

MINUTES

MEETING OF THE RECLAMATION BOARD

June 15, 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 June 15, 2007 beginning at 8:30 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. 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:

Ms. Annalena Bronson
Mr. Robert Charney
Mr. Jeff Fong
Mr. Rod Mayer, Chief, Division of Flood Management
Ms. Erin Mullin
Mr. Ricardo Pineda
Mr. Ward Tabor

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

Mr. Curt Aikens, Yuba County Water Agency
Mr. Paul Brunner, Three Rivers Levee Improvement Authority
Mr. Stein Buer, Sacramento Area Flood Control Agency
Mr. Joseph Countryman, MBK Engineers
Mr. Tom Eres, Hofman Ranch

Also present (according to sign-in sheet and cards) -- continued from page one:

Mr. Thomas Foley, Concerned Citizens for Responsible Growth
Mr. Jon Giottonini, Village Builders
Mr. Richard Johnson, United States Bureau of Reclamation
Mr. Grant Kreinberg, Sacramento Area Flood Control Agency
Mr. Robert Naylor, representing Mr. and Mrs. Thomas Rice
Mr. Dave Peterson, Peterson, Brustad & Pivetti, Inc.
Mr. Frank Piccola, United States Army Corps of Engineers
Ms. Jeanette Rice, Rice River Ranch
Mr. Thomas Rice, Rice River Ranch
Mr. Eric Simmons, Federal Emergency Management Agency, Region 9
Ms. Judy Soutiere, United States Army Corps of Engineers
Dr. Steve West
Mr. Steven Winkler, San Joaquin County Flood Control and Water Conversation District

1. ROLL CALL

President Carter brought the meeting to order at 8:30 a.m. All Board members were in attendance with the exception of Rose Marie Burroughs.

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: March 14, 2007 (minutes), March 16, 2007 (workshop) & March 22, 2007 (TRLIA Sub-Committee Meeting minutes)

Upon motion by Secretary Doherty seconded by Vice President Hodgkins and unanimously carried, the Board approved the March 14, 2007 minutes and March 16, 2007 workshop.

General Manager Punia noted that the subcommittee minutes should be approved by the members of the subcommittee only. Upon motion by Secretary Doherty and seconded by Vice President Hodgkins, the March 22 TRLIA subcommittee minutes as mailed was approved by the Board 3-0.

4. APPROVAL OF AGENDA

Upon motion by Secretary Doherty, seconded by Board Member Rie and unanimously carried, the Board approved the agenda as presented, while noting that Item 9B (at the request of the applicant) will be an informational discussion and no action will be taken on the Item at this time.

5. PUBLIC COMMENTS

There was no public comment.

6. REPORT OF ACTIVITIES OF THE DEPARTMENT OF WATER RESOURCES

Chief Rod Mayer, Division of Flood Management, reported that all necessary permits for the Tisdale Bypass Sediment Removal Project have been successfully secured so that the work can proceed this summer.

Chief Mayer noted that the Division of Flood Management's reorganization has been approved and will take effect next month.

Chief Mayer said that, with respect to the flood management budget, DWR has requested from the Legislature \$876 million for fiscal year '07-'08, about ten times their normal budget; DWR will also request 110 positions, which would get them to the 350 positions that are in the approved reorganization

Chief Mayer reported on the Lower Feather Floodplain Mapping Study and the Sutter County map. Regarding erosion site repairs 99 of the 104 sites have completed their initial structural repairs.

Chief Mayer commented that RD 17, Stockton and the county officials recently asked if DWR would support their application for preliminary accredited levees (the PAL program) and DWR responded that, based upon drilling information recently acquired in the area, DWR informed RD 17 and the area officials that DWR could not support the PAL application on the basis of significant underseepage concern. A letter to that effect will follow from DWR.

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

Mr. Paul Brunner, the TRLIA Executive Director, thanked the Board for the meeting of June 8, 2007 and the permit that was issued for segments 1 and 3.

Mr. Robert Naylor, representing Rice River Ranch, commented that they had not heard anything about whether TRLIA was going forward with the soil sampling suggested by the Board in the June 8, 2007 meeting.

Mrs. Jeanette Rice presented documentation that she claimed would demonstrate the poor evaluations and behaviors of TRLIA and their agents, Bender Rosenthal.

Mr. Thomas Rice remarked on the eminent domain processes initiated by TRLIA and the potential delays they will cause as another example of the adversarial nature of their communications. Mr. Thomas Foley of Concerned Citizens for Responsible Growth again raised

the question of, since the levees are state-owned, what does the local agency have to do with state project levees?

