

MINUTES
RECLAMATION BOARD MEETING

A CLOSED SESSION WAS HELD

May 18, 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 May 18, 2007 beginning at 9:40 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, Legal Counsel
Mr. Dan Fua, Supervising Engineer
Mr. Scott Morgan, Legal Counsel
Ms. Lorraine Pendlebury, Staff Assistant
Ms. Jill Phinney, Support Staff

Department of Water Resources staff present:

Mr. John Andrew
Mr. Rod Mayer
Mr. Maurice Roos
Mr. Ward Tabor
Mr. Steve Dawson
Mr. Pete Weisser
Ms. Sonny Fong
Ms. Anya Bala
Ms. Lani Avena
Mr. Sterling Sorenson
Mr. Dave Lane
Ms. Ynhi Enzler
Mr. Kofi Inkabi

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

Professor Robert Bea, U.C. Berkeley
Mr. Paul Brunner, TRLIA
Mr. Tom Eres, Hofman Ranch
Mr. Tom Foley, Concerned Citizens for Responsible Growth
Mr. Kurt McClain
Mr. Robert Naylor, Rice River Ranch
Mr. James Pearson
Mr. Ric Reinhardt, MBK Engineers
Mr. Thomas Rice, Rice River Ranch
Mr. James Sandner, U.S. Army Corps of Engineers
Mr. Scott Shapiro, TRLIA, M & T Ranch
Mr. Tom Ellis, landowner
Mr. Lewis Bair
Mr. James Pearson
Ms. Frances Knight
Mr. Mr. John Hess, U.S. Army Corps of Engineers
Mr. Peter Buck, SAFCA
Ms. Joan Lewis
Mr. John Pearson
Ms. Jeanette Rice, Rice River Ranch
Ms. Mary Pearson
Mr. Steve Sutton
Mr. Ken Myers
Ms. Denise Carter
Mr. John Barnhart
Ms. Deana Ellis

1. ROLL CALL

President Carter brought the meeting to order at 9:40 a.m. All Board members were in attendance except for Teri Rie.

- 2.* CLOSED SESSION** – to discuss litigation (Natural Resources Defense Council v. Reclamation Board; Case No. 06CS01228) pursuant to Govt. Code § 11126 (e)(2)(A)
Ms. Rie arrived during closed session.

NOTE: The Board will not resume Open Session prior to 9:00 a.m.

- 3.* APPROVAL OF MINUTES** – February 16, 2007 & February 26, 2007 (sub-committee)

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

4.* APPROVAL OF AGENDA

Upon motion by Member Burroughs, seconded by Vice President Hodgkins, and unanimously carried, the Board approved the agenda as presented, with the exception of the change to hear Item 11.B before Item 11.A.

5. PUBLIC COMMENTS

Mr. Robert Naylor, representing Rice River Ranch, stated that the farmers' preference would be to repair-in-place as it would preserve the most farmland. However, they have looked at an intermediate setback alternative, which would require less acreage than the full setback levee. This would be their second choice. He also stated that the full setback levee is not the most cost effective in terms of benefits versus cost.

Mr. Thomas Rice, of Rice River Ranch, stated that he had been to just about every TRLIA meeting and talked with TRLIA staff trying to get a compromise on the issue throughout the process. He asks that the Board ask the tough questions and find good, balanced public policy. He feels the issue is not only about losing agricultural land, but also about farmers as the first line of defense on levees, and also the benefit of having farms up against levees as opposed to urban settlement there.

Mr. James Pearson spoke against losing his productive 80-acre orchard which is planned for a "borrow pit". He feels there is other land available.

6. REPORT OF ACTIVITIES OF THE DEPARTMENT OF WATER RESOURCES (Keith Swanson)

Mr. Rod Mayer, Chief of the Division of Flood Management, began by stating that this year for the Sacramento Valley the forecast is a dry year; for the San Joaquin Valley, it is a critical year. On levee evaluations, he discussed a possible more stringent exit gradient for underseepage, which would drive up costs. He stated that this new criteria is for urban levees. In answer to questions from the Board, he did not know how this would affect past work.

