

**MINUTES**  
**MEETING OF THE CENTRAL VALLEY FLOOD PROTECTION BOARD**  
**September 26, 2014**

**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. THESE MINUTES ARE PRESENTED IN AGENDA ORDER, BUT ITEMS WERE NOT NECESSARILY HEARD IN THAT ORDER.

A regular meeting of the Central Valley Flood Protection Board was held on September 26, 2014, beginning at 9:04 a.m. in The Sacramento City Hall First Floor Council Chambers, 915 I Street, Sacramento, California.

**The Members of the Board:**

Mr. William H. (Bill) Edgar, President  
Ms. Emma Suarez, Vice President  
Ms. Jane Dolan, Secretary  
Mr. Joe Countryman  
Mr. Clyde Macdonald  
Mr. Tim Ramirez  
Mr. Mike Villines

**The following members of the Board staff were present:**

Ms. Leslie Gallagher, Acting Executive Officer and Chief Counsel  
Mr. Len Marino, Chief Engineer  
Mr. Eric Butler, Chief, Projects and Environmental Branch  
Ms. Mitra Emami, Chief, Permitting Section  
Ms. Nancy Moricz, Senior Engineer  
Ms. Nicole Rinke, Board Counsel  
Ms. Amber Woertink, Board Analyst  
Mr. Michael Wright, Acting Chief, Operations Branch

**Department of Water Resources (DWR) staff present:**

Mr. Keith Swanson, Chief, Division of Flood Management  
Ms. Gail Newton, Chief, FloodSAFE Environmental Stewardship and Statewide Resources Office (FESSRO)  
Mr. David Pesavento, Chief, Flood Project Inspection Section  
Mr. Dave Wheeldon, Chief, Flood System Sustainability Branch

**Also Present:**

Mr. Ryan Larson, United States Army Corps of Engineers  
Mr. Michael Bessette, Sutter Butte Flood Control Agency  
Mr. Tim Wood, Tehama County Public Works  
Mr. Max Sakato, Reclamation District 1500  
Ms. Melinda Terry, California Central Valley Flood Control Association  
Ms. Andrea Clark, Attorney for the California Central Valley Flood Control Association  
Mr. Chris Neudeck, Kjeldsen, Sinnock & Neudeck  
Mr. Thane Young, Van Scoyoc Associates  
Mr. John Cain, American Rivers  
Mr. Ronald Stork, Friends of the River

**1. ROLL CALL**

Ms. Amber Woertink, Board Analyst, announced that the Board now has a LinkedIn page. Interested parties can access updates, links to webcasts, future tour information and other pertinent Board information from the site.

Ms. Woertink called the roll and a quorum was achieved.

**2. APPROVAL OF MINUTES – July 25, 2014 – *Postponed***

**3. APPROVAL OF AGENDA**

Ms. Leslie Gallagher, Acting Executive Officer, stated that Consent Item 4A, Permit Number 18944, had been removed from the Agenda per Applicant request.

**4. CONSENT**

**A. Permit No. 18944, Decker Island, LLC - *Removed per Applicant Request***

**Consider approval of Permit No. 18944 to extend electrical cables buried across the Sherman Island Flood Protection Levee of the Sacramento River, under the Sacramento Horseshoe Bend Channel floodway, and up onto Decker Island. (Sacramento and Solano Counties)**

**B. Permit No. 18957, Woodland-Davis Clean Water Agency**

**Consider approval of Permit No. 18957 to install a 42-inch diameter HDPE raw water pipeline under the left (east) and right (west) bank levees of the Yolo Bypass and connect to a new 36-inch diameter steel pipeline, installed by the trenching method, across the interior of the Yolo Bypass. The project includes the installation of a 3-inch diameter steel conduit up-and-over the**

right (west) bank levee to accommodate a cathodic protection wire. (Yolo County)

**C. Permit No. 18968, South Sutter Water District**

Consider approval of Permit No. 18968 to install two 14-ft wide cone fish screens to convey screened water from Auburn Ravine into Pleasant Grove Creek Canal, including the installation of a power pole and a 2-inch conduit along the north bank of Pleasant Grove Creek Canal, to provide electrical power to the fish screens. (Placer County)

**D. Application No. 18980, Reclamation District 17, Phase III Levee Seepage Repair Project**

Consider approval of a letter to the U.S. Army Corps of Engineers requesting 33 U.S. Code Section 408 approval to alter approximately 5.2 miles of State Plan of Flood Control project levee along the east (right) bank of the San Joaquin River and north bank of Walthall Slough. (San Joaquin County)

*Upon motion by Secretary Dolan, seconded by Board Member Macdonald, the Board unanimously approved Consent Calendar Items 4B, 4C, and 4D.*

**5. PUBLIC COMMENTS**

Ms. Melinda Terry, California Central Valley Flood Control Association, expressed her concerns regarding some of the new conditions of the latest DWR funding programs.