CONSENT

8. CONSENT CALENDAR

Acceptance of a 2.93 acre parcel of land in the City of Stockton, Charlottes Oaks Investors

Consider acceptance of a 2.93 acre of land located along the north bank of the Calaveras River in the City of Stockton, San Joaquin County from Charlottes Oaks Investors, LLC.

Mr. Jeff Fong of DWR Real Estate Branch assured the Board that there is nothing to be concerned about regarding this property; that it is a donation.

Upon motion by Vice President Hodgkins, seconded by Ms. Rie and unanimously carried, the Board approved the Consent Calendar as presented.

REQUESTED ACTIONS

9. PROJECT OR STUDY AGREEMENTS

A. Yuba River Basin Project

Consider approval of a letter to the U.S. Army Corps of Engineers requesting credit under Section 104 of Public Law 99-662 for flood control improvements within Segment 2 (setback levee) of the Project area, along the east levee of the Feather River.

Ms. Erin Mullin of DWR gave a presentation on the Yuba River Basin Project. Currently the study is focusing on three alternatives:(1) A fix-in-place where the levees would be strengthened;(2) A fix-in-place along the Yuba and Marysville ring levee and the Western Pacific Interceptor Canal, a fix-in-place along the Bear River, and a setback along the Feather River;(3) A fix-in-place along all levees except a Feather River setback and a Bear River setback.

Ms. Mullin mentioned the letter sent by Yuba County Water Agency requesting that DWR forward their application for Section 104 credit to the Army Corps of Engineers for the setback levee along the Feather River, also known as Segment 2. She stated that the Reclamation Board and Yuba County Water Agency may be eligible for federal credits for doing the work.

Mr. Curt Aikens, General Manager of the Yuba County Water Agency, requested that the Board forward the letter to the Corps for their analysis.

Ms. Mullin summarized that the requested action is for the Board to delegate authority to the General Manager to sign the letter forwarding Yuba County Water Agency's request for eligibility of the Section 104 credit to the Corps.

After Board and public discussion Vice President Hodgkins motioned for approval and Ms. Rie seconded, and after further discussion the request was approved unanimously.

B. Folsom Dam Safety and Flood Damage Reduction Joint Federal Project (JFP)

Approve Resolution 07-03

- 1. certify the Joint Environmental Impact Statement/Environmental Impact Report**
- 2. adopt Findings including a Statement of Overriding Considerations**
- 3. approve the Mitigation Monitoring Plan**
- 4. approve the JFP**

Mr. Robert Charney of DWR will brief the Board and then return in July to re-brief and request resolution approval at that time.

Mr. Charney stated that the projects at Folsom Dam are multi-agency efforts, conducted by the Corps of Engineers under their Dam Modifications Project and their Dam Raise Project, as well as by the Bureau of Reclamation. The agencies agreed on language and consummated that agreement by signing a draft Joint Record of Decision (ROD) on May 5, 2007.

The total cost will be \$847 million; \$239 million of that will be carried by the non-federal sponsors. The Corps estimates that another two years of design effort will be needed to complete the design work for the entire project.

Mr. Charney asked the Board to approve the Joint Federal Project as well as parts of the environmental report document, while identifying items that will be excluded from the document.

Mr. Stein Buer of the Sacramento Area Flood Control Agency (SAFCA) stated that SAFCA is the local sponsor for the project, which is the centerpiece of the plan to achieve 200-year level flood protection for the metropolitan area of Sacramento, which includes \$50 billion worth of damageable property and 450,000 people at risk.

Ric Johnson, the Deputy Area Manager for the Bureau of Reclamation, mentioned the parallel dam safety work that was initiated by the Bureau in 2000; that for many reasons, including the heavy urbanization in the area, Folsom Dam is the number one dam safety priority in the entire country. About \$500 million worth of dam safety construction will be done at Folsom Dam. Mr. Johnson stated that the Bureau supported adopting the EIR and proceeding with the Corps's part of the Joint Federal Project that the state is also participating in.

Vice President Hodgkins commented on the outstanding level of cooperation utilized by the Corps, the Bureau and SAFCA in completing so much work in two short years, showing that it can be done. He cited it as great work and an incredible accomplishment.

Mr. Frank Piccola, Chief of Planning for the Corps, stated that the Corps had received commitments from Washington on their part of the funding and thinks that the project will be built on time and everyone will be very proud of the end result. Mr. Piccola said that the ROD for the environmental document, which was prepared by the Bureau of Reclamation, was signed by Assistant Secretary of the Army John Woodley on May 3. The ROD for the raising of the dam will be ready for signature very soon.

