

MINUTES
MEETING OF THE CENTRAL VALLEY FLOOD PROTECTION BOARD
October 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 October 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. Eric Butler, Supervising Engineer
Mr. Curt Taras, Supervising Engineer
Ms. Mitra Emami, Senior Engineer
Mr. David Williams, Senior Engineer
Mr. Martin Janolo, Staff Engineer
Ms. Amber Woertink, Staff Assistant
Ms. Deborah Smith, Legal Counsel

Department of Water Resources (DWR) staff present:

Mr. Jeremy Arrich, Chief, Central Valley Flood Planning Office
Ms. Sara Denzler, FESSRO Environmental Program Manager
Mr. Marc Hoshovsky, FESSRO Environmental Program Manager
Mr. Eric Koch, Acting Chief, Division of Flood Management
Mr. Paul Marshall, Assistant Chief, Division of Flood Management
Ms. Gail Newton, Chief, FloodSAFE Environmental Stewardship and Statewide Resources Office
Mr. Chuck Tyson, Manager, FESSRO Delta Ecosystem Enhancement Section

Also Present:

Mr. Lewis Bair, Sacramento Valley Flood Control Action Work Group
Mr. John Bassett, Sacramento Area Flood Control Agency
Ms. Tara Brocker
Mr. Paul Brunner, Three Rivers Levee Improvement Authority
Mr. Lino Catabran
Mr. Raymond Cooper, Butte County
Ms. Lady Bug Doherty
Mr. Greg Eldridge, CH2MHill
Mr. Mark Glidden, CH2MHill
Mr. Mike Hardesty, Sacramento Valley Flood Control Action Work Group
Mr. Jason Jurrens, Quincy Engineering
Ms. Alicia Kirchner, United States Army Corps of Engineers
Mr. Han-Bin Liang, Wreco
Mr. Lance McClung, Alternative Energy Systems
Ms. Meegan Nagy, United States Army Corps of Engineers
Mr. Ric Reinhardt, MBK Engineers
Mr. Max Sakata, Sacramento Valley Flood Control Action Work Group
Mr. Scott Shapiro, Downey Brand
Ms. Nancy Springer, Butte County
Mr. Don Trieu, MBK Engineers
Mr. Robert Tull, CH2MHill
Dr. Kyle Winslow, CH2MHill

1. ROLL CALL

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

2. APPROVAL OF MINUTES – August 26, 2011

Upon motion by Board Member Brown, seconded by Secretary Hodgkins, the Board unanimously approved the Minutes for August 26, 2011.

3. APPROVAL OF AGENDA

Executive Officer Punia gave the staff recommendations that Consent Calendar Item 7C be moved to a hearing and that Item 9A be postponed.

Upon motion by Board Member Brown, seconded by Secretary Hodgkins, the Board unanimously approved the staff recommendations given above.

4. PUBLIC COMMENT

- Mike Hardesty, President of the California Central Valley Flood Control Association, introduced a work product that this association has sponsored and worked through over the last three years regarding the Sacramento River flood control system. The document was a ground-up effort by the local agencies to

address issues of importance to the flood control community in the Sacramento Valley.

- Max Sakata explained that in March 2008, the Sacramento Valley Flood Control Action Work Group was formed to address the Central Valley Flood Protection Plan (CVFPP) as it was laid out. In the description of the process for developing that plan, only three parts were named: urban, urbanizing, and environmental.

The work group made it their intention to recognize ag as an important element in any kind of plan going forward. They produced about six documents addressing six different topics. The document being introduced now was an effort to compile the material into one concise paper.

The finished product will be completed next week. It represents Sacramento and San Joaquin Valley perspectives of the concepts, goals, principles, recommendations, and ideas of the larger flood control and protection community. Mr. Sakata requested for CVFPB and the Department of Water Resources (DWR) to utilize the document for discussion and consideration that they would in turn share with the work group.

- Lewis Bair spoke as the manager of several local maintaining agencies (LMAs) on the Sacramento River. He had been working with Mr. Sakata on this effort. He emphasized that the work group represented the majority of the LMAs, which include both rural and urban areas. It was a combined effort with urban buy-in, although the focus was on issues in rural areas.
 - Mr. Bair summed up the document. Its two primary principles are:
 - We're going to get better together, and we're not going to leave someone else behind.
 - This is a flood control system, so we're not going to look at incremental efforts, but the collective whole.
 - The rural levee standard is a recognition of the fact that we really only have one process right now, and that's an urban process. The concept of a rural standard is one that we believe will allow us to make improvements in the rural area in a very efficient way.
 - Under the Federal Emergency Management Agency (FEMA) and the National Flood Insurance Program, there will be little permitting of structures in rural areas. To have vibrant competitive agriculture in these areas, we need to allow new or renovated structures to be built or renovated when they are needed to support agriculture.
 - We're looking at ways that people can work together on environmental projects, be good neighbors, and utilize local resources to achieve environmental improvement with more "bang for the buck."
 - Sufficient emergency response planning needs to be done in the rural areas.
- Scott Shapiro, General Counsel for the California Central Valley Flood Control Association, stated that the amount of time that's been put into this effort by many

people, demonstrates how rural and agricultural issues are a key component of the Central Valley Flood Protection Plan thinking. He noted that the Sacramento Regional Flood Control Agency (SAFCA) and the Sacramento Metro Chamber have both supported components of the plan; it is truly a partnership of ag and urban areas.

Mr. Shapiro also noted that the concept of a different standard for rural or ag levees leads to the need for FEMA to recognize how those communities need to be treated a little differently. Agencies from Sutter, Yuba, and Colusa Counties are funding an effort to try to convince Congress and FEMA that the FEMA zones need revision.

Mr. Shapiro said that the association has appreciated a growing partnership with DWR, and hoped to achieve the same level of partnership with the CVFPB.

Mr. Shapiro noted that the association had reviewed the Tier 1B regulations and was very enthusiastic. They appreciated the Board's consideration of all the comments they had submitted.

In response to a question from Board Member Suarez, Mr. Bair described the integration of regional committees and subgroups under DWR's outreach process.

In response to a question from Board Member Brown, Mr. Bair said that he was encouraged by the CVFPB's process in use for the CVFPP, in terms of addressing the association's issues.

- Lance McClung, owner of a photovoltaic installation company, shared his experience with the permit process. He asked the Board to consider streamlining the process and making it more transparent so that business owners could fulfill contracts at an expedient pace.
- Nancy Springer, Butte County building official, spoke in support of the contractor, Mr. McClung. His energy-saving project had turned out to be in a floodway and the CVFPB had become involved. The farmer may have to give up the tax incentive connected with the project because of the 90-day timeframe for permit authorization.

Martin Janolo, Staff Engineer, stated that they had received the application about two days prior. He had suggested for Mr. McClung to consider the option of requesting a letter of authorization.

Len Marino, Staff Chief Engineer, stated that a letter of authorization allows an applicant to begin construction of the project ahead of the consent item, which would be brought to the Board. This allows the applicant time to meet the funding deadline and get the project done. It contains all the conditions that would appear in the Board permit.

Deborah Smith, Staff Legal Counsel, stated that a provision under Section 6(e) allows the Executive Officer to waive the requirement for a permit for minor alterations within an adopted plan of flood control that would not be injurious.

Board Members Suarez and Brown expressed hesitation with the use of a letter of authorization in this situation. President Carter stated that in this case, it appeared

to be working outside the process that the Board is bound to in its Code of Regulations. He requested Mr. Punia and the staff to work with the applicant and attempt to make every effort to meet their deadlines.

President Carter also stated that the CVFPB is not a new or hidden organization. He encouraged all the county officials in the Central Valley to keep the Board on their radars, working promptly with staff on projects involving construction or modification within the floodplain.

- Tara Broker, a prune and rice farmer from Nicolaus, spoke about why she believes agriculture best operates in a floodplain. The agricultural community must believe that it is relatively safe in order to continue to operate and improve its business within the floodplain. It's very important to continue to maintain the bypass system as a function of public safety and flood prevention.

Finding a better way to work with the environment is an important process. The encroachment of habitat within the bypass system is affecting the flows and capacity of the system. Everyone agrees that the environment is important, but we need to focus on how we can effectively meet both human needs and environmental needs in a synergetic style.

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

Eric Koch, Acting Chief of the Division of Flood Management (DFM), gave a summary of DWR activities.

- The water supply outlook is good for this year.
- The Climate Prediction Center forecasts average conditions this flood season for central California.
- The flood response emergency effort within DFM is geared up and ready for the flood season. Vulnerable sites with previous distress issues including erosion, seepage, sand boils, and slope instability have been identified.
- The Flood Center has completed pre-season flood coordination meetings across the state.
- The major flood control reservoirs are within their prescribed flood control space.
- Delta ER communication equipment grant guidelines have been finalized. This program aims to improve the effectiveness and reduce the response time for local agencies to respond to flood emergencies within the Delta.
- Summer channel and structure inspections have been completed. The fall inspections are underway.
- The San Joaquin River Flood Control System Manual Supplemental Erosion Survey has documented 66 levee erosion sites.
- The operations and maintenance (O&M) yard crews have made significant progress and are ready for the flood season.

- Slope stability repair has been completed in RD 1001.
- Erosion repair is complete at the Wadsworth Canal site in Sutter County.
- For Reclamation District (RD) 2064 rock slope protection, the rock placement will be completed this construction season, but the placement of the in-stream woody material and other plantings will be delayed until next year due to high water conditions in the San Joaquin River this year.
- The RD 404 slurry wall project has been delayed until 2013 due to a design change as requested by the Corps during the Encroachment Permit process.
- Regarding floodplain risk management, Functional Area 3 work continues. Technical support working with the National Flood Insurance Program (NFIP) continued their community assistance visits in various cities.
- Much activity went on last summer with the flood protection projects and grants.
- For the federal advocacy program, the team went to Washington D.C. during the first week in October to discuss the federal fiscal year 2013 funding needs, as well as issues including the crediting policy, vegetation policy, and 408 policy.
- The team facilitated a letter from Secretary Laird to Senators Feinstein and Boxer concerning the Section 104 crediting issue.

President Carter commented that typically DWR gives the Board a detailed report on the status of the flood system going into the flood season. Mr. Koch replied that this would be done at the December meeting, probably as an Informational Briefing.

Jeremy Arrich, DWR Central Valley Flood Planning Office Chief, gave a presentation on the CVFPP, as summarized below.

- Later that day they will release a working draft of the 2012 CVFPP to workgroup members and partners including the Board and the Corps.
- They will hold a webinar and workshops in November to receive input and feedback from stakeholders.
- The Plan reflects the key strategies and proposals in the Central Valley Flood Control Action Work Group document discussed earlier.
- They are calling their proposed plan the state systemwide investment approach. It is the state's investment guide for the future of flood management in the Central Valley. The plan protects urban areas to the level of protection that's suitable for high populations, and does not promote great flood protection levels for rural agricultural areas, which would encourage development in the floodplains.
- The physical elements of the state systemwide investment approach consist of an integrated set of on-the-ground projects that fall under three broad categories:
 1. System improvements (which include bypasses, reservoir storage and operations, and flood structures)
 2. Regional improvements

3. Ecosystem restoration opportunities

- Mr. Arrich explained the categories in detail, and the planned implementation measures for the approach, including getting federal participation.

Board Member Brown asked who is looking at watershed management to be incorporated into the plan. Alicia Kirchner, Chief of the Planning Division with the Corps Sacramento District, responded that they will look at scoping with the State and Corps – taking a broad look at resolving flood risk issues, and looking at environmental restoration opportunities starting with what’s been defined by the State, but with an eye on looking to see if there’s something beyond that needs to be examined as well.

Board Member Moffatt asked about the cost share graph shown in the presentation – whether it reflected statutory and regulatory formulas with respect to cost share (usually about 50/50 between state and federal with the locals somewhere in the mix). Mr. Arrich replied that the graph reflected the current cost sharing rules that are part of regulation, not necessarily what has played out in actuality.

Board Member Moffatt asked if the financing portion of the final plan will anticipate what the rules say, but also contemplate different State and local cost estimates based on past performance and practice. Mr. Arrich responded that the financing plan they are required to develop will have the level of detail that they need to move forward, including cost shares they would expect for different options.

Board Member Moffatt cautioned that a plan can lay out great intentions, but there needs to be money to carry them out. Faulty cost assumptions can be a danger. We need to have realistic expectations from the Feds, the State, and the locals. Mr. Arrich noted that federal policies continue to change. We’ll have to work within those constraints, but we are interested in integrating the plan with the financing.

Board Member Suarez inquired about riparian habitat improvements. Mr. Arrich responded that where there are opportunities to integrate additional riparian habitat with flood improvement projects, they will be considered; the plan articulates that.

Secretary Hodgkins wanted to ensure that the Board understands that next month they’re going to look at an amendment to the cost sharing agreement with the Corps for what is a potentially \$40 million study to get the federal component. Mr. Arrich agreed, and noted that they really need the cost share amendment to be approved by the Board.

Vice President Rie commented on the improvements outlined for the Yolo Bypass. Did the California Environmental Quality Act (CEQA) document get into mitigation of the impacts? Paul Marshall, Assistant Division Chief for Division of Flood Management, replied that the program Environmental Impact Report (EIR) for the CVFPP does not get into specific project elements. For the larger projects occurring later on, they’ll have to try to bank some of the habitat to be able to mitigate for further impacts down the road.

6. REPORT OF ACTIVITIES OF THE EXECUTIVE OFFICER

Jay Punia, Executive Officer, gave a presentation.

- He began by inviting Board Member Suarez to speak about the outreach committee for the CVFPP.

- Board Member Suarez stated that she and Board Member Villines have been working with staff to start implementing the outreach activities for the Board. She provided a schedule of outreach events and meetings for giving information and gathering input from the public.
- The key point was that Board Members are going to take a very strong leadership role in analyzing the plan, and a also very strong role in reaching out to stakeholders.
- Mr. Arrich mentioned that there will need to be a process for DWR to brief the Legislature and the Governor's office for approval for not only release of the plan for the public draft, but also the final draft of the plan.
- In response to a question from Secretary Hodgkins, Ms. Smith stated the ex parte restrictions wouldn't apply to discussions of the CVFPP, because it is a policy. President Carter cautioned the Board to keep in mind the Bagley-Keene Open Meeting Act requirements.
- Mr. Punia reported that a new Staff Engineer has been hired, Ashley Cousin, to replace John Tice's position.
- He reported on the title 23 Regulations.
 - Staff will be seeking approval today for the Tier 1B package. They have received comments from the San Joaquin County Department of Public Works and RD 17.
 - Staff is conducting the outreach portion of the Tier 2 revisions. Secretary Hodgkins and Eric Butler, Staff Supervising Engineer, briefed the Corps and the California Central Valley Flood Control Association. Board Member Suarez and Mr. Butler had given a presentation at the Society of American Military Engineering conference.
 - Staff provided comments to DWR on the draft program EIR, the flood protection plan summary, and the Living with Risk document.
- President Carter mentioned that the flood risk notice sent to homeowners by DWR is an excellent document.
- Staff is meeting with the Sutter Butte Flood Control Agency, DWR, and the Corps to reach a consensus on technical issues and policy issues for level of flood protection. Staff and the agency have concluded they will support a recommendation that the 200-year design profile be used for the project, even though it is lower than the 1957 design profile, and that landside easements extend 30 feet from the landside levee toe. The ultimate decision for this recommendation lies with the CVFPB.
- Levee repair work on the Natomas cross canal is complete.
- Delta Plan: