencies in the current TRLIA alignment, and noted for the Board his background for assessing the inconsistencies; i.e. a Master's Degree in Engineering and current employment as a master level engineer for Agilent Technologies.

He cited two main points: (1) Although Mr. Rice doesn't challenge that the current segment 2 design could be built and certified, he questions whether or not the current design decisions have resulted from a balanced public policy that is the result of good public process; (2) he questioned previous remarks that he was somehow a "Johnny-come-lately" to this process and produced a binder chronology to show to the Board the flow and tone of his attempts at communication and collaboration with TRLIA, claiming that it shows that he has attempted to be involved in the process from the earliest stages, in fact submitting comments and reviews a year ago in June; that he has tried to engage with all relevant agencies at the earliest chance; and that he has not been satisfied with the response of Yuba County and TRLIA in dealing with himself and the agricultural community. He finally stated that, as much as anyone, he wants to see the levees fixed, but he wants it to be done the proper way, to serve and respect the community that is being protected.

Mr. Rice said what he believes is needed is more exploration to make sure a balanced policy is being put in place.

Mr. Brunner showed a slide of the various alternatives that were looked at, discussed the benefit of moving to a better soil alignment, and addressed the various soil borings that had been taken to verify the current location as the correct alignment.

President Carter inquired as to the Board's pleasure as far as moving forward. Did they want to postpone Item 6 until the next meeting?

Ms. Burroughs asked TRLIA if they were willing to look at any of the proposed comments in regards to setback levee alignment. Mr. Reinhardt noted that the issue also gets to the demands the Board has placed on them of accelerating the project to complete it in 2008. He cautioned that, if they revisit the alignment, they will not be able to maintain that schedule and it may result in delay of the project.

President Carter strongly suggested and encouraged TRLIA to continue to look at the levee alignment; with tweaking and working with the landowners in regards to moving the alignment further west; that such activity could create maybe a little more heartburn for TRLIA but a lot less heartburn for other folks.

6. CURRENT STATUS OF TRLIA'S CASH FLOW PROJECTIONS, INCLUDING EARLY IMPLEMENTATION FUNDING FROM PROPOSITIONS 1E AND 84

Mr. Brunner highlighted some cash flow projections:

- *Prop. 13 funds received to date are close to \$45 million through April '07;*
- *about \$69 million has been received to date from landowners/developer money;*
- *totals: \$133.9 million has come in and total expenses are \$130.8 million;*
- *The dollar amount from the grant application is unknown as yet;*

- \$9.1 million is in escrow from the second capital call;
- \$2.3 million has come in from a FEMA grant program for detention basin flood control and another \$2.4 million is expected.

TRLIA is in a positive cash balance situation across the lines. TRLIA is moving forward with their commitment regarding segment 3 and hopefully will get it done by the end of 2008.

President Carter requested that nomenclature be changed to minimize confusion in the future (i.e. segment 1, 2 and 3 for Feather River setback and segment 1, 2 and 3 for the Feather River levee). Mr. Brunner stated they would work on that.

7. ADJOURN

President Carter adjourned the meeting at 6:00 p.m.

Dated: SEPTEMBER 21, 2007


Maureen Doherty
Secretary

The foregoing minutes were approved:


Benjamin F. Carter
President