**6. U.S. ARMY CORPS OF ENGINEERS (THE CORPS) BRIEFING**

**A. U.S. Army Corps of Engineers Levee Inspection Results**

1. Deer Creek left bank, Unit 1 east - Tehama County (Tehama County)
2. Deer Creek left bank, Unit 1 west - Tehama County (Tehama County)
3. Deer Creek right bank, Unit 2 - Tehama County (Tehama County)
4. Deer Creek right bank, Unit 3 - Tehama County (Tehama County)
5. RD 1500 and Tisdale Bypass - Sutter Basin South (Sutter County)
6. RD 0349 - Sutter Island (Sacramento County)
7. RD 0563 and RD 0554 - Tyler Island (Sacramento County)
8. RD 2058 and RD 2095 - Paradise Cut (San Joaquin County)

Mr. Ryan Larson, the Corps, gave the presentation and answered Board Member questions. He noted that all eight inspections resulted in unacceptable ratings and thus all are inactive for the PL 84-99 program.

In addition, Corps inspectors were denied access to Deer Creek Unit 3 (#4 above). Ms. Nicole Rinke, Board Legal Counsel, commented that, even though the Corps may have been denied access, the Board still retains authority to pursue enforcement if it deems it necessary to do so.

Mr. Tim Wood, Tehama County Public Works, detailed the repair work in progress on Items 1-4. Mr. Max Sakato, Reclamation District (RD) 1500 General Manager (Item #5), and Mr. Chris Neudeck, RD 563 Engineer (Item #7), provided additional clarifications for their RDs. Each answered Board Member questions.

Mr. Michael Wright, Board Operations Branch Acting Chief, updated the Board on enforcement activities. He noted that 73 percent of levee systems, primarily in rural areas, are inactive for PL 84-99. This represents 32 percent of the total population currently protected by levees.

Mr. Ronald Stork, Friends of the River, remarked that Friends of the River and the Corps have reached a settlement on their litigation over levee vegetation issues.

## **7. REPORT OF THE ACTIVITIES OF THE DEPARTMENT OF WATER RESOURCES (DWR)**

### **Division of Flood Management (DFM) Activities/Updates**

Mr. Keith Swanson, DWR DFM Chief, gave the report and answered Board Member questions. Some highlights:

- There are currently three regulatory actions in the public review process:
  1. The NOAA Fisheries and the Fish and Wildlife Service are proposing changes to portions of the Endangered Species Act that deal with critical habitat designations.
  2. U.S. EPA and the Corps are proposing changes to portions of the Clean Water Act of 1972 that deal with Waters of the US.
  3. U.S. Fish and Wildlife Service is proposing to list as “threatened” the western distinct population segment of the yellow-billed cuckoo, and to designate over 500,000 acres across nine states as critical yellow-billed cuckoo habitat.

From a flood management perspective, DWR doesn’t see the first two as much of a problem and thus are not planning to provide any comments to those two proposed actions.

However, DWR will comment on the third action, which may impact their ability to operate and maintain water supply and flood protection infrastructure. There is

also concern with construction of dams, reservoir operations, water supply, flood system improvements, flood system operation and maintenance, surface water diversions and groundwater extractions.

- There is a five-year DFM initiative underway to produce organizational cost information about Fund Center planning efforts, and to develop and update the relationship between DWR Fund Centers and project budget information.
- The flood inundation map atlas is about 80 percent developed.
- A scope of work document is being prepared to clarify Phase 2 regional planning funding.
- Annual flood risk notifications were sent out at the beginning of September.
- Regarding the Yolo Bypass Initiative: DFM staff is conducting outreach with the various parties to more fully clarify the ongoing activities in the Bypass and to bring those activities into closer alignment. It is hoped that the various groups involved will come together to implement common objectives and policies, and that the outreach process will eventually lead to more stable financing for the parties involved.

#### **FloodSAFE Environmental Stewardship and Statewide Resources Office (FESSRO) Activities/Updates**

Ms. Gail Newton, DWR FESSRO Chief, provided the update.

### **8. REQUESTED ACTIONS**

#### **A. Extended Time Variance for Sutter Butte Flood Control Agency (SBFCA), Feather River West Levee Project Construction**

**Consider authorizing the Sutter Butte Flood Control Agency to continue work past November 1, 2014 on construction activities related to issued Flood System Improvement Permit Nos. 18793-1, 18793-2, and 18793-3 based on the proposed work schedule and subject to favorable weather conditions. (Butte and Sutter Counties).**

Ms. Nancy Moricz, Board Senior Engineer, gave the presentation and concluded with the staff recommendation that the Board approve the request from SBFCA to extend the window for possible construction activities to December 23, 2014, under the conditions and in the manner outlined, including favorable weather conditions; to direct the Board Executive Officer to issue the extended time variance to SBFCA as requested; and to coordinate with SBFCA and inspectors during the continuing construction, and monitor weather and river conditions during the variance period.

Mr. Eric Butler, Board Projects and Environmental Branch Chief, stated that on September 18<sup>th</sup> the NOAA issued a seasonal drought outlook for the region and is forecasting that, through the end of December, the drought will persist or intensify.

Mr. Michael Bessette, SBFCA, remarked that they hope to make good use of a bad situation. Given the existing drought weather conditions, they believe there is plenty of time for them to complete their work this year.

*Upon motion by Vice President Suarez, seconded by Board Member Macdonald, the Board unanimously approved the staff recommendation.*

**9. CLOSED SESSION**

- A. To discuss litigation (Hardesty et. al. v. Sacramento Metropolitan Air Quality Management District et. al; United States District Court, Eastern District of California - Sacramento Division Case No. 2:10-cv-02414-GEB-JFM) pursuant to Govt. Code section 11126(e)(1).**
- B. To discuss litigation (Central Valley Flood Protection Board v. Lino Catabran, Sacramento Superior Court Case No. 34-2013-142003) pursuant to Govt. Code section 11126(e)(1).**
- C. Pursuant to the authority of Government Code section 11126, subdivisions (e)(1), (e)(2)(B)(i), and (e)(2)(C)(i), the Board will meet in Closed Session to consider potential litigation involving the Board.**

**10. CLOSED SESSION REPORT - *None***

**11. REQUESTED ACTIONS (Continued)**

- A. Activate Advisory Committee pursuant to Resolution 2012-25, Resolved 11(d), Regarding the Conservation Strategy and the Central Valley Flood Protection Plan (CVFPP)**

**Consider designating an advisory committee to develop specific, measurable, achievable, results oriented and time-bound conservation objectives for consideration by the Board for inclusion in the Conservation Strategy and/or 2017 CVFPP.**

Ms. Leslie Gallagher, Board Acting Executive Officer and Legal Counsel, noted that the Board has the authority to convene these types of advisory groups pursuant to Water Code 9612(f), which allows the Board to appoint advisory committees to assist in the preparation of the CVFPP.

Mr. John Cain, American River Partners, thanked the Board for moving forward with the formation of this Committee and expressed his hope that this forum will be a chance for the stakeholders to better discuss the ecological objectives in the Conservation Strategy as they move towards the 2017 implementation of the CVFPP.

Mr. Swanson, DWR DFM Chief, remarked that understanding what success looks like and then having the appropriate people work together in implementing that success is going to be a key element for this Committee, as it is in the modification of the Yolo Bypass Initiative.

Board Members deliberated on who the committee members should be and how to establish timelines for implementation of the strategies generated.

President Edgar proposed that Vice President Suarez and Board Member Macdonald be appointed as Board representatives for the committee, with Secretary Dolan and himself as alternates. The committee would periodically report back to the full Board, and the first report would be to delineate an agreed-upon charter as well as a timetable that would meet the deadlines for inclusion into the CVFPP.