Mr. Paul Brunner, of TRLIA, stated that their work on the Bear was fine and they were waiting for a response on other sectors of work done.

Mr. Mayer then discussed slurry walls and their effectiveness. He stated that next week there are three days of local workshops planned by DWR and the Corps on this local evaluations program. General Manager Jay Punia will represent that Board. He reported that on initial erosion repairs, 99 of the 104 identified critical sites have been completed. Mr. Mayer reported on progress at Tisdale Bypass; the Knight's Landing Maintenance area formation; the Corps's new vegetation policy; the Governor's proposed revised budget including a proposed reversion of remaining AB 142 funds; and grant programs that DWR has been developing, which includes the early implementation projects for the State Federal Flood Control System Modification; draft guidelines for some of the new grant programs; and the Local Levee Evaluations Program.

7. THREE RIVERS LEVEE IMPROVEMENT AUTHORITY MONTHLY REPORT (Paul Brunner) - 10:00 A.M.

Mr. Paul Brunner of TRLIA handed out the monthly report. He presented their certification letter from the Corps that pertains to the 11 miles of work that has been discussed for many years. This represents a 10-year certification, subject to review by the Corps at that time. The letter points out that the TRLIA works passes the risk and uncertainty analysis of the Corps and talks about looking at future access.

He stated that they had made their second capital call and that landowners and developers have already put the money into their holding escrow. He spoke about the alignment of the setback work; outreach and working with landowners; real estate acquisitions for easements; certification of the levee reach on the Yuba River;

Mr. Kent McClain spoke to express his appreciation to the Board, staff and members of DWR and other State agencies, for their work on the certification process.

Mr. Tom Foley stated that those primarily responsible for the work done were the former Reclamation Board. He feels that the current Board should oversee TRLIA work on the newly identified deficient levee upstream of Island Road; he feels that repairs could be done under the emergency declaration and done this year.

REQUESTED ACTIONS

8.* APPLICATIONS – 10:30 A.M.

A. Application No. 18170, Three Rivers Levee Improvement Authority, Yuba County (Dan Fua)

Consider approval of the strengthening of the left (east) bank levee 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.

This item was tabled.

9.* Board's Letter to U.S. Army Corps of Engineers (Jay Punia) – 11:30 A.M.

Consider approval of a letter from the Board to the Chief of Engineers of the U.S. Army Corps of Engineers expressing the Board's concern over a new policy of requiring the removal of all trees from all federal levees in California.

General Manager Jay Punia explained the Corps' proposed new vegetation free-zone for levees. For California there are difficulties in implementing this policy as our levees are unique in that they are not set back too far from the main stem of the water channel and there is a lot of habitat along them, protected by environmental regulation. It would require a lot of effort to remove the vegetation and there would be great cost involved. We are asking that the Corps slow down and work with us and the local maintaining agencies to evaluate and bring some flexibility into this proposed policy.

He stated that the majority of the local levee maintaining agencies will not be able to meet immediately this new policy, and they will, therefore, not be eligible for levee rehabilitation assistance under PL 84-99. Most urban areas levee maintaining agencies may also not be able to meet this standard, and they will lose certification within the national flood insurance program. Mr. Punia requests that the Board approve the letter and send it to the Corps so we can work with the Corps in bringing some flexibility to this policy. He will work with the Corps to define and implement the policy.

In answer to a question from Secretary Doherty, Mr. Punia stated that it is a geotechnical policy with flood fighting concerns; that due to the vegetation, inspectors cannot see the levees and therefore they cannot provide an effective flood fight to the levees. Mr. Jim Sandner of the Sacramento District of the Corps stated that they had been asking questions of their headquarters also. In other states there are very massive levees and different kinds of rainfall so that grass grows on the levees all year long, providing good erosion control. That is not the case in California. There are alternatives available in the west, but they are going to cost dollars. Member Burroughs asked if it was possible for the whole State to ask for a variance, or if a variance had to be requested by each district. Mr. Sandner replied that the State could ask for anything. However, he did not know what the response would be. In answer to a question regarding the Corps waiving mitigations costs for endangered species, Mr. Sandner replied that he did not know if the Corps had waived mitigation requirements.

