

MINUTES
MEETING OF THE CENTRAL VALLEY FLOOD PROTECTION BOARD
July 22, 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 July 22, 2011 at 8:30 a.m. in the Auditorium of the Resources Building, 1416 Ninth Street, 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
Mr. Jared Huffman, Ex Officio, represented by Ms. Tina Cannon-Leahy

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
Mr. Eric Butler, Senior Engineer
Mr. Dave Williams, Senior Engineer
Ms. Lorraine Pendlebury, Staff Analyst
Ms. Deborah Smith, Legal Counsel

Department of Water Resources (DWR) staff present:

Mr. Gary Bardini, Chief, Division of Flood Management
Mr. Stein Buer
Dr. Dave Carlson, Senior Engineer
Mr. Kevin Faulkenberry, Senior Engineer
Ms. Gail Newton, Chief, FloodSAFE Environmental Stewardship and Statewide Resources Office
Mr. George Qualley
Mr. Ward Tabor, Assistant Chief Counsel

Mr. Kent Zenobia, Chief, Project Delivery Branch

Also present:

Dr. Cheryl Bly-Chester, Society of American Military Engineers

Mr. Joe Countryman, MBK Engineers

Ms. Alicia Forsythe, United States Bureau of Reclamation

Mr. Ron Nelson, Nevada Irrigation District

Mr. Scott Shapiro

1. ROLL CALL

President Carter welcomed everyone to the meeting. He requested Executive Officer Punia to call the roll. All Board members were present except Vice President Rie, who arrived shortly.

President Carter extended a special welcome to Ms. Tina Leahy, who was representing the Board's ex officio member Mr. Jared Huffman. Ms. Leahy is the principal consultant on the Assembly Water Parks and Wildlife Committee.

2. APPROVAL OF MINUTES

Upon motion by Board Member Brown, seconded by Board Member Villines, the Board unanimously approved the Minutes for May 27, 2011.

3. APPROVAL OF AGENDA

Executive Officer Punia gave the staff recommendations that Item 8G be changed to a full approval considering that staff has received the Corps letter and concurrence; that Items 8H and 10B be postponed; and that Item 8N be pulled to a Requested Action to be heard after the Consent.

Upon motion by Board Member Brown, seconded by Vice President Rie, the Board unanimously approved the agenda as amended above.

4. PUBLIC COMMENT

Mr. Ron Nelson, General Manager of the Nevada Irrigation District, spoke before the Board to give a preview of a project to provide fish passage in one of the facilities on Auburn Ravine.

The Nevada Irrigation District was asking for advice on how to facilitate the process of coming before the Board and obtaining a permit. This project was developed within the community with the intent of providing fish passage at one of the gauging stations, and opening up several miles of spawning habitat for salmon and steelhead.

In response to a question from Board Member Suarez, Mr. Curt Taras, Supervising Engineer, stated that an application had been received approximately June 15 and was returned with comments for additional data. Once staff receives the data, they will proceed with the application processing as normal.

Mr. Nelson noted that there was a narrow construction window between September 15 and the end of October. Bids were in hand, and a contractor was ready to go forward. In addition, grant money was available that expires at the end of this year.

Mr. Eric Butler, Senior Engineer, asserted that the project is a regulated stream, not a designated floodway, and is also non-fed – so it may not have to be routed through Corps review.

The Board encouraged staff to work diligently with the applicant to try to meet the deadline. Mr. Nelson was most appreciative of help the Nevada Irrigation District had already received from staff.

Dr. Cheryl Bly-Chester, Society of American Military Engineers, came forward to thank the Board for their help on the pilot study that helped her shape her dissertation. It had come out very well.

She announced that the Society of American Military Engineers Water Conference was coming up October 3-6 in Sacramento.

5. RECOGNITION OF SERVICE – JOE COUNTRYMAN

President Carter announced that it was his great honor and pleasure to present a resolution to Mr. Joe Countryman for his distinguished service on his retirement from public and private service.

He read from the resolution, which noted that "...Mr. Countryman has become one of the most respected technical experts on flood management issues in the Central Valley and has shaped flood management policy by advancing our understanding of the characteristics of extreme floods, improved the operation of existing flood management facilities, and has led efforts to make additional system modifications to further reduce the risk of flooding."

Executive Officer Punia, Secretary Hodgkins, Vice President Rie, and Senior Engineer Williams all voiced their appreciation for Mr. Countryman's work and expertise.

Mr. Countryman reminisced about his career which included making decisions regarding Folsom Dam's capacity during the dangerous 1986 flood. He noted that one of his work goals had been to improve the status of the forecasting and operation of the reservoirs.

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

Mr. Gary Bardini, Chief of the DWR Division of Flood Management, reported on the following.

- He commended Mr. Countryman for being invaluable in flood management, public safety, and reservoir operations.
- Mr. Keith Swanson, Chief, Flood Maintenance Office, has been working with RD 1001. DWR currently has a mission task working through CalEMA to proceed with repair. The program is moving from urgent emergency repair activities to a more mature slate of dealing with system deficiencies.

- Policies coming out of the Corps related to the 104 and the crediting have significant implications on the financing of local and State projects, in terms of how much federal interest to leverage. DWR has expressed its concerns in a letter from Secretary Laird to Jo-Ellen Darcy, Secretary of the Army. DWR is concerned that this will impact a number of projects that are currently under the Environmental Integrity Project (EIP). Mr. Rod Mayer will be traveling to Washington D.C. to express concerns with this change in policy.
- The Division of Flood Management has two upcoming retirements:
 - Mr. Dan Whisman of the Flood Risk Assessment Office. Mr. Paul Marshall, Assistant Division Chief, will be running the levee evaluations and Central Valley Floodplain Evaluation and Delineation (CVFED) programs.
 - Mr. Mike Inamine, who will go to work for the Sutter Butte Flood Control Agency (SBFCA) as Director of Engineering. DWR will be reshuffling his workload.
- Mr. George Qualley gave a presentation on ongoing policy issues.
 - He highlighted the rechartering of the California Roundtable, the submission of comments on the variance process, and a number of implementation issues with current and future projects.
 - He explained continuing resolution efforts, the DWR white paper and alternative variance process, and the new concept of systemwide improvement plan policy.
 - He reviewed current points of understanding but not resolution, for example, removable waterside vegetation that is unmitigable. DWR feels that its proposed approach to managing waterside vegetation and vegetation in general is consistent both with its public safety responsibilities and its environmental responsibilities.
 - The Corps' current schedule dates were shown.
 - In July, Roundtable focus group meetings and a general meeting had been useful.
 - A contextual comment from the Corps regarding the white paper stated that both the State and the Corps want to be looking at things on a risk prioritized basis. Mr. Qualley read two proposed sentences for the white paper that clarify the risk priority approach.
 - Mr. Qualley explained in detail the vegetation lifecycle management approach.

President Carter inquired about the difference of opinion between the State and the federal government as to risk to public safety of vegetation on the levees. Will it be possible to get agreement on the risks?

Mr. Qualley replied that it's going to take some creative thinking and willingness to collaborate towards a solution that works. We have a flood system that we

need to keep safe for the public. The flood system also happens to include a critical riparian corridor that's virtually irreplaceable. We can't ignore either responsibility. One of the tricky parts is that a foundation of the system improvement plan is "eventual compliance with the ETL."

In addition, the Corps has to look at the nationwide view. They have to be careful not to be too quick about making exceptions for certain areas.

Board Member Suarez asked how the vegetation policy is going to be addressed within the context of the plan. Mr. Qualley responded that once they settle on a version of the white paper, it will lay out DWR's recommended approach to managing levee vegetation within the context of all the other risk factors.

Board Member Suarez went on to ask about the public process DWR is engaging in. Has the issue been brought up during public meetings of the Central Valley Flood Protection Plan (CVFPP)? Mr. Bardini responded that aspects have been addressed in working groups. As DWR matures these policies in the next month or two, it fully intends to have a public vetting on this issue among others.

- Mr. Stein Buer gave a presentation on the evolving policies coming out of DWR's work on the CVFPP. He noted that the policies are a result of vigorous debate among DWR, Board staff, and the stakeholder community.

Below are highlights of the presentation.

- The CVFPP is a framework for investment in the future. Where will the dollars flow and why? Thus DWR is taking a systemwide approach.
- The broad stakeholder community is comprised of the urban, industrial, agricultural, and environmental sectors. It's important to commit to balanced implementation over time.
- In the rural agricultural community, there is an extensive historic levee system. It's spread out among 1,600 miles. Much of this legacy system is in fairly poor condition – a vast problem that will require huge amounts of funding in the next several generations to bring the entire levee system up to modern standards.
- Protection for rural levees must entail:
 - Access for patrolling, maintenance, and flood fighting.
 - Targeted improvements so the worst portions can meet basic design standards.
 - 100-year level flood protection for legacy agricultural communities to preserve their way of life.
- Rural areas provide the most likely opportunities to combine levee integrity improvements with ecosystem restoration projects.
- The National Flood Insurance Program is a critically important element in floodplain management nationwide. Over the past decade, FEMA has been in

the process of updating their maps. This has significant economic consequences.

- In terms of good floodplain management, we still need to occupy these floodplains. Agricultural activities are probably the most optimal activities we can engage in.
- There will always be a risk of levee failure to live with. It is particularly acute in the rural agricultural areas. Disaster awareness, flood operations, and disaster recovery require significant attention – they are important components of a comprehensive approach to flood management.
- Operations and maintenance (O&M) of the system has become increasingly complex, difficult, and expensive over the past several decades. The practices are far more constrained now by the declining environmental quality we are dealing with.
 - It is important to reinforce and continue to improve on the State inspection and regulatory process, as well as system analysis.
 - We need to improve our management practices wherever possible, in terms of equipment, practices, and the way we deal with environmental constraints.
 - The key to success is the conservation strategy that is being developed in conjunction with the rest of the plan.
 - A key element of the conservation strategy is coming up with an overall approach so that we can efficiently conduct maintenance of the system.
- We will encourage consolidation of local maintaining agencies.
- The State is currently responsible for maintaining the channels of the Sacramento River Flood Control Project. We are considering whether it would make sense for the State to take over maintenance of all the levees that protect the bypass system, which carry 80% of the flow in the system.
- There has been a historic discussion as erosion sites develop in the system over who is responsible – the State or the local agencies. The result has been a historic loss of efficiency as sites continue to erode and become more difficult and expensive to fix.
- We are proposing that the State take full responsibility for bankside erosion on the Sacramento River system, and come up with a fair and equitable way of distributing those costs.

Board Member Brown inquired about watershed management upstream – water and soil conservation practices and how these benefits can be integrated into the plan. Mr. Buer responded that the plan focuses on policy framework; the other key element of the comprehensive plan as it is evolving is specific actions.

Board Member Suarez asked about the level of controversy the plan may spark. Mr. Buer felt that there's no question that these proposals will spark vigorous debate.

Any time you talk about distributing costs in new ways, controversy will result. However, we are debating internally and consulting with the affected community; we intend to remain open-minded and fair.

Vice President Rie brought up policy proposals versus project proposals. Mr. Buer replied that a tremendous amount of effort is going into evaluating specific physical components, which can be assembled into an evolving plan. We are currently preparing an administrative working draft of the plan. We don't want to do this piecemeal – the key is a systemwide approach. There will be project-specific proposals in the 2012 plan.

Secretary Hodgkins asked about how to tie in a Corps systemwide assessment approach with the letter the Board received, that said no more 408s until there's a Programmatic EIR on systemwide improvement. Mr. Bardini answered that Mr. Qualley's and Mr. Buer's presentations both touched on some key policies, and there's a bigger list of tough issues that we're addressing with the Board in the discussion process.

Mr. Bardini went on to say that from an implementation perspective, though, you have to break it down in the regional area; to look at the financing capacity of locals and the State, and then the federal interest.

Board Member Moffatt mentioned the importance of financing to the plan, as well as control – who is in charge of each of the different aspects? When encouraging the consolidation of LMAs, how do you share cost? He felt that the plan should hit those issues head on. Mr. Bardini agreed. The plan should be as visionary as possible, and then the specifics should be laid out.

Secretary Hodgkins mentioned a systemwide improvement plan being introduced by the Corps. He asked if we can take this plan at this late date and shape it in a way to ease the Board's burden of working with the Corps in the future – meeting whatever requirements the Corps will set.

Mr. Bardini replied that this is going to be a big issue to queue up, not only at the State level but also at the federal level. Context needs to be understood first before specific policies are defined. The Corps must manage the entire country, then come up with specifics that are implementable and achieve the objectives. Yet when this is done within context, specific projects may be problematic.

President Carter emphasized the importance of working with the rural stakeholders, engaging them early and often, so that they have not only a preview but also perhaps some ownership over this plan. Mr. Bardini agreed.

7. REPORT OF ACTIVITIES OF THE EXECUTIVE OFFICER

Executive Officer Punia reported on the following items.

- Staff Associate Engineer Jon Tice has accepted a promotion to Supervising Engineer at the DWR.
- Staff Supervising Engineer Dan Fua plans to retire after 31 years of service.

- The package for Tier 1B proposed regulations has been approved by Secretary Laird. It has been submitted to the Department of Finance.
- Staff worked with DWR and found a way to fix the RD 1001 levee damage. Executive Director Punia commended the DWR staff efforts.
- Staff is working under the guidance of Board Members Rie and Villines to provide comments on the Delta plan. The main focus is to ensure that the Board's jurisdiction and authority are recognized in the plan.
- Regarding the San Joaquin River Restoration project: Board staff is planning a site visit to see Reach 2B and 4B on August 12.
- The Corps' recent policies on Sections 104 and 408 and on vegetation have a potential to delay implementation of the projects. Staff has drafted letters which were sent by President Carter to Mr. Steve Stockton and the Secretary of the Natural Resources Agency.
- Mr. Scott Shapiro and DWR staff have developed a white paper on Section 104, Section 408, and vegetation policies. A coalition will be meeting with the Assistant Secretary of the Army, Corps Headquarters staff, and elected representatives next week in Washington D.C.
- On July 19 a groundbreaking ceremony for the West Sacramento project was held. Close to two miles of the levee will be strengthened under this \$20 million project.
- At Bear Creek Levee, staff has continued the encroachment removal process by sending letters to the homeowners to begin coordination.
- Regarding the Schneider mining operation, staff requested the mining operator to submit the reclamation plan and geotechnical evaluation. Staff has received some information, but has had to request additional information.
- Mr. Curt Taras, Chief of Encroachments, gave an encroachment report for July.
 - Staff assisted TRLIA and RD 784 in issuing Notices of Violation for 57 lots that are encroaching onto District/State lands along the Feather River levee.
 - A series of activities were held to comply with the Corps' recent periodic inspections. RD 404 has addressed about 80% of the violations. Maintenance Area 9 has prepared approximately 50% of its orange violations. Board staff is working with the LMAs and maintenance areas to reach compliance with the Corps.
 - A series of enforcement hearings will be held during the next three months.
 - Dozens of Notices of Violation have been sent statewide to owners of pipes that need repair or removal per the Corps Periodic Inspection Report.
- Mr. Eric Butler, Senior Engineer, reported on the steadily decreasing permit backlog.

8. CONSENT CALENDAR

A. Permit No. 18166-1, Sacramento Regional Transit District

Consider approval of Permit No. 18166-1 to construct a 2000-foot aerial concrete structure to support light rail improvements over Morrison Creek east of Franklin Blvd. in the City of Sacramento for the South Sacramento Corridor Phase 2 project and includes embankment, abutments, temporary crossings, falsework, bents, bridge (aerial structure over Morrison creek/UPRR), track, and retaining walls. (Sacramento County)

B. Permit No. 18387, Reclamation District 1601

Consider approval of Permit No. 18387 to authorize an existing non-federal backup levee/county road re-alignment and appurtenances along the left (south) bank levee of Sevenmile Slough. (Sacramento County)

C. Permit No. 18517-A, Reclamation District 17

Consider approval of Permit No. 18517-A, to install landscape planting, irrigation improvements, Shoreblock (articulated concrete-block mat covering the exposed gravel portions of the seepage berm), concrete curb at base of Shoreblock, bicycle/pedestrian trail adjacent to curb, bollards on bicycle/pedestrian trail concrete mow strips and retain above/below ground utilities (i.e. street lights, fire hydrants) within the 15-foot-wide area landward of the berm toe for the previously constructed landside seepage berm on the right (east) bank levee of the San Joaquin River. (San Joaquin County)

D. Permit No. 18518-A, Reclamation District 17

Consider approval of Permit No. 18518-A, to install landscape planting, irrigation improvements, Shoreblock (articulated concrete-block mat covering the exposed gravel portions of the seepage berm), concrete curb at base of Shoreblock, bicycle/pedestrian trail adjacent to curb, bollards on bicycle/pedestrian trail concrete mow strips and retain above/below ground utilities (i.e. street lights, fire hydrants) within the 15-foot-wide area landward of the berm toe for the previously constructed landside seepage berm on the right (east) bank levee of the San Joaquin River. (San Joaquin County) .

E. Permit No. 18519-A, Reclamation District 17

Consider approval of Permit No. 18519-A, to install landscape planting, irrigation improvements, Shoreblock (articulated concrete-block mat covering the exposed gravel portions of the seepage berm), concrete curb at base of Shoreblock, bicycle/pedestrian trail adjacent to curb, bollards on bicycle/pedestrian trail concrete mow strips and retain above/below ground utilities (i.e. street lights, fire hydrants) within the 15-foot-wide area landward of the berm toe for the previously constructed landside seepage berm on the right (east) bank levee of the San Joaquin River. (San Joaquin County)

F. Permit No. 18586, George Turkmany

Consider approval of Permit No. 18586 to authorize an 8-inch diameter, 80-foot deep PVC domestic water well with a submersible pump on the overflow area of the right (north) bank levee of the Stanislaus River. (San Joaquin County)

G. Permit No. 18652, Ojii Bros. Farms, LLC – Changed to Full Approval

Consider approval of Permit No. 18652 to allow the installation of a state-of-the-art, self cleaning, and retractable Intake Screens, Inc. fish screen system on an existing permitted agricultural diversion owned and operated by Ojii Bros. Farms, Inc. (Sutter County)

H. Permit No. 18653, California Department of Transportation, District 3 – Postponed

Consider approval of Permit No. 18653 to authorize two existing cast-in-place reinforced box girder concrete bridge structures crossing Auburn Ravine at Highway 65 near Moore Road, north of the City of Roseville. (Placer County)

I. Permit No. 18660, Sutter Mutual Water Company

Consider approval of Permit No. 18660 to allow the installation of a state-of-the-art, self cleaning, and retractable Intake Screens, Inc. fish screen system on an existing permitted agricultural diversion owned and operated by Sutter Mutual Water Company. (Sutter County)

J. Permit No. 18662, California Department of Transportation, District 10

Consider approval of Permit No. 18662 to widen the existing bridge from four-lanes to six-lanes over Lone Tree Creek by adding two 12-foot lanes in the median. (San Joaquin County)

K. Permit No. 18665, Tulare Co. Resource Management Agency

Consider approval of Permit No. 18665 to remove the existing single-lane Mountain Road M319 bridge over the South Fork of the Kaweah River and replace it with a precast concrete, pre-stressed box girder two-lane bridge along the same alignment as the existing bridge. (Tulare County)

L. Permit No. 18667, Kent Lang

Consider approval of Permit No. 18667 to remove an 18-inch diameter steel pipe through the levee and replace it with an 18-inch diameter steel pipe up and over the right (west) bank levee of the Sacramento River. (Yolo County)

M. Permit No. 18668, Placer County Parks Division

Consider approval of Permit No. 18668 to construct 3 bridges on upper Coon Creek at Hidden Falls Regional Park. (Placer County)

N. Operations, Maintenance, Repair, Replacement and Rehabilitation (OMRR&R), Three Rivers Levee Improvement Authority (TRLIA) – Pulled to a Requested Action

Consider approval and execution of the Reclamation District 784/TRLIA OMRR&R Agreement for the Feather River and the Upper Yuba Levee Improvement Projects between the Central Valley Flood Protection Board and RD 784/TRLIA.

Upon motion by Board Member Brown, seconded by Vice President Rie, the Board voted unanimously to approve Consent Items 7A – G and I – M.

9. REQUESTED ACTION

8N. Operations, Maintenance, Repair, Replacement and Rehabilitation (OMRR&R), Three Rivers Levee Improvement Authority (TRLIA) – Moved from Consent Calendar

Consider approval and execution of the Reclamation District 784/TRLIA OMRR&R Agreement for the Feather River and the Upper Yuba Levee Improvement Projects between the Central Valley Flood Protection Board and RD 784/TRLIA.

Secretary Hodgkins stated that the issue is that this agreement should include provisions in the Board resolution on agreements with JPAs. He read the provisions to the Board.

Secretary Hodgkins pointed out that the resolution says that the Board may require that for any agreement between the Board and a JPA, the Board can require that the JPA assume the responsibility for maintenance, even though the resolution goes on to say that the JPA can delegate it to whatever local agency they wish to or manage it in any way they want to. Further, they will provide an indemnification on maintenance activities.

Secretary Hodgkins acknowledged that he had spoken with Mr. Shapiro on the matter prior to the Board meeting.

Mr. Ward Tabor, DWR Assistant Chief Counsel, apologized for the oversight in not keeping in mind this policy in moving forward with the agreement. Counsel had modeled the agreement after the most recently approved Sacramento Regional Flood Control Agency (SAFCA) OMRR&R Agreement.

Mr. Tabor went on to say that because the Three Rivers Levee Improvement Authority (TRLIA) has already accepted responsibility for O&M through the permits, Mr. Shapiro had indicated that TRLIA was willing to accept responsibility for the O&M, in addition to RD 784 for the portion of the project that it constructed. This would require some additional drafting.

Secretary Hodgkins asked for assurances that the JPA either would never be dissolved, or if it were dissolved, it would clear with the Board how the maintenance obligation was being passed on to successor agencies. Mr. Tabor concurred that such language could be included.

Mr. Shapiro clarified the two items to be inserted into the document:

1. The assurance of O&M, an indemnity for O&M for the EIP project.
2. A statement that the JPA will exist so long as that obligation exists.

He felt that both points are in the document already, but perhaps not in language that is adequate. He would work with Board Counsel Ms. Deborah Smith and Mr. Tabor to insert the language, but he wanted to demonstrate that there hadn't been an attempt to sidestep the policy.

Mr. Shapiro noted that in terms of the issue of Three Rivers continuing to exist, they had specifically included in the staff report the language about the JPA agreement. It had always been his view that any indemnity to the State is a material contract.

Mr. Shapiro proposed changing the language to state that we acknowledge obligations in the encroachment permit; and as to the longevity issue, we will include in the OMRR&R

Agreement that the parties concur that it is a material agreement, pursuant to the JPA agreement. These two changes should address the Board's concerns.

Board Member Suarez remarked that in looking at the staff report, she had sought a recognition that the Board has a policy relating to these matters, a restatement of that policy, and clarification on how the particular agreement meets the guidelines of that policy. These components were not in the staff report.

Upon motion by Secretary Hodgkins, seconded by Board Member Brown, the Board voted unanimously to approve execution of the OMRR&R Agreement after modifications have been added acceptable to the Chair to bring the agreement in compliance with the policy outlined in Resolution 09-17.

10. HEARINGS AND DECISIONS

A. Encroachment Removal Enforcement Hearing for Mr. Lino Catabran, 5291 Garden Highway, Sacramento, California

Conduct a hearing regarding the Enforcement Removal Notice No. 2011-138, dated May 20, 2011 that was sent to Mr. Lino Catabran to consider ordering removal of a newly constructed parallel solid masonry wall along the East levee of the Sacramento River Flood Control Project.

The respondent and his attorney were not present. Mr. Taras noted that the respondent had been properly noticed.

Upon motion by Secretary Hodgkins, seconded by Board Member Brown, the Board voted unanimously to continue the hearing to the next meeting, and to correspond with the applicant indicating that there will be no further continuances, and the Board will proceed with a hearing at the next meeting whether or not the applicant is able to attend.

Secretary Hodgkins reiterated Board Member Moffatt's point that in this particular instance, not granting the continuance was likely to lead to more work for the Board and staff than granting the continuance until the next meeting.

11. INFORMATIONAL BRIEFINGS

A. Presentation and Discussion: Central Valley Flood System Conservation Strategy

Mr. Dave Carlson, Chief of the Floodway Ecosystem Sustainability Branch in the FloodSAFE Environmental Stewardship and Statewide Resources Office, gave information on the Central Valley Flood System Conservation Strategy being developed in conjunction with the CVFPP. Below is a summary of the presentation.

- The conservation strategy is a long-term strategic approach for DWR to achieve environmental goals that are laid out in the Central Valley Flood Protection Act and the FloodSAFE initiative, and also meet the goals of the CVFPP.
- It addresses obligations that are in the California Levees Roundtable framework document.

- The goals of the conservation strategy are, first and foremost, to reduce flood risk and the consequences of flooding while achieving environmental objectives.
- The conservation strategy also seeks to restore, enhance, and maintain environmental conditions and trends, improve the scientific basis for planning decisions in the future, provide multiple benefits and reduce land conflicts, and improve public support and partnerships.
- One of the key considerations in developing the conservation strategy is DWR's formal environmental stewardship policy.
- The environmental scope definition working group met during Phase 1 of the public engagement process. The group developed a framework for integrating environmental stewardship into the CVFPP. A number of principles were developed as part of that process.
- Conservation objectives are both ecological and institutional.
- The vision for 2017 is to have the CVFPP and the conservation strategy fully integrated.
- We are targeting 2014 for having a draft conservation strategy complete; that would then be integrated into the 2017 update of the CVFPP.
- Elements of the conservation strategy will be standalone documents.
- Mr. Carlson talked about a few of the conservation actions that are included in the conservation strategy:
 - A biological status and trends report, the purpose of which is to summarize the current status and historical trends of riparian and riverine ecosystems in the systemwide planning area.
 - Vegetation management which is consistent with what is in the vegetation white paper.
 - A regional advanced mitigation planning effort, the goal of which is to align mitigation needs and conservation opportunities.
 - A habitat connectivity analysis with respect to shaded riverine aquatic habitat.
 - Giant garter snake distribution data gathering.
 - A bank swallow survey.
- The CVFPP will be identifying actions and assisting in improvements to be implemented in the short-term after the plan is adopted.
- It will be essential for successful implementation of the conservation strategy to begin implementing foundational, ecological improvements.

Vice President Rie asked how the conservation strategy will be implemented in the Delta; will it be part of the Bay Delta Conservation Plan (BDGP)? Ms. Gail Newton, FloodSAFE Environmental Stewardship and Statewide Resources Office Chief, replied

that the interaction between BDCP and CVFPP is actually exemplified by the Delta Levees Program, where they are doing flood projects, such as McCormack-Williamson, that will provide habitat to the BDCF and also to the CVFPP for its conservation strategy. They are working with the agencies to codify some of those projects.

Secretary Hodgkins noted that the 2012 CVFPP is now being described as an investment strategy. He asked if there had been discussion about how the conservation elements are going to fit into the investment strategy. Mr. Carlson responded that they are going to look at flood improvement projects and try to couple them with environmental restoration activities, encouraging that through the financing plan.

In response to a question from Secretary Hodgkins about having water fowl as a particular focus, Mr. Carlson replied that they will be taking a broad ecological look at all species in developing a conservation strategy.

President Carter urged Mr. Carlson and Ms. Newton to engage the rural stakeholders in this flood system conservation strategy, as the stakeholders are looking at this whole process with some skepticism. In addition to the environmental stewardship working group, President Carter suggested involving the regional working groups too – they also had information that they shared with the flood protection planning people that is directly applicable to this study.

12. BOARD COMMENTS AND TASK LEADER REPORTS

- Secretary Hodgkins has been attending the multi-agency task force, where one of the items that has come before them several times is a small erosion repair project that Mr. Keith Swanson, Chief of the DWR Flood Maintenance Office, wants to implement on a trial basis for five years. It would involve using vegetation. Secretary Hodgkins would like to get the project before the Board for their reaction.
- Board Member Villines mentioned meeting with Joe Grindstaff for the Delta Stewardship Council. Mr. Grindstaff doesn't see any real issues, but is under a tremendous amount of pressure to finish the report.

Board Member Villines also mentioned an aerial tour of the Yuba and Feather Rivers with Board Member Brown and Executive Director Punia.

- Board Member Brown remarked that the Board seems to be getting late announcements to attend committee meetings. He requested routing the announcements through Ms. Pendlebury or Executive Officer Punia so that Board Members can receive advance notification.
- Vice President Rie, along with President Carter, participated in the Executive Committee meeting with DWR. President Carter is sending out correspondence to the Levee Roundtable Steering Committee to get feedback on the goals of the framework group.

Vice President Rie participated in a meeting with the Delta Habitat Committee, where they talked about the Delta levee subventions criteria.

11. INFORMATIONAL BRIEFINGS *(Continued)*

B. Briefing on the Delta Levees Subventions Criteria and Procedures
(Postponed)

C. Briefing on the Draft EIS/EIR for the San Joaquin River Restoration Program

Mr. Kevin Faulkenberry, DWR Senior Engineer, and Ms. Alicia Forsythe, Program Manager for the San Joaquin River Restoration Program for the United States Bureau of Reclamation, gave a presentation. Below is a summary.

- The Friant Dam litigation settlement of 2006 has two goals:
 1. To restore and maintain fish in good condition in the San Joaquin River below Friant Dam to the Merced River confluence.
 2. To reduce or avoid the adverse water supply impacts – in essence, as the Bureau rewets the San Joaquin River, to try to reduce impacts to the Friant water users.
- There are three key parties to the settlement:
 1. About 14 environmental organizations represented by the Natural Resources Defense Council (NRDC).
 2. The Friant water users, representing about 22 water agencies.
 3. The federal government, both the Department of Interior and the Department of Commerce.
- There are five implementing agencies:
 1. The Department of the Interior, through the Bureau of Reclamation and also through the Fish and Wildlife Service.
 2. The Department of Commerce with the National Marine Fisheries Service.
 3. The State of California through a Memorandum of Understanding.
 4. The Department of Water Resources.
 5. The Department of Fish and Game.
- The program document that Ms. Forsythe and Mr. Faulkenberry were addressing focuses on a wide study area: from upstream of Friant Dam to Millerton Reservoir down to the Delta, including the entire CVP and State Water Project service area.
- The restoration area is the 153 miles of river from the Friant Dam down through the Merced River Confluence.
- All of the action alternatives seek to implement the settlement consistent with the authorizing legislation. They all include a series of common actions: channel and structural improvements that are necessary to convey flows, and to provide for fish passage and fish habitat.
- There are two types of releases from Friant: interim flows and restoration flows.

- All the action alternatives include reintroducing spring and fall run Chinook salmon to the San Joaquin River, and trying to recapture, recirculate, and reuse that water.
- Friant would love for the project to get all of their water back to them, but the recirculation program will be limited by the pumping restrictions, the biological opinions, and all of the other constraints that are in the Delta for pumping.

Board Member Brown observed that this would very much limit the benefit of any recirculation program. He wondered what would happen to the landowners when another three or four hundred thousand acre feet are taken out of Friant and they're already overdrafting the groundwater basin in that area.

Acting Ex Officio Member Cannon-Leahy commented that historically, about 90% of the flow in the San Joaquin River is impounded behind Friant and diverted before it ever gets to the river. Ms. Forsythe stated that this was much of the concern from the environmental community that initially prompted the litigation. Rewetting the river uses about 17 – 20% of Friant's long-term average annual water supply.

- The settlement includes a variety of actions to try to get the water back through the recapture and recirculation program. The legislation also gives the project authorization to improve the Friant, Kern, and Madera canals.
- During very wet year conditions, the project is directed to account for all of the impacts to the Friant water uses in what we call a recovered water account.
- Acting Ex Officio Member Cannon-Leahy recognized that Friant has worked extremely hard with the partners to try to make this work, and has supported the settlement even in the face of things like House Resolution 1837.
- As water goes back into the San Joaquin River, the river is rewetted. Part of those flows will go through the main stem, of which a portion is part of the flood control project. There are flow-related provisions included in the document.
- The two reaches of the San Joaquin River that will receive improvement are Reach 2B, which runs from the Chowchilla bifurcation structure down to the Mendota pool; and Reach 4B, which runs from the Sand Slough control structure down to the Mariposa Bypass. These two areas have significant challenges and need to have improvements made.
- The program document has two levels of analysis:
 1. Project level, which is primarily DWR's changes, Reclamation's changes, and flow out of Friant Dam – the reoperation of the structure. It is site-specific and very detailed.
 2. Program level, which provides an overview of potential impacts and mitigation measures that set the structure for how they are going to look at future projects.
- The restoration program could impact flood management. The program document includes a project description and mitigation measures.

- Construction on Reach 2B or 4B could cause redirected impacts affecting flood management.
- Restoration and interim flows could also cause flood system facilities operations and maintenance impacts.
- Project level measures that they are implementing will reduce or avoid increasing flood risk. There are three main components:
 1. Flow management in the restoration area.
 2. Maintaining interim and restoration flows at or below estimated capacities.
 3. Adding levee system monitoring and erosion monitoring.

The Board discussed some issues with Ms. Forsythe and Mr. Faulkenberry.

Board members expressed concern with the effect of changing the easements from flood control purposes to restoration flows on the landowners. Ms. Forsythe stated that Reclamation needs to sit down with its Solicitor's office and with Board attorneys, and figure out what is the scope of those easements and how to proceed with their use.

Board Member Brown cautioned that the landowners are pretty irate that this issue has not been resolved. He did not want to see this Board or the State of California get placed in the middle of a legal battle over something that could be resolved by talking with the landowners now.

Board Member Villines urged Ms. Forsythe and Mr. Faulkenberry to move quickly to begin meeting with small groups of people early and quickly so that they can mitigate.

Ms. Forsythe acknowledged that there is already a pending lawsuit from 2010: Wilson Land and Cattle Company versus the United States. The lawsuit is in an alternative resolution process.

- Resuming the presentation, Mr. Faulkenberry stated that they were going to convene a channel capacity advisory group. It will provide an independent review of estimated then current channel capacity – the review of monitoring results and management actions to address vegetation and sediment transport within the flood management system.
- They will also be doing some erosion monitoring, where basically some aerial photography and some surveys have been periodically taken and will be compared to note any changes or major changes in the system.
- Additionally, if seepage boils or evidence of erosion are observed during interim restoration flow releases, they will immediately take action to reduce the flows and either redirect or divert them.
- Regarding the environmental process: they just released the draft PEISB which is in its comment period. The final PEISR is anticipated in early 2012.
- The Record of Decision and Notice of Determination are also anticipated for early 2012 or as schedule allows.

Board Member Brown stated a concern for the spring run and winter run salmon restoration: the bypasses are very flat. Water temperature would increase rather quickly, and salmon are very sensitive to temperature control.

Secretary Hodgkins stated a concern that the project intends to put water down the system, and at this point in time, you don't know whether the water is all going to come down the bypasses, or if part of it is going to come down the bypasses and part down the channels. There is a huge difference in the potential impacts on maintenance. Yet the document concludes that there are no significant impacts on opportunities.

Ms. Forsythe responded that they think that most of the flows will go down the river channel, and that the Eastside Bypass and Mariposa Bypass will continue to be dry in the summer periods, so the levee district can continue to do O&M as normal. But there will be some changes, such as in the upper reach above the Chowchilla bifurcation structure, where it will be wet year round.

Acting Ex Officio Member Cannon-Leahy asked if the Board is a responsible agency that is notified when you do project specific analysis. Ms. Forsythe replied that they have asked the Board to be a responsible agency for the project specifics, and they are working through the last details of an MOU between the Bureau of Reclamation and the Board.

13. FUTURE AGENDA

Executive Officer Punia noted that the agenda for next month's meeting is long. All the items cannot be accommodated. Board members discussed having a day-and-a-half or two-day meeting. They established that the meeting must include Mr. Taras' enforcement action and the Delta levee subventions.

14. CLOSED SESSION

The Board went into closed session to discuss litigation. They returned to open session at 3:49 p.m.

15. ADJOURN

Vice President Rie adjourned the meeting at 3:49 p.m.

Dated: _____

The foregoing Minutes were approved:


Butch Hodgkins
Secretary


Benjamin F. Carter
President