

**MINUTES**  
**MEETING OF THE CENTRAL VALLEY FLOOD PROTECTION BOARD**  
**January 28, 2011**

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 January 28, 2011 at 8:30 a.m. at The Resources Building, 1416 Ninth Street, Auditorium, Sacramento, California.

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

Mr. Benjamin Carter, President  
Ms. Teri Rie, Vice President  
Mr. Butch Hodgkins, Secretary  
Mr. John Brown  
Mr. John Moffatt  
Ms. Emma Suarez  
Mr. Mike Villines

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

Mr. Jay Punia, Executive Officer  
Mr. Len Marino, Chief Engineer  
Mr. Dan Fua, Supervising Engineer  
Mr. Curt Taras, Supervising Engineer  
Ms. Angeles Caliso, Staff Engineer  
Ms. Nancy Moricz, Staff Engineer  
Ms. Amber Woertink, Office Technician  
Ms. Deborah Smith, Legal Counsel

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

Mr. Gary Bardini, Chief, Division of Flood Management  
Mr. Jeremy Arrich, Chief, Central Valley Flood Planning Office  
Mr. Russell Eckman, Superintendent, Sacramento Maintenance Yard  
Ms. Kelly Fucciolo, Chief, Early Implementation Program  
Mr. Noel Lerner, Chief, Maintenance Support Branch  
Mr. David Pesavento, Chief, Inspection Section  
Mr. Keith Swanson, Chief, Flood Maintenance Office

**Also Present:**

Mr. Tom Fisher, California Department of Transportation  
Mr. Donald Murphy  
Ms. Meegan Nagy, United States Army Corps of Engineers  
Mr. Scott Shapiro, California Central Valley Flood Control  
Mr. Jeff Twitchell, Levee District 1

**1. ROLL CALL**

President Carter welcomed everyone and requested Executive Officer Punia to call the roll. All Board members were present.

President Carter welcomed two new Board members, Michael Villines and John Moffatt. He asked them to introduce themselves.

Board Member Villines said that he is excited to be serving with everyone. Originally from Fresno, he has worked on water issues for a long time in the Legislature and the Resources Agency. He has a real passion for the water movement and flood control in California.

Board Member Moffatt, originally from Lake Isabella, has spent the last eight years working on water issues and flood issues: first as a staff member for Senator Poochigian, then with Governor Schwarzenegger. These issues are important personally to him. He is excited to be here and excited to get to work, and is intrigued by all the issues that he has seen so far.

**2. APPROVAL OF MINUTES**

*Upon motion by Board Member Brown, seconded by Secretary Hodgkins, the Board unanimously approved the Minutes for October 28, 2010.*

**3. APPROVAL OF AGENDA**

Executive Officer Punia gave the staff recommendations that Consent Calendar Items 8A and 8H be postponed, and that Item 8F be moved to a hearing. There was also a change to the staff report with respect to the environmental category: Permit 18634 will be exempt from CEQA.

*Upon motion by Board Member Brown, seconded by Vice-President Rie, the Board unanimously approved the staff recommendations given above.*

**4. PUBLIC COMMENT – NONE**

**5. RECOGNITION OF SERVICE – PAL SANDHU**

President Carter stated that the Board wished to recognize Mr. Pal Sandhu on his retirement. As is customary, the Board had prepared a Resolution which President Carter read into the record. It summarized Mr. Sandhu's long and distinguished international career. Mr. Sandhu thanked the Board for their guidance, and he thanked the Levee Repairs Branch and DWR in carrying on the work.

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

Mr. Gary Bardini, DWR Division Chief, gave an update of department activities.

- Having worked with Mr. Sandhu for the last 20 years, Mr. Bardini began by commending him on his accomplishments.
- The Army Corps of Engineers (the Corps) has continued to progress a Policy Guidance Letter (PGL) through roundtable efforts with DWR.
  - At a meeting on January 19, DWR voiced its concerns with the Corps on aspects of systemwide flood management as well as the PGL. General Grisoli was receptive.
  - Mr. Mike Inamine, DWR Levee Safety Officer, traveled to Washington D.C. and briefed staffers of Senators Boxer and Feinstein; civil engineering staff at the Corps headquarters and the Assistant Secretary of the Army (ASA) staff were also present. The consensus of the Senators' staff was to have the Corps recirculate a new version of their PGL.
  - DWR has also coordinated with other associations in the Bay Area and southern California on the PGL issue.
  - In response to a question from Board Member Suarez, Mr. Bardini stated the DWR's concern in general with the PGL is legacy issues: the Central Valley, as well as other areas in the State, would need regional variances and other processes. Right now, the PGL puts all the burden on the non-federal partner over establishing that there is no implication on public safety for having vegetation.
  - Regional partners would also be heavily impacted when attempting to meet the strict requirements laid out by the Corps.
  - In response to a question from Board Member Moffatt, Mr. Bardini stated that National Association of Flood and Stormwater Management Agencies (NAFSMA) across the states have submitted a letter regarding the PGL. Also, the PGL is a discretionary action by the federal government and they are still required to meet the Endangered Species Act (ESA) responsibilities.

Mr. Keith Swanson, Chief of the Flood Maintenance Office, DWR, continued the report.

- On the personnel side, Mr. Stein Buer has moved into the role of Acting Deputy Director over Public Safety.
- Reservoirs are running at 115% of average The statewide snowpack is about 78% of the April average.
- Budget issues and furloughs have had an impact on DWR's inspection program. This year they could not inspect almost a quarter of the levees in the system – almost 400 miles.
- Operation and maintenance (O&M):
  - The Sutter Bypass Pumping Plant Control System Project went out to bid and was awarded. Building begins this summer.

- The Sutter Bypass East Borrow Canal Weir 2 project is currently out to bid.
- Emergency repairs on a critical erosion site in RD 2064 are complete.
- Flood risk management:
  - DWR's Light Detection and Ranging (LiDAR) data is now being circulated internally. The cost to provide the data is significant. Data is starting to be made available to the programs.
- Projects:
  - A small longitudinal crack on the Western Pacific Interceptor Canal has been checked.
  - On the Folsom Dam modifications projects, the U.S. Bureau of Reclamation completed Phase 2, which was the removal of 25 million cubic yards of excavation from the spillway.
- Evaluations and engineering:
  - DWR recently released its flood control system status report, a snapshot of the conditions of the Sacramento and San Joaquin Flood Control projects.

Mr. Jeremy Arrich, Chief, Central Valley Flood Planning Office, gave a brief presentation on the Central Valley Flood Protection Plan progress report.

- The vision for the plan is to provide a foundation for risk-informed decision-making.
- Components of the plan's framework were named.
- The plan will ultimately include initial recommendations.
- DWR will have a significant role in implementing future improvements to the flood control system.
- With DWR and the Board, the Corps is currently developing the Central Valley Flood Integrated Flood Management Study.
- From a local and regional perspective, the plan will articulate guidance so that the local agencies can demonstrate their consistency with the plan when they are planning and implementing local projects.
- An administrative working draft of the Flood Control System Status Report is being crafted, as is a history report to describe the evolution of the flood control system, and the plans that developed from it.
- Development of the Plan will include topics such as climate change, vegetation management, level of protection, definitions and criteria for demonstrating urban level of protection, and financing and revenue.
- The plan will articulate the goals and objectives DWR is trying to reach throughout the system.

- The Plan will be implemented in sequential phasing over the next five to 25 years.

President Carter expressed concern over the schedule slip of the Central Valley Floodplain Evaluation and Delineation Program (CVFED) deliverables. It's a very daunting project, and maybe not enough progress is being made toward the mandated deadline of mid-2012.