Member Burroughs had some revisions she wanted to put in the letter; President Carter asked her to submit those comments to Mr. Punia and then staff could revise the letter.

Upon motion by Vice President Hodgkins, seconded by Secretary Doherty, and unanimously carried, the Board approved revision of the letter to include new comments, and delegated to the President of the Board the authority to sign the letter.

INFORMATIONAL BRIEFINGS

10. Hurricane Katrina: Lessons for California's Levees *(Professor Robert Bea of U.C. Berkeley) – 1:00 P.M.*

Professor Robert Bea of U.C. Berkeley began by giving an overview of New Orleans. In 1849 New Orleans was a small hamlet on the banks of the Mississippi River, upstream and protected from the Gulf of Mexico. Today the city has expanded all the way out to Lake Pontchartrain and essentially sits in a bowl below sea level. Due to subsidence and destruction of wetlands, and because of channeling the Mississippi River out to the Gulf of Mexico, New Orleans has become a seaport and is now on the open sea, dependent on levees to protect it. He showed a satellite picture of the flood that filled the bowl with many of the levee breaches outlined. This was the greatest catastrophe involving an engineered system in the history of the United States.

Having examined in depth what happened in New Orleans, here are some of the things learned:

- We failed in foresight, ignoring many early warning signals and not taking adequate protections and precautions*
- We failed in organization; we developed ineffective working structures and processes*
- We failed in resource allocation, not having the right stuff in the right amounts in the right places at the right times*

- *We failed in trade-offs. We did not choose things wisely, we traded the wrong things in the wrong ways for the wrong reasons at the wrong times; we have to watch compromises*
- *We failed in management; we weren't on time and we weren't on budget*
- *We failed in diligence; we did not use time wisely; 40 years after we started, we still had an incomplete, deficient and defective protection system*
- *We failed in synthesis; we didn't have a coherent and compatible system, with a lot of disjointed pieces that didn't work as they should*
- *We failed in risk assessment and management, underestimating consequences, costs and benefits*

In summary, this failure happened because a severe hurricane tested and defeated a deeply flawed protection system, developed by an equally deeply flawed and deficient technology delivery system.

There are four components to the technology delivery system: 1) the public; 2) the government; 3) industry; and 4) nature. To fix the flood protection system, you have to fix the technology delivery system. All must unite in an active and engaging way. We should be reestablishing natural defenses that we have steadily eroded, and then use these natural defenses, supplemented with engineering works, for an environmentally pleasing and improved quality of life and protection. Professor Bea noted other countries, notably the Netherlands, who maintain a much higher level of protection. Our levee systems, much like New Orleans' levee systems, are approximately 150 years old, with flaws in concept and design.

One of the most important things learned in New Orleans is to manage protective area growth. You should only populate what you can adequately protect. The end message is to develop a coalition back to the technology delivery system that would, in fact, have a California flood protection authority. Everyone needs to work in concert and we need to engage the public and industry; we need to keep our focus on the life cycle from concept, design, construction, operation and maintenance. Hope is not an effective strategy to keep water friendly. The clock is ticking, the question is "What will we do?"

Professor Bea concluded by answering several questions from the Board.

11. Global Climate Change – 2:00 P.M.

A. Global Climate Change and its Impacts on California (John Andrew)

Mr. John Andrew of DWR gave an overhead presentation on California climate change on California's water resources. In 2003, DWR was in the process of updating the California water plan, doing it through a new stakeholder-based process. At that time, the Department, as part of the process, made a decision that climate change was real and has been working on that assumption for the last four years. This will be the challenge for us in water management in the 21st century. The only good news is that it is happening incrementally. Since it is unfolding in an incremental manner we have time to build flexibility into our water systems.