C. American River (Common Features), California Project - Mayhew Levee Raise

Approve Resolution 07-04 to adopt an Addendum to the American River Watershed Common Features Project, Lower American River Mayhew Levee, Sacramento County, California (Mayhew Levee Project) Final Environmental Impact Report. The Addendum is to add the following:

- 1. an approximately 150-foot extension of the slurry wall across the Mayhew Drain**
- 2. a seepage berm at the site of three high pressure sewage lines that cross under the levee**

Ms. Annalena Bronson, DWR, reported on the American River (Common Features), California Project, which received certification from the Board on an EIR in November 2006. It was determined that two additional features need to be added to the contract that was not discussed in the original final EIR: (1) a 13 X 72 foot seepage berm at the site, of three high-pressure 48-inch diameter sewage lines that cross the existing levee near the east end of the project; and (2) a 150-foot long slurry wall extension across the Mayhew drain.

Ms. Bronson asked the Board to approve Resolution No. 07-04, finding that the conditions for adopting an addendum have been met.

Upon motion by Secretary Doherty and seconded by Vice President Hodgkins, the Board unanimously approved the Resolution.

10. DESIGNATED FLOODWAY

MOKELUMNE RIVER DESIGNATED FLOODWAY

Consider modification of the right (north) bank boundary of the Mokelumne River Designated Floodway in San Joaquin County at 2221 Bender Road, Acampo, California

Chief Engineer Bradley commented on a small section of the Floodway, which is south of Sacramento and basically runs from where the Mokelumne River joins the Cosumnes River all the way up to Comanche Dam. Mr. Bradley cited the section in Article 5 of the Board's regulations that verifies that the Board has the authority to modify the floodway and that recent surveys done by the representatives for Mr. West indicate that the residence will be above what FEMA has defined the flood elevation to be.

He further stated that if the modification is approved it would be decreasing the width of the designated floodway; the area is experiencing urbanization; and there is significant staff work involved with making a modification of the floodway. He concluded with staff's recommendation that the request be denied.

Mr. Dave Peterson and Mr. Jon Giottonini addressed the issues on Dr. West's behalf. Mr. Peterson requested that the Board conform its designated floodway to the FEMA floodplain only across Dr. West's property. He stated that the proposed house would be located outside the FEMA 100-year floodplain, yet would be elevated above the 500-year floodplain. Dr. West, said that Dr. West has spent over \$100,000 in drawing plans and getting the building permit before finding out shortly thereafter that the floodway maps existed and Dr. West could not build there. Mr. Giottonini further stated that the Reclamation Board and FEMA maps do not conform to what he and Dr. West were told by the San Joaquin County Flood Control Agencies.

After discussion which pointed out inconsistencies in the map the Board decided to withdraw their motion and continue the item to a future meeting to allow more time for interested parties to gather additional detail and thus allow the Board an opportunity to make a more informed decision.

11. FEDERAL APPROVAL OF MODIFICATION AND ALTERATION OF CORPS OF ENGINEERS PROJECTS (408 Committee)

- A. Request Board policy regarding desirability of delegating authority to approve modification of Federal works under 33 USC 408 to below Chief of Engineers**
- B. Discuss a possible Reclamation Board request to the Corp of Engineers to consider revisions to the Federal process for approving alterations to the Sacramento River and San Joaquin River Flood Control Projects**

Vice President Hodgkins summarized the critical element of the Item -- to assess whether or not the Board is generally supportive of streamlining the 408 process, and if so to have the Board officially state their support before the task force begins to discuss with the Corps and DWR the issues associated with trying to streamline, document and perhaps alter the current delegation authority down to the local district.

Board Member Rie added that the 408 Task Force had a meeting, in March of 2006, with the Corps, representatives from the various Assembly and Congressional offices, and members of the

public. The overwhelming response in that meeting was to see decisions regarding improvements to levees made at a local level; to have the projects move quickly when funds were available (as, due to weather constraints, the window for improvements is generally limited to April/May through October/November); that there is an overwhelming support in the community to get the process out of Washington D.C. and back to California. President Carter mentioned discussions with Corps Assistant Secretary Woodley, who appeared to be supportive of some delegation to the local level, whether that was Division or District level.

Mr. Steve Winkler, San Joaquin County Flood Control and Water Conservation District, agreed with the remarks made, and noted that local streamlining is incredibly important for time-sensitive reaction to flood efforts, flood safety, and flood improvements.

Mr. Joe Countryman, MBK Engineers, speaking on behalf of the California Central Valley Flood Control Association, stated that the Corps has changed organizationally and as a result the pertinent technical review of projects occurs at the local level, not the Washington level, and that his Association hopes that the Board will approve a committee meeting with the Corps.

Mr. Tom Eres, Hofman Ranch, voiced his support.

Upon motion by Vice President Hodgkins and seconded by Secretary Doherty, the Request was unanimously approved.

INFORMATION BRIEFINGS

12. FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) MAP MODERNIZATION PROGRAM AND PROVISIONALLY ACCREDITED LEVEE DESIGNATION (PAL) AGREEMENTS

Mr. Ricardo Pineda, DWR, introduced the item by explaining that FEMA is undertaking a \$1 billion, five-year map modernization program. They are looking at existing paper maps that are shown as providing protection against the 100-year flood. Guidance documents, called Memo 34 and Memo 43, reiterate the policies that are in the existing FEMA regulations, 44 CFR 6510, that relate to the engineering criteria for crediting a 100-year levee.

The Flood Map Modernization Initiative will ensure that mapping around levees is consistent nationwide and a procedural memo to that effect was issued, Memo 34, which provided interim guidance on studies including levees. Memo 34 reinforced existing regulations and responsibilities, specifying that if a local party wants a levee system accredited on a new flood insurance rate map it is the responsibility of that local party wanting accreditation.

Ms. Simmons discussed Memo 43 specifically outlines five PAL scenarios:

- *Scenario A levees are not in a Corps of Engineers program and are currently accredited but not certified; Scenario A levees are eligible for the PAL option.*

- *Scenario B levees are in a Corps of Engineers program, are recommended by the Corp and are also eligible for the PAL option.*
- *Scenarios C, D and E, also in a Corps program, are not eligible for the PAL option because of a deficiency, lack of current accreditation by FEMA, or the levees are determined to be inadequate in providing protection from the one percent chance flood.*

Memo 43 was updated in Spring 2007 to handle scenarios where a maintenance deficiency has been identified; in such a case the levee system is not eligible for accreditation since maintenance is one of the criteria for accreditation. However, for maintenance deficiencies, FEMA will delay the final determination for one year to allow proper maintenance to occur.

After much Board discussion, General Manager Punia informed the Board that lengthy discussions between the Reclamation Board and DWR legal staffs had occurred regarding the intent issue and he would be glad to ask staff counsel to brief the Board again on the subject. President Carter thanked Mr. Punia for his suggestion.

BOARD REPORTS

13. BOARD COMMENTS AND TASK LEADER REPORTS

No Board comments or Task Leader Reports occurred.

14. REPORT OF ACTIVITIES OF THE GENERAL MANAGER

General Manger Punia stated that, regarding the SAFCA project for Natomas Cross Canal, the Corps headquarters in their San Francisco division made a determination that SAFCA needs to prepare an environmental assessment and then a FONSI to augment previously submitted information. The Corps also requested that SAFCA provide additional documentation to make sure they are in compliance with the Endangered Species Act and several other acts; thus, SAFCA will be working with the Corps to satisfy these concerns before the Corp makes a determination on whether they will allow the Reclamation Board to modify the Federal Flood Control Project.

15. FUTURE AGENDA

The following items were placed on the item for the July meeting:

- *The Mokelumne River Designated Floodway Modification.*
- *The Folsom Dam Joint Federal Project.*

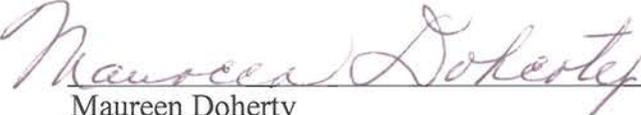
- *An informational briefing on the status of the Corps's levee certification guidelines and program.*
- *The Lower San Joaquin River Flood Control Project operational concerns.*
- *A regulatory briefing regarding modification of Board regulations.*
- *A continuation of the briefing on the PAL agreement.*
- *As either an informational briefing or possibly a requested action, a recommendation for the Board to consider, as a policy, using the data from the hydraulic mitigation study and workshop held in March 2007.*
- *The Board will be asked to approve a draft 408 letter.*
- *President Carter and Vice President Hodgkins will work with Mr. Punia and other staff members to try and institutionalize a schedule and a deadline that they can apply uniformly and fairly, as a policy, moving forward.*

It was determined that proposed Agenda Item 8B (TRLIA) will not be ready by July and discussion of the Property Management Agricultural Lease is tentative.

16. ADJOURN

President Carter adjourned the meeting at 4:23 p.m.

Dated: SEPTEMBER 21, 2007



Maureen Doherty
Secretary

The foregoing minutes were approved:



Benjamin F. Carter
President