

MINUTES

MEETING OF THE CENTRAL VALLEY FLOOD PROTECTION BOARD September 19, 2008

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 Central Valley Flood Protection Board was held on September 19, 2008, beginning at 8:42 a.m., at The Resources Building Auditorium, 1416 Ninth Street, Sacramento, California.

The following members of the Board were present:

Mr. Benjamin Carter, President
Mr. Francis "Butch" Hodgkins, Vice President
Ms. Maureen "Lady Bug" Doherty, Secretary
Ms. Teri Rie, Member
Ms. Emma Suarez, Member

The following members of the Board staff were present:

Mr. Jay Punia, Executive Officer
Mr. Eric Butler, Senior Engineer
Ms. Virginia Cahill, Legal Counsel
Mr. Gary Hester, Chief Engineer
Ms. Lorraine Pendlebury, Staff Analyst
Mr. Geoff Shumway, Staff Analyst

Department of Water Resources staff present:

Mr. Joseph Chang, Flood Maintenance Office
Mr. Steve Dawson, Floodway Protection Section
Mr. Eric Koch, Flood Projects Office
Mr. David Lawson, Delta Levees Program
Mr. Mike Mirmazaheri, Program Manager for Delta Levees Program
Mr. Keith Swanson, Flood Maintenance Office
Mr. Jon Yego, Chief, Floodway Protection Section

Also Present:

Mr. Al Montna, Montna Farms
Mr. Tom Teesdale, resident of Meridian
Mr. John Messick, resident of Marysville
Mr. Darren Goodman, resident of Yuba City
Ms. Debra Smith, California Attorney General's Office
Dr. Rudy Rosen, Ducks Unlimited
Mr. Kevin Foerster, U.S. Fish and Wildlife Service
Mr. Don Trieu, MBK Engineers
Mr. Dave Means, Wildlife Conservation Board
Mr. Peter Buck, Sacramento Area Flood Control Agency
Mr. Steve Chainey, EDAW
Mr. Dave Aladjem, Downey Brand, for Reclamation District 800

1. ROLL CALL

Before the Roll Call, President Carter noted that Board Members Carter and Doherty attended a tour yesterday (Thursday, 9-18) of the Plumas Lakes area, specifically looking at portions of the Bear River setback levee that were built two years ago, and the restoration projects that are within the Bear River flood control channel; as well as the new construction of the Feather River setback levee and the Segments 1 and 3 Feather River repairs that are in place in Yuba County. They later toured the Sutter Bypass, essentially looking at the maintenance activities that are ongoing from the Highway 20 Bridge south to south of the Tisdale Weir.

Executive Officer Punia then called the roll.

President Carter announced that Rose Marie Burroughs has resigned from the Board, effective August 31. Thus, there is now a vacancy on the Board.

2. APPROVAL OF MINUTES - June 20, 2008 and July 18, 2008 Meetings

Upon motion by Secretary Doherty, seconded by Vice President Hodgkins, the Board unanimously approved the June 20, 2008 and July 18, 2008 Meeting Minutes as presented in their Board packets.

3. APPROVAL OF AGENDA

After some deliberation, upon motion by Vice President Hodgkins, seconded by Member Suarez, the Board unanimously approved the removal of Item 6J from the Consent Calendar and scheduled it for a Hearing later today (see below).

4. PUBLIC COMMENT

Mr. Tom Teesdale, resident of Meridian, presented and discussed pictures of the Sutter Bypass that were taken from the Buttes in 1916, to show that no obstructions of any kind interfered with the free flow of water through the bypass at that time.

Mr. John Messick and Mr. Darren Goodman, residents of Marysville, discussed permit application requests they had previously submitted to build houses on Plantz Road in Marysville. They asked the Board to approve the permits. President Carter thanked the residents for coming before the Board and apprising them of the delays they are experiencing with the permit, and of his efforts to get the Corps to speed up the process.

Ms. Rie arrived during this discussion.