Almost two years ago, the Governor stated "Climate change is real. The debate is over." Since then, aggressive greenhouse gas emission targets were established. Also, biannual assessments from California state agencies on climate change are now required. The Climate Action Team, of which DWR is a member, was formed; most of what it has done is focus on the mitigation side.

AB32 signed by the Governor codified the 2020 target for emissions. This law also provides for mandatory reporting on sources of greenhouse gas emissions.

Mr. Andrew stated that the impacts from climate change are as dependent as much upon the changing climate itself as how you adapt to it. While much of the world does not have that capacity, the United States, and California in particular, probably does have the ability to adapt. Climate change will probably be the new theme for the next water plan update. As part of that process, we've formed a Climate Change Technical Advisory Group.

DWR is working to figure out what their carbon footprint is; the State Water Project is the single largest electricity consumer in the State, consuming approximately 3 percent of the State's electricity just to run the Project. The Department is also not going to renew its contract with Nevada Power Company when it terminates in 2013 which helps power the SWP. These two actions will help mitigate greenhouse gas emissions.

In answer to a question from Member Burroughs regarding vehicle emissions, Mr. Andrew stated that the Air Resources Board would cover that. However, DWR would look at its own transportation system and decide whether to use vehicles that run on alternative fuels. He also stated that he would be happy to return whenever the Board invited him for an update.

B. Sea Level and Flood Stage Planning Targets (Maurice Roos)

Mr. Maury Roos of DWR gave an overview of global warming climate change, and the water related impacts. The potential effects on California water resources include: reduced snow pack with runoff pattern shifts so there would be more runoff in the winter and less in the spring and early summer because of less snow; sea level rises which would be a problem for Delta levee stability and for salinity intrusion for the water projects; possible bigger floods and more intense rainfall events; some increase in water use for agriculture and urban landscape usage; and warmer river temperatures which could affect salmon and steelhead, the cold water fish.

With warmer temperatures, we will have higher snow levels in the mountains during winter storms. Precipitation is about the same but there is more winter runoff and it seems the northern Sierra would be more affected than the southern Sierra snowpack.

Mr. Roos then talked about sea level rise. Some of the effects would be more pressure on levees; risks of inundation in winter floods; higher risks of summer breaks; possible interference with export water transfer; erosion along the shore; and increased salinity intrusion in the Delta. He also spoke about possible flood increase. Higher snow levels during storms means more rain runoff. A 3 degree Celsius increase can yield about 10 percent increase in storm intensity. This will also affect the way water is stored. Currently, space is held open in reservoirs in winter to provide space for the spring snow melt. This would have to change if there is little snowpack for spring melt.

Mr. Roos then answered questions from the Board regarding salt water intrusion and sea level rise.

12. Briefing on Government Land Acquisition Laws and Determination of Fair Market Value (Ward Tabor, Asst. Chief Counsel, DWR) - 3:30 P.M.

Mr. Ward Tabor introduced himself saying that he had been working for and with the Reclamation Board for many years, acting as the General Manager at one point, with a specialty in land acquisitions. In addressing concerns raised about what some of the legal principals were, related to land acquisition and just compensation, he assured the Board that the principles that relate to this topic are ones that go back to both the federal and State constitution which guarantee that property owners be treated fairly and be fairly compensated when the governments needs to acquire their property. Public agencies are required to use every reasonable effort to acquire property through a voluntary transaction; they must perform an appraisal, and the owners need to be invited to attend the inspection. The property owner is also free to have their own representative be there as part of the inspection tour.

Once the appraisal has been done, it is required that the written offer be for no less than fair market value. Also, if the acquisition of a portion of a parcel would leave the remaining portion as an uneconomic remnant, then the public agency can be required to buy the entire parcel if the property owner so chooses. Fair Market Value is the highest price on the date of the evaluation that would be agreed to by a seller; it is a consideration of what this property is reasonably adaptable to, whether now or in the future.

There were many questions from the Board regarding various "what-ifs?"; Mr. Tabor responded to each, often with an example of a previous, somewhat similar acquisition and how it had been handled. It really always comes back to giving fair market value and treating the landowner fairly.