Mr. Arrich responded that the necessary analysis will be conducted and the Plan will be delivered on schedule. The vegetation issue has taken on a life of its own, but the Plan that the Board receives will have the current information on vegetation incorporated.

Board Member Brown stated concern that the plan deals with conveyance through the Delta, instead of watershed management or an integrated watershed management conveyance approach.

Mr. Arrich responded that DWR is looking at a variety of management actions such as storage and reservoir operations,

Mr. David Pesavento, Chief, DWR Inspection Section, gave an overview of recent inspection information. He covered the following topics.

- Overview of the 2010 inspection results and report:
  - In light of severe budget restrictions, DWR identified 31 Levee Maintaining Agencies (LMAs) encompassing approximately 382 miles of levees that were deemed lower priority, and could not be inspected this year.
  - Forty-nine districts were rated acceptable, 19 minimally acceptable, and 38 unacceptable.
  - Sixteen channels were rated acceptable, three minimally acceptable, and one unacceptable.
  - Eight pumping plants were rated acceptable, four minimally acceptable, none unacceptable, and one was not inspected.
- Corps periodic inspections:
  - Sixteen LMAs had portions with unacceptable items that were likely to prevent performance in a high water event.
  - An area of potential concern is how DWR is rating some of the vegetation.
- PL 84-99 eligibility:
  - As of July 2008, 13 LMAs were identified as ineligible. As of May 2010, an additional 37 LMAs were identified as ineligible, but formal removal from the program was still pending.
  - Looking at the results from the periodic inspections (PIs), a grand total of 46 LMAs would have portions with potential for removal from the assistance program.
  - The Corps has been slow to release many periodic inspection (PI) reports.

- Challenges of 2010 that continue in 2011:
- Erosion. DWR currently has four different sources of erosion data that they are pulling from to include in reporting.
- Obstruction and partial obstruction. Thirty-two additional local maintaining agencies have issues rated as unacceptable.

President Carter noted that DWR looks at the data differently than the Corps and does their inspections differently than the Corps. Uniformity in guidelines and criteria would lessen confusion for the Board.

Mr. Pesavento's results seemed fairly dire. President Carter asked what DWR is doing in working with the LMAs to improve their inspection results and maintenance activities. Mr. Pesavento responded that DWR continues to share inspection results with the LMAs and to work with them closely. A large problem is vegetation growth.

In response to a question from Board Member Brown, Mr. Pesavento noted that there are limits on some of the types of brush that can be removed because of federal environmental restrictions. This creates a conflict with 84-99 issues. Other sections of DWR are working with the Corps to get some sort of resolution modifications to Corps policy regarding this contradiction.

Secretary Hodgkins had noticed that after looking at some of the Corps' periodic inspections, they see many more encroachments as potentially causing ineligibility than was reflected in this DWR presentation. He requested for DWR to help the Board anticipate encroachments that are going to become PL 84-99 issues.

Mr. Swanson suggested that DWR come back next month and lay out some of its vision on how to make progress in this area. DWR is starting to work through ideas on how to break up the maintenance issues versus the legacy issue.

Ms. Meegan Nagy of the Corps stated that they also would be happy to come next month and present their general findings from PIs. They had been hearing from locals that the State and the Corps inspect differently.

## **7. REPORT OF ACTIVITIES OF THE EXECUTIVE OFFICER**

Executive Officer Punia reported on the following items.

- Ms. Mitra Emami has been hired as Chief of Floodway Protection Section.
- Ms. Alison Tang has been hired as a Staff Engineer.
- For the Sutter Bypass 2-D model, a Notice to Proceed was issued to the consultant. Staff is having the first stakeholder meeting on February 11. Mr. Punia commended the efforts of former Board Member Lady Bug Doherty in making this happen. He also acknowledged the efforts of Mr. Swanson and Mr. David Williams in bringing the money packet together.
- The Three Rivers Levee Improvement Agency Feather River Setback Levee Project has been named the 2010 American Society of Civil Engineers Region 9 award winner for the Outstanding Flood Management Project. Mr. Punia commended the efforts of Mr. Paul Brunner and his team.

- Staff met with the River Partners to discuss their Llano Seco Riparian Sanctuary Restoration Project alternatives.
- Staff met with the Meridian Water Company and U.S. Department of Fish and Game for their fish screen project.
- DWR has submitted its Central Valley Flood Protection Plan Progress Report. It is posted on the CVFPB website for the public to review and use.
- Merced County subpoenaed various members of DWR and CVFPB staff regarding a lawsuit related to Permit #16204.
- Based on the Board's order at the last hearing, the Conex boxes were removed from the Sieglitz property along the Garden Highway.
- Due to recent high waters, there was erosion in RD 1000. Mr. Paul Devereux and his crews from the local Reclamation District are taking steps to arrest the erosion.
- Board Member Suarez and Vice President Rie, along with the Board's Chief Engineer, met with the Delta Stewardship Council to provide input for the development of the Delta plan.
- The Board's Chief Engineer is continuing his efforts to work with San Joaquin County to address the encroachments on Bear Creek.
- Staff and local Reclamation District 17 have developed a mutually acceptable monitoring program for compliance with the Board permit.

Mr. Marino gave a status update of pending permits.

- Staff has 10 approved permits awaiting issuance for Corps letters. Fifty are in Corps review, 87 are in staff review, and 14 are new.
- In response to a question from Board Member Suarez, Mr. Marino stated that the oldest permits are six months. Staff has refined the process such that new permits are on the Board's calendar within 90 days.
- In response to a question from Vice President Rie, Mr. Marino said that staff has gone through old reports, contacting the applicants to ask if they are still interested in the application. Staff indicates that if they don't hear from the applicant in 30 days, the permit is canceled.
- Staff engineers, scientists, and attorneys are still having to take three furlough days per month

## 8. CONSENT CALENDAR

### A. Permit No. 18387, Reclamation District No. 1601 *(Removed from agenda)*

**Consider approval of Permit No. 18387 to authorize a 1,900-foot setback levee on the left (south) bank of Sevenmile Slough. (Sacramento County)**

### B. Permit No. 18605-1, California Department of Transportation

Consider approval of Permit No. 18605-1 to widen and modify the southbound lanes (46-0030L) and the northbound lanes (46-0030R) of the Highway 99 Bridge across Cross Creek to accommodate six lanes of traffic. (Tulare County)

**C. Permit No. 18605-2, California Department of Transportation**

Consider approval of Permit No. 18605-2 to widen and modify the southbound lanes (46-0031L) and the northbound lanes (46-0031R) of the Highway 99 Bridge across Cross Creek to accommodate six lanes of traffic. (Tulare County)

**D. Permit No. 18605-3, California Department of Transportation**

Consider approval of Permit No. 18605-3 to widen and modify the southbound lanes (46-0032L) and the northbound lanes (46-0032R) of the Highway 99 Bridge across Cross Creek to accommodate six lanes of traffic. (Tulare County)

**E. Permit No. 18605-4, California Department of Transportation**

Consider approval of Permit No. 18605-4 to widen and modify the southbound lanes (46-0033L) and the northbound lanes (46-0033R) of the Highway 99 Bridge across Cross Creek to accommodate six lanes of traffic. (Tulare County)

**F. Permit No. 18605-5, California Department of Transportation (*Moved to Hearing*)**

Consider approval of Permit No. 18605-5 to widen and modify the southbound lanes (46-0034L) and the northbound lanes (46-0034R) of the Highway 99 Bridge across Cross Creek to accommodate six lanes of traffic. (Tulare County)

**G. Permit No. 18612, Mort Friedman**

Consider approval of Permit No.18612 to authorize existing landscaping, an iron fence, and a retaining wall in the overflow area on the right (north) bank of the American River. (Sacramento County)

**H. Permit No. 18619, City of Sacramento (*Removed from agenda*)**

Consider approval of Permit No.18619 to remove an existing 12-inch diameter steel outlet pipe and install a 12-inch solid wall HDPE DR21 pipe with fusion welded joints through the left (south) bank of Arcade Creek. (Sacramento County)

**I. Permit No. 18624, Wolfsen Land and Cattle Company**

Consider approval of Permit No.18624 to install a 36-inch diameter non-pressurized reinforced concrete water conveyance pipeline under the Eastside Bypass and install a second 36-inch diameter non-pressurized reinforced concrete water conveyance pipeline under the left (west) bank levee of the Eastside Bypass. (Merced County)

**J. Permit No. 18630, California Department of Water Resources**

Consider approval of Permit No.18630 to drill 21 boreholes, 19 of which will contain piezometers and two will be monitoring wells, install wiring that will be routed through PVC conduit to an installed power pole that will house a data logger, solar panel, and a backup battery, all on the left (north) bank levee of the Sacramento River. (Sutter County)



**K. Permit No. 18634, North Bypass Ranch, Sutter Bypass**

Consider approval of Permit No. 18634 to enhance 119 acres of managed seasonal wetlands and 71 acres of upland habitat within the Sutter Bypass, which will improve the water conveyance system, replace dilapidated water control structures, remove three existing berms (1,010 linear feet), plant native grasses, and improve the existing perimeter levee on two parcels of land. (Sutter County)

**L. Permit No. 18640, City of Colusa**

Consider approval of Permit No. 18640 to construct a reinforced concrete staircase with handrails on the landside slope of the right (west) bank levee of the Sacramento River. (Colusa County)

**M. Permit No. 18642, Three Rivers Levee Improvement Authority**

Consider approval of Permit No. 18642 to transplant approximately 34 elderberry shrubs and plant additional associated species into the existing Anderson Mitigation Site to mitigate for elderberry impacts from the Upper Yuba Levee Improvement Project. (Yuba County)

**N. Transfer of Recently Completed Project – American River Common Features, Site R4**

Consider approval of Resolution No. 10-45 to accept completed American River Common Features Project from the U.S. Army Corps of Engineers and transfer operation and maintenance responsibility to the Sacramento Area Flood Control Agency (SAFCA).

**O. Property Management: Norwood Avenue Bridge Replacement Project – Arcade Creek – Sacramento County**

Consider approving the conveyance of permanent easements and temporary construction easement from Sacramento and San Joaquin Drainage District (SSJDD) to City of Sacramento for a public road, utility easement and for access and staging and delegating to the Board president and secretary the authority to execute the Easement Deeds and Temporary Construction Easement.

**P. Schedule for Central Valley Floodplain Evaluation and Delineation Program.**

Pursuant to Senate Bill 5, consider approval of Resolution No. 11-02 to approve the current schedule for the Central Valley Floodplain Evaluation and Delineation Program.

*Upon motion by Board Member Brown, seconded by Board Member Suarez, the Board voted to approve the items on the Consent Calendar with six votes aye and one abstention.*

**9. HEARINGS AND DECISIONS**

**A. Permit Application No. 18413, Donald Murphy**

Consider denial of Application No. 18413 to install a cyclone fence across the landside and waterside slope, including two gates across the levee crown on the east or left bank or the levee of the Sacramento River. (Sacramento County)

Ms. Angeles Caliso, Staff Engineer, began by describing the area of the project. She listed applicable laws and regulations that pertain to the encroachment, and described the history of the project: it was a continuation from the hearing held on October 17, 2008, where staff recommended denial of the permit application on the basis that the work interfered with the LMA's inspections, operations, and maintenance activities.

Ms. Caliso stated that three similar proposals had come before the Board, two of them in the MA9 area. Denial of those applications demonstrated the Board's commitment to the 1996 adopted guidelines at minimizing additional cross fences on the levee within the MA9 jurisdiction.

The Corps had recommended denial of the application and MA9 did not endorse it.