5. REPORT OF ACTIVITIES OF THE DEPARTMENT OF WATER RESOURCES

Mr. Eric Koch, DWR, reported on the following:

- *Folsom Dam Joint Federal Project - construction is currently being scheduled or planned for 2010.*
- *American River Common Features - work continues on the WRDA '96 sites. The Jacobs Lane project, Reach A, was approved and the contract awarded for construction. Reach B will be constructed in 2009.*
- *South Sacramento streams - work continues there.*
- *West Sacramento project - geotech analysis for the repair of the two levee slip outs are nearing completion and scheduled for construction in 2009.*
- *The Yuba Basin project General Reevaluation Report is underway.*
- *Lower San Joaquin Feasibility Study is close to receiving an approved PMP and agreement on a cost-sharing agreement.*
- *Orestimba project - the Corps continues to work on the estimates and had a meeting in Newman on the 17th.*
- *Butte County has indicated that they will not be able to participate in the Rock Creek/Keefer Slough feasibility study due to the county's current financial difficulties.*
- *TRLIA is trying to complete the Segment 2 setback levee this year.*

- *North Natomas Cross Canal - they expect to complete Phase B this year and Phase 2 will continue next year.*
- *Star Bend setback project continues on schedule.*
- *Reclamation District 2103 - Bear River levee improvement project will complete only about 4,000 of the 10,000 foot project this year; the remainder to be completed in 2009.*
- *Local Levee Urgent Repair and Evaluation Program - applications have been received and are undergoing review. They hope to award grants sometime in October.*
- *Maintenance Support Branch - Many issues remain on the Sutter Bypass, but there has been a lot of progress.*
- *Flood Projects Branch, Flood Operations Branch - are in the process of gearing up their preseason activities. Training will begin and continue until all of the staff is fully trained in SEMS/NIMS operations.*
- *Project Integrity and Inspection Branch are busy conducting land and water-based surveys of erosion sites. They are also completing the Channels and Structures inspection, which is due for release on September 30th.*
- *Levee Evaluation Branch – Non-urban Levee Evaluation Program is working on development of the project purpose.*
- *Levee Repairs Branch work continues.*
- *Chief Koch also discussed the local agency reporting requirements that resulted from AB 156. Local agencies are required to report on certain aspects of levee performance, conditions and maintenance. DWR will consolidate this information and provide a summary report to the Board by December 31st.*

6. CONSENT CALENDAR

A. Permit No. 18187, William Herrod

Consider approval to authorize 13 existing walnut trees on the left (east) bank overflow area of the Sacramento River in Sutter County.

B. Permit No. 18205, James Hargrove

Consider approval to authorize existing 26- by 40-inch, concrete pad, at the landside toe of the left (south) bank levee of the American River in Sacramento County.

C. Permit No. 18244, Wayne Herman

Consider approval to replace existing boat dock with a 20- by 36-foot aluminum dock supported by four steel pilings attached to a 3- by 50-foot gangway attached to a 4- by 2-foot concrete landing on the left (east) bank levee of the Sacramento River in Sacramento County.

D. Permit No. 18254, California Department of Parks and Recreation

Consider approval to construct an 8-foot-wide, 40-foot-long walkway supported by thirteen 16-inch diameter concrete piers; a 37-foot-long concrete retaining wall; and pave area for one handicapped parking space on the landside slope; excavate a 24-foot-long, 12-inch-wide, 18-inch-deep trench parallel to and approximately 10 feet from the landside toe and fill with rebar and concrete to support existing structure on the left (east) bank levee of the Sacramento River in Sacramento County.

E. Atlas Tract (RD 2126) - Application No. 18257, San Joaquin County

In response to recent directions from the Sacramento District, U.S. Army Corps of Engineers, consider approval of a letter to the Corps requesting post authorization change (PAC) approval as a result of the passage of the Water Resources Development Act of 2007 (WRDA 07) to alter the federal flood control project levee between Bear Creek and Mosher Slough (about 4,000 linear feet) within the City of Stockton. The project proposes to move the general alignment of the existing project levee approximately 40 feet to the west to allow construction of a county road per the City of Stockton's adopted General Plan. This letter supersedes the Board's October 19, 2007 request to alter a portion of a federal levee under 33 U.S.C. Section 408.

F. Permit No. 18316, City of Stockton, Public Works Department

Consider approval to raise existing (conform to ADA standards) 6-foot-wide sidewalk and replace existing chain link fence on the landside slope of the left (south) bank levee of the Calaveras River in San Joaquin County.

G. Permit No. 18317, Arch Road Limited Partnership, LLC

Consider approval to install a box culvert across, construct a stormdrain outfall structure and place rock riprap on the left (south) bank; and install a water line (bored) under and across Littlejohn Creek in San Joaquin County.