BOARD REPORTS

13. BOARD COMMENTS AND TASK LEADER REPORTS

Secretary Doherty reported that Mr. Bundy was retiring as head of the Sacramento River Conservation Area Forum. Member Rie reported that the Delta Levee Subventions Subcommittee continues to work on priorities and policies for 07/08. They are looking for input from the Board as to priority projects. Vice President Hodgkins asked that the Board focus on the strategic plan.

14. REPORT OF ACTIVITIES OF THE GENERAL MANAGER

General Manager Jay Punia reported on the status of permits and applications. Under questioning, he stated that applications do not have a time limit for approval; once a permit has been issued, however, work is supposed to be started within a year. Chief Engineer Bradley stated, however, that staff and Board tend to accommodate the applicant on the one-year time frame. Member Rie asked if we could start looking at some of those old applications to get whatever documents are missing to resolve having these hanging on the books. Mr. Punia stated that he would revisit the issue and see what could be done.

Mr. Punia reminded the Board of the American Society of Civil Engineers and Society for American Military Engineers Conference on July 24 through 26.

He gave an update on the Sacramento Area Flood Control Agency's permit. We are working with DWR to provide inspection reports to the Corps. We are also working on getting local levee maintaining agencies to present their plans to the Corps on how they are going to address deficiencies in their areas.

Mr. Punia asked that there be no board meeting in August. Board and staff are discussing various options, including a longer break between meetings, to maximize time for preparation for the meetings. Members Rie and Burroughs were concerned that taking a month off would put the Board further behind on issues. An extended time between meetings would make for even longer meetings when the Board did meet. The subject is still under discussion.

Mr. Punia and Member Burroughs attended the interagency Collaborative Meeting at which the main topic of discussion was the Corp's vegetation policy. DWR also gave a quick briefing on the critical erosion repair site.

15. FUTURE AGENDA

The Board reviewed the draft agenda for June 15. President Carter asked that Reggie Hill be put on the agenda to talk about his concerns in regard to the lower San Joaquin River Flood Control Project.

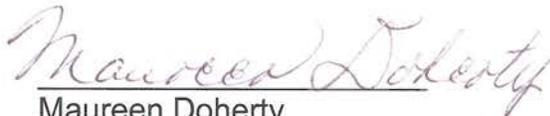
With regard to the Feather River Segments 1 and 3, Mr. Scott Shapiro of TRLIA asked that they be addressed sooner than the June 15th meeting. After much discussion between Board, staff and TRLIA, it was agreed that the Board would have a special meeting some time in the first week of June in Marysville to address these issues

Member Burroughs then asked for comments from legal counsel and staff regarding the four letters received as part of the Board packet. Legal Counsel Morgan stated that Mr. Rex Archer was requesting an opinion on the Mello-Roos Act as it relates to TRLIA. Mr. Morgan said that the Board is not in an oversight role in terms of Mello-Roos funds that are being collected. Regarding the letter from Mr. Bob Naylor, Mr. Punia stated that he has discussed the issue with Mr. Naylor, but had not provided a written response to him at this time. President Carter stated that Mr. Naylor had addressed the Board today stating what was in his letter during the public comment segment. Member Doherty feels the Board needs to address the issue of the Board at one time saying strengthen-in-place was good, and now saying it was not good. President Carter said the issue would be part of the subcommittee discussion. Since it is an open subcommittee meeting, all Board members may attend. In regard to a letter from Rex Archer, Mr. Punia stated he had not provided a written response to his letters but had spoken on the phone with Mr. Archer. He also stated that he needed to reread the letters before giving any other comments.

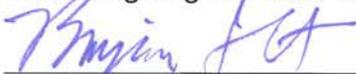
16. ADJOURN

President Carter adjourned the meeting at 5:30 p.m.

Dated: SEPTEMBER 21, 2007


Maureen Doherty
Secretary

The foregoing minutes were approved:


Benjamin F. Carter
President