*Upon motion by Board Member Ramirez, seconded by Secretary Dolan, the Board unanimously adopted the staff recommendation, supplemented by President Edgar's suggestions (see above paragraph).*

#### **B. Progress Report and Policy Discussion on Updating the Board's Title 23 Regulations**

**Pursuant to Strategic Plan Objective 1.1, staff will provide an update to the Board on progress to modernize and amend the Board's regulations. Currently planned near-term changes include technical updates to existing permit standards, new standards for swimming pools adjacent to levees, and alignment of the regulations with the Delta Stewardship Council's Delta Plan for those projects located within the legal Delta. Additional proposed changes include descriptive updates to definitions and permit application review processes to better describe current practices and federal 33 USC Section 408 requirements. Staff will seek input and direction from the Board with regard to these items.**

Mr. Eric Butler, Board Projects and Environmental Branch Chief, updated the Board on recent and current activities, recent policy and procedure development, and some Board permitting practices. He also recommended additions to the Track 3 technical update and led the Board through a policy discussion regarding modernization and amendment of Board regulations.

Board Members asked questions and commented on various elements of the proposed revised regulations and provided guidance and direction on how best to proceed.

It was agreed that Board staff will proceed based on today's discussion and in accordance with the established timetable.

## **12. INFORMATIONAL BRIEFINGS**

### **A. Flood System Repair Project (FSRP) status**

Mr. Dave Wheeldon, DWR Flood System Sustainability Branch Chief, provided the Briefing and answered Board Member questions.

Ms. Andrea Clark, speaking on behalf of the California Central Valley Flood Control Association, and in particular RD 1500 and the Sutter Butte Flood Control Agency, offered comments and concerns related to the FSRP funding agreements, and specifically the proposed operation and maintenance agreement. She urged the Board to work with DWR to address the concerns quickly so that critical repairs can move forward, and answered Board Member questions.

Mr. Tim Wood, Tehama County Public Works, discussed how funding concerns affected specific projects in his county.

### **B. Water Resources Reform and Development Act (WRRDA) of 2014 Briefing**

Mr. Thane Young, Van Scoyoc Associates, updated the Board on where the WRRDA is now in the appropriations process and how the elections might affect that process, and answered Board Member questions.

## **13. BOARD COMMENTS AND TASK LEADER REPORTS**

Board Member Macdonald went on two tours. He engaged in several conversations with FESSRO and DWR flood staff. He and President Edgar met with SAFCA on the SB 753 pilot. He spent considerable time thinking about levee vegetation and will be providing comments on that issue.

Secretary Dolan attended some tours, as well as an excellent and well-attended workshop of the Mid Upper Sac Regional Flood Management Planning group. She continued her work with the Executive Committee and her two regional groups.

President Edgar continued working on the in-house organizational and staffing analysis designed to finalize Board staff management structure and objectives. He, Ms. Gallagher and Board Member Macdonald are working with DWR's Mike Mierzwa on a written description of what the integration phase of Phase 2 of the regional planning looks like. He attended the San Joaquin tour trip.



Vice President Suarez continued her work with the Mid Upper Sac Region. She spent significant time working with Mr. Butler on various upcoming presentations and discussions.

Board Member Countryman also attended the San Joaquin tour trip. He is in discussion with DWR about updating the 1955 and 1957 water surface profiles.

Board Member Villines attended the San Joaquin tour trip in addition to two river restoration meetings and another tour. He spent a lot of time in the Legislature following up with staff and keeping in touch.

Board Member Ramirez spent considerable time thinking about the situation in the San Joaquin and attended other tours. He met with the basin-wide folks from the San Joaquin side and discussed basin issues with them.

#### **14. FUTURE AGENDA**

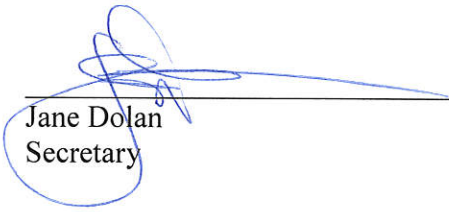
Ms. Gallagher remarked that the proposed agenda for the October 24 board meeting has been disseminated and is available for review. She also discussed the schedule for the October 10 tour in the northern part of the state.

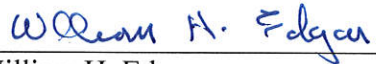
#### **15. ADJOURN-REGULAR BOARD MEETING**

The Board unanimously adjourned the Open Session at 4:29 p.m.

Dated: 12-19-2014

The foregoing Minutes were approved:

  
\_\_\_\_\_  
Jane Dolan  
Secretary

  
\_\_\_\_\_  
William H. Edgar  
President