H. Permit No. 18328, RD 765

Consider approval to abandon existing pipe and install a 20-inch-diameter steel discharge pipe through the left (east) bank levee of the Sacramento Deep Water Channel in Yolo County.

I. Permit No. 18335, Ken Wegner

Consider approval to construct a 175-foot-long, 6-foot-high, see-through, iron fence with concrete pillars (on 20-foot-centers) on the waterside crown shoulder of the left (east) bank levee of the Sacramento River in Sacramento County.

J. Permit No. 18364, A&G Montna Properties, L.P.

Consider approval to remove material; remove rice checks, excavate swales; construct levees; place material for islands, and tree mounds for planting willows; plant tules throughout the sites; install concrete boat access structures; and install flash-board riser water control structures within the Sutter Bypass in Sutter County.

(Item 6J was pulled from the Consent Calendar and a Public Hearing was called on the Item later in this Meeting.)

Mr. Steve Dawson, DWR, presented technical information about the permit.

Mr. Al Montna, Montna Farms, speaking on behalf of the project, provided some background information. He concluded by requesting that the Board approve the Permit, so the project can get underway in the spring of '09.

Dr. Rudy Rosen, Ducks Unlimited; Mr. Kevin Foerster, U.S. Fish and Wildlife Service; and Don Trieu, MBK Engineers, provided additional information.

Board discussion centered around their concern that the Bypass is an integral part of the flood conveyance system. Will it be compromised if this permit is approved? Will there be obstructions over three feet in height? Questions regarding mounds, trees planted there and assurances that maintenance will be continued in the future years ensued.

Upon motion by Member Rie, seconded by Member Suarez, the Board unanimously approved the permit, with minor edits to Condition 27 and upon concurrence of the U.S. Army Corps of Engineers. Also, we are all to receive a copy of the proposed management plan.

K. Permit No. 18388, Sacramento Regional Water Forum

Consider approval to excavate material, place cobbles along the cut, and spoil material on gravel bar within the channel of the American River in Sacramento County.

L. Permit No. 18390, Sunesys, LLC

Consider approval to install a fiber optic cable across channel and attach to existing utility poles on each side of Mormon Slough in San Joaquin County.

M. Permit No. 18391, Sunesys, LLC

Consider approval to install a fiber optic cable across channel and attach to existing utility poles on each side of Mosher Slough in San Joaquin County.

N. Permit No. 18392, Sunesys, LLC

Consider approval to install a fiber optic cable across channel and attach to existing utility poles on each side of Mosher Slough in San Joaquin County.

O. Permit No. 18394, Sunesys, LLC

Consider approval to install a support cable, with fiber optic cable attached, across channel and attach to existing utility poles on each side of the Smith Canal in San Joaquin County.

P. Permit No. 18395, Sunesys, LLC

Consider approval to install a fiber optic cable and attach to existing bridge across the channel of Mormon Slough.

Q. Permit No. 18402, Kent Ramos

Consider approval to construct access ramps on the landside and waterside slopes of the left (east) bank levee of the Sacramento Deep Water Channel in Yolo County.

R. Cache Creek Setback Levee, Milepost 1.4, Cervantes, Yolo County

Consider approval to Quitclaim existing rights for Parcel No. 13594 - A and B, acquired from Andre and Maria Cervantes and authorize acceptance of Grant Deeds for Parcel No. 13722 to correct an error discovered in the legal description of the Grant Deed used to acquire permanent rights in 2007.

S. Cache Creek Setback Levee, Milepost 1.4, Dewey, Yolo County

Consider approval to Quitclaim existing rights for Parcel No. 13595 A, C and D, acquired from The Harry J. Dewey and Marion J. Dewey Revocable Trust, Harry H.

Dewey and Marion J. Dewey, as Trustees and authorize acceptance of Grant Deed for Parcel No. 13721 to correct an error discovered in the legal description of the Grant Deed used to acquire permanent rights in 2007.

T. Tisdale Bypass Channel Rehabilitation Project

Consider approval to grant a nonexclusive perpetual easement to Reclamation District No. 1660. This easement grants to RD 1660 the right to use access road and maintain drainage ditch through a portion of the 156.67 acres of Central Valley Flood Protection Board Parcel No. 13636 Unit B in Sutter County.

As mentioned above, Item 6J was discussed as a Hearing.

Upon motion by Member Rie, seconded by Secretary Doherty, the Board unanimously approved Consent Calendar Items 6A through 6I and 6K through 6T, including minor edits to Items 6A and 6E; and all Items are subject to the approval of the Corps as appropriate.

7. HEARINGS AND DECISIONS

A. Permit No. 18360, RD 17 Reconstruction

Consider approval to reconstruct and extend landside berms with earth and gravel fill, both landward and along the levee toe, so as to reduce seepage exit gradients along two reaches of the right (east) bank levee of the San Joaquin River in San Joaquin County.

Mr. Steve Dawson, DWR, presented technical information about the permit.

Mr. Dante John Nomellini, Assistant Secretary and RD 17 counsel, presented additional information and stated that the engineering aspects of the project have been completely resolved. He then asked the Board to approve the permit.

Chief Engineer Hester reiterated that the engineering concerns have been addressed.

Vice President Hodgkins asked whether or not the state believes that the engineering work associated with the project improvements represents the same kind of standard the State would apply if they were doing the job, or as would apply through FloodSAFE? Mr. Dawson replied that they did.

Upon motion by Member Suarez, seconded by Secretary Doherty, the Board unanimously adopted the Permit and the CEQA findings, subject to receiving the approval letter from the Corps and compliance by the applicant of Corps requirements.

B. Permit No. 18374, Robert Ginno

Consider approval to plant native trees, shrubs, and grasses within the designated floodway on the right (west) bank of the Sacramento River in Tehama County.

As the applicant was not present, the Board postponed Hearing 7B to a future Meeting.

C. Permit No. 18399, Department of Water Resources

Consider approval to replace existing Denil fish ladder, two 60-inch-diameter corrugated metal pipe culverts and one 60-inch-diameter concrete culvert with a pool and chute fish ladder and four 60-inch-diameter CMP culverts; abandon existing concrete culvert and wing wall structure and remove existing CMP culvert along the east levee of the Sutter Bypass at Willow Slough in Sutter County.

Mr. Steve Dawson, DWR, presented technical information about the permit.

Mr. Joseph Chang, DWR, presented an overview of the project and its' goals and objectives, and asked for Board approval of the permit.

Upon motion by Member Suarez, second by Ms. Rie, the Board unanimously adopted the Permit as presented, with the caveat that the Board receive confirmation or concurrence from the Corps.

Permit No. 18400, Department of Water Resources

Consider approval to replace existing Weir No. 2 and fish ladder with new weir and fish ladder within the Bypass; place approximately 2,000 cubic yards of fill and a 22-by-26-foot concrete pad for new 12-by 16-foot control building on the landslide slope of the east bank levee of the Sutter Bypass in Sutter County.

Mr. Steve Dawson, DWR, and Mr. Joseph Chang, DWR, presented technical and other information about the permit.

Upon motion by Secretary Doherty, seconded by Member Suarez, the Board unanimously approved the Permit as presented, pending receipt of the Biological Opinion and the Corps final, as well as the 401 and 1601 applications from Department of Fish and Game.

REQUESTED ACTIONS

8. Title 23 PROPOSED AMENDMENTS

Consider comments received at the June 12, 2008 stakeholder meeting regarding Title 23 proposed regulations amendments and provide direction to staff to proceed with amending the Board's Title 23 regulations.

Ms. Debbie Smith, Attorney General's Office, updated the Board on the process of amending the Title 23 regulations, and received feedback from the Board on some of the issues raised at the stakeholders meeting of June 12th. Any changes to the regulations will possibly be formally presented to the Board at the next Meeting.

9. MEMORANDUM OF AGREEMENT BETWEEN THE CENTRAL VALLEY FLOOD PROTECTION BOARD AND THE CALIFORNIA DEPARTMENT OF WATER RESOURCES

Delegate the authority to the Board President to execute a Memorandum of Agreement between the Central Valley Flood Protection Board and the California Department of Water Resources to work cooperatively and collaboratively to develop and implement an integrated State flood management program for the Central Valley, while preserving their independent authorities and jurisdiction as set forth in the law.

Deputy Attorney General Cahill detailed the changes made to the MOU since last month and Members discussed the potential interpretations of some of the changes.

Upon motion by Member Suarez, seconded by Member Rie, the Board unanimously moved to delegate to the President the authority to finalize the MOA.

10. DELTA LEVEES MAINTENANCE SUBVENTIONS PROGRAM

Consider approval of the staff-recommended reimbursement amount under the Delta Levees Maintenance Subventions Program.

Mr. Mike Mirmazaheri, Program Manager, gave a short presentation on the Subventions Program funding and purpose. He concluded by asking the Board to consider allowing them to continue using the Subvention Program procedures and criteria as approved on September 21, 2007.

Because the Board had spent a great deal of time on consideration of item 6J, the day was waning, and it was the consensus that perhaps proper attention to this presentation would be lacking.

Upon motion by Member Rie, seconded by Secretary Doherty, the Board continued the Item to next month's Meeting. The vote was 4-1, with Vice President Hodgkins dissenting.

INFORMATIONAL BRIEFINGS

11. INFORMATIONAL REPORT FROM THE SACRAMENTO AREA FLOOD CONTROL AGENCY (SAFCA) ON THE FLOODWAY VEGETATION MANAGEMENT PLAN FOR THE LOWER AMERICAN RIVER, INCLUDING INITIAL HYDRAULIC MODELING REPORT

Mr. Peter Buck, SAFCA presented a summary of the technical methods and management planning, and emphasized that they are using a systematic approach.

Mr. Steve Chainey, EDAW, gave a brief summary of the purpose of the plan.

BOARD REPORTS

12. BOARD COMMENTS AND TASK LEADER REPORTS

President Carter reported that a California Levee Roundtable meeting was held earlier in the month. The Roundtable is working on finalizing a framework to maintain PL 8499 eligibility for the Central Valley. A subsequent follow-up meeting was held with Corps headquarters leadership, who indicated that the draft framework had been reviewed and agreed to by the Chief of Engineers of the Corps and the Assistant Secretary of the Army for Civil Works. Thus, it appears that the framework is moving forward.

Also, the members of the Roundtable agreed to continue to meet, to work out the interagency issues with regard to levee safety and levee maintenance. The existing plan is to release a communiqué from all the agencies involved during an upcoming Board meeting.

A National Levee Safety Committee is being formed and Rod Mayer, DWR was accepted as a member of the Committee. President Carter will serve on the review team.

The Board continues to work on the permit backlog with regard to the Corps' processing of Board permits, and Corps representatives agreed to entertain all options in terms of trying to resolve the problem.

Vice President Hodgkins attended the first meeting of the Yolo-Lower Yolo Bypass Planning Forum.

Members discussed the expectations regarding timekeeping for purposes of Board Member salaries. Board and DWR staff will further clarify what's needed and report that information at the next Board Meeting.

Member Rie attended a meeting with the Corps, DWR and local agencies regarding guidance from the Corps on 408 processes. They hope to have updated 408 guidance from the Corps sometime in October.

Secretary Doherty went with the Sutter yard on a tour of Reservation Road north of Colusa and expressed her concerns regarding elderberry overgrowth in the area. Members discussed potential solutions. She also toured the Cherokee Canal area in the Butte Basin.

13. REPORT OF THE ACTIVITIES OF THE EXECUTIVE OFFICER

Executive Officer Punia asked for guidance on the LD1 setback levee. After receiving input from Members, he noted that slight changes to the proposal will be incorporated and the 408 package will be submitted. He also reported that:

- *Member Brown and he attended the West Sacramento ground-breaking ceremony.*
- *Both houses approved SB1360 and it is now at the Governor's desk. Indications are that the Governor will veto the bill.*
- *The Sacramento-San Joaquin Drainage District map is almost complete and will be shown at the next Board meeting and then attached to the Board website.*
- *Dan Fua and Debbie Smith continue to work on the Cortopassi lawsuit.*
- *The contract for continuing services from the Department of Justice is almost done.*
- *The sole source contract processing for Dr. William Reckmeyer is progressing, but will take four to six additional months. The contract for Mr. Patrick Bell is going through the same process.*

14. FUTURE AGENDA

President Carter read the proposed future agenda.

The Delta Levee Subventions Program funding approval will be added to the agenda.

Today's Item 7B, the Permit No. 18374 (Ginno) Hearing, will also be added.

15. ADJOURN

President Carter adjourned the meeting at 5:48 p.m.

Dated: _____



Maureen Doherty
Secretary

The foregoing minutes were approved:



Benjamin F. Carter
President