At the request of Board Member Moffatt, Ms. Caliso explained the compromises that were attempted between Board staff and the property owner.

Mr. Murphy, the property owner, stated to the Board that his objective was to use his rights as a private property owner to secure his property. He had waited 22 months while the legal department had ascertained the easement rights on his property.

He was concerned about dog attacks, people trespassing on his property, and his liability. He stated his willingness to keep gates open whenever necessary especially during flood season.

The Board discussed the application with Mr. Murphy.

Mr. Russell Eckman, Maintenance Superintendent at the Sacramento Maintenance Yard, pointed out that gate installation has been denied in the past due to the presence of too many gates already in the area. He described the public access situation on the levees.

Ms. Nagy noted that the Corps has had significant issues with access, especially with private property along the Sacramento levees. Ms. Deborah Smith, Staff Legal Counsel, pointed out that federal regulations code section 208.10 gives the Corps jurisdiction and authority over such projects.

Board Member Moffatt suggested that Mr. Murphy come back with some alternative plan that would help him on the liability issue.

Mr. Murphy stated that he understood that the fences were not going to be allowed; at this point he would like the opportunity to come up with something denoting private property/no trespassing.

Secretary Hodgkins explained that the State could not define how Mr. Murphy could protect his property rights; the onus was on him to work perhaps with an attorney to figure out how best to protect them.

*Upon motion by Board Member Suarez, seconded by Board Member Brown, the Board voted to deny the application.*

Underscoring the Board's view on the matter, President Carter stated that Mr. Murphy had been patient and reasonable, and the Board hoped to continue to work with him.

## **10. REQUESTED ACTIONS**

**A. Levee District One of Sutter County (LD-1), Star Bend, EIP Project – Consider review of the draft Long-Term Vegetation Management Plan for inclusion in the previously approved OMRR&R Agreement executed between the Central Valley Flood Protection Board and LD-1.**

Ms. Kelly Fucciolo, DWR Early Implementation Program Section Chief, presented the long-term management plan of LD 1. She gave the project background, then gave a revised recommendation for conditional approval of the vegetation monitoring plan with these provisions:

- Receipt of a letter of no objection from the Corps.
- That it remains in substantially the same form and content as provided in the staff report.

Secretary Hodgkins inquired about the basis for choosing the N value. Mr. Jeff Twitchell with GEI Consultants, replied that an N value of 0.07 had been put in the hydraulic model. It was consistent with the profile the project was designed for.

The question of incidental take authority came up; Mr. Twitchell specified that the Corps had the authority.

*Upon motion by Board Member Brown, seconded by Vice President Rie, the Board voted for conditional approval by a vote of five ayes and one abstention.*

**B. California Department of Transportation District 6 – Consider approval of Permit No. 18605-5 to widen and modify the southbound lanes and northbound lanes of the Highway 99 bridge across Cross Creek to accommodate six lanes of traffic in Tulare County.**

Ms. Nancy Moricz, Staff Engineer, gave the presentation with a slight correction to the description, that only the northbound structure would be removed and replaced. She gave the project location and analysis, then discussed the technicalities with the Board.

Mr. Punia explained that the standard established Title 23 was not being met; it was a variance, and staff was recommending that the Board approve it. Board Member Suarez noted that the issue of when and how to apply variances has come up in the past. She requested that Ms. Moricz supply a detailed discussion to justify not following the standard.

Ms. Moricz stated that staff had concluded that the project had negligible adverse incremental hydraulic effects on the floodway, despite the lack of compliance with Title 23. She gave details on the cost, benefits, additional staff analysis, CEQA findings, and Corps response. Discussion continued. The wording of Resolution 11-06 was discussed.

Mr. Tom Fisher, CalTrans hydraulic engineer, answered questions about channel capacity and replacement of the bridge box.

The motion developed into:

- Approve of the staff recommendation to grant the Permit No. 18605-5.
- Adopt the CEQA findings.

- Adopt the Resolution 11-06 with the proposed changes of removing some of the language, and clarifying the reasons why the Board supports the variance.

*Upon motion by Board Member Brown, seconded by Board Member Suarez, the Board voted unanimously to approve and adopt the staff recommendations.*

**C. Tier 1B Revisions to Title 23 of the California Code of Regulations Implementing Recent AB 1165 Legislation Including Delegated Authority to the Executive Officer, Enforcement Actions, Ex-Parte Communications, and General Policy Changes.**

Mr. Curt Taras, Chief of the Encroachments Branch, reported that he and Ms. Smith had taken the Board's comments of the December 3 meeting into consideration and incorporated them as best they could into the new draft. He stated that the regulations, if approved today, will be combined with a Statement of Reasons and submitted to the California Office of Administrative Law for public noticing.

Mr. Taras walked the Board through the major changes that he and Ms. Smith had made.

- Changes to the regulations regarding delegated authority to the Executive Officer to issue or deny permits.
- Changes to the language and terminology used for what was delegated to the Executive Officer, so that they were all consistent.
- A change stating that permits or approvals requiring Headquarters Corps, Division Corps approval are not delegated to the Executive Officer.
- A change stating not to exclude the Executive Officer from approving a permit or approval that involved environmental restoration or mitigation.
- A deletion in the review rights language that said that the public could appeal a decision made by the Director of the DWR to the Board.
- Additions to the Enforcement Actions section regarding maintenance activities, Cease and Desist Orders, staff reports for respondents, etc.
- The reconsideration section was restored to the regulations.

The Board discussed the language regarding public nuisances, permits, delegations, and so on.

Mr. Scott Shapiro, Staff General Counsel, spoke on the revocation issue, encroachment permits, and the delegation issue. Board members continued the discussion on delegation.

Mr. Taras summarized the wording changes per the Board's discussion.

*Upon motion by Secretary Hodgkins, seconded by Board Member Brown, the Board voted unanimously to authorize staff to make the changes summarized above to finalize the regulations, and to submit them to the Office of Administrative Law to allow them to become formal.*

**C. Status Report and Presentation of Project Alternatives for the Road 9 Fresno River Diversion Project.**

Mr. Marino began the presentation by locating and providing an overview of the project site. He described the basic problem: the riparian diverters are not receiving their full allotment, which is the 100 cfs that ranches were promised when the structure was originally built.

The hydraulic analysis was completed in December. Staff found that the Road 9 structure was not able to deliver 100 cfs. Staff offered a series of six alternatives for achieving the 100 cfs.

The solution that looked the brightest involved adding another 6 x 4' box culvert, doubling the throughput of the levee. This would require permission from the Corps and would cost \$584,000.

Another solution would be to combine the replacement of the box culvert and the CMPs, basically replacing all the culverts for \$872,000. This would produce 114 cfs on the downstream end.

The CEQA analysis hasn't been performed yet.

There is a difference of opinion over O&M: the O&M manual says that the diverters have responsibility for the diversion channel since they are the irrigators. The riparians say that O&M is the responsibility of the Lower San Joaquin Levee District.

The staff recommendation was to move forward with the CEQA analysis and continue communication with the ranches and the Lower San Joaquin Levee District to come up with a plan that is the best fit for everyone.

The next step was a Mitigated Negative Declaration, which would cost around \$100,000 in staff time. Funds were available.

Mr. Marino answered Board questions. President Carter clarified that the Reclamation Board designed and built the project with DWR acting as the Board's construction authority; now they were asking the Board to change the design to satisfy the original intent of the project. Mr. Punia confirmed this.

The Board agreed to have Secretary Hodgkins meet with Mr. Marino and go over the alternatives, utilizing Secretary Hodgkins' knowledge of flood control; and at the same time review the agreement with the landowners for the right of way to establish the Board's responsibility in the matter.

**11. BOARD SPONSORED PROJECTS AND STUDY AGREEMENTS – *None***

**12. INFORMATIONAL BRIEFINGS**

**A. Letter to the State Water Resources Control Board regarding the San Joaquin River Restoration Program.**

Mr. Dan Fua, Staff Supervising Engineer, reported on the letter. It is supposed to summarize the Board's concerns on the Bureau of Reclamation's use of the Board's flood control facilities for the San Joaquin River Restoration Program Fish Restoration Flows.

Staff has prepared the letter and shared the draft with some of the Board Members, whose comments were incorporated. Mr. Fua requested for the Board to review the draft again.

Board Member Brown stressed that it was extremely important for the Bureau to make peace with the landowners. The Bureau needs to understand that they are not using the Board's flood easements to convey fish flows – they are very specifically for flood flows. Were the Bureau to use them for fish flows, and the Board were to permit it or okay it, this would put the State in a very precarious situation.

President Carter emphasized that the Board needs to come to some mutual resolution with the Lower San Joaquin Levee District, DWR, the Bureau, and the landowners. The Board Members discussed the situation. Board Member Suarez made points that the Board requested her to add to the letter.

*Upon motion by Board Member Brown, seconded by Secretary Hodgkins, the Board voted unanimously to approve the letter.*

## 12. BOARD COMMENTS AND TASK LEADER REPORTS

- Board Member Suarez reported on the regulations revamping task group. They have finished with Tier 1B and moved to Tier 2. Mr. Fua provided the task group with a strike-out draft version of what the encroachment standards might look like. There are several policy issues for which the task group will ask the Board's guidance.

She noted that Senator Steinberg is looking at legislation regarding a review of the whole State regulatory scheme and how burdensome it is. This may affect staff workload if the legislation is passed.

- Secretary Hodgkins reported that he participated with DWR and Mr. Punia on the update on the Central Valley Flood Plan.

He also participated in the collaborative with the environmental agencies and DWR on trying to work through issues that may be potential problems, such as small erosion repair.

He participated in a weekly update on the State's lobbying effort, where the news is generally not so good and the small staff is stretched.

He attended one day of the workshop on California Vegetation Research. It provided an update to all the participants on the work associated with vegetation.

- Vice President Rie reported that she and Mr. Marino participated in a meeting with the Delta Stewardship Council, where they received an advance copy of the Delta Plan to review. The Board will have to come to some agreement with the Delta Stewardship Council, on the levees where the Board has jurisdiction.

She participated in the NAFSMA conference calls. NAFSMA is preparing a letter to ASA Darcy, to which she and President Carter are adding their comments.

- Board Member Brown reported that he has a presentation coming up for the Colusa Rotary Club on March 1, on flood control issues.

Last month he gave a presentation before the Yolo County Landowners Association.

- President Carter reported that as Vice President Rie mentioned, he has been participating in the NAFSMA conference calls.

He has also been listening in at the request of the Colusa County on the County Association of Engineers on their discussion of vegetation management in the flood areas.

He has been participating in a series of meetings with the California Roundtable Steering Committee in the selection of a facilitator. They have now selected one.

He attended the Change of Command Ceremony where Brigadier General Donahue turned over his command of the South Pacific Division to Colonel Leady. He learned that Lieutenant General Van Antwerp will be retiring in May, with his replacement as yet unannounced.

He toured the Sacramento area with Major General Grisoli, and found him very willing to listen. The focus of the visit was vegetation policy.

He attended one day of the California Vegetation Research. He learned that there is not a lot of science on levee vegetation.

### 13. FUTURE AGENDA

President Carter briefed the Board on the agenda for the February meeting.

### 14. ADJOURN

President Carter adjourned the meeting at 5:08 p.m.

Dated: 3-25-2011

The foregoing Minutes were approved:

  
\_\_\_\_\_  
Frances "Butch" Hodgkins  
Secretary

  
\_\_\_\_\_  
Benjamin F. Carter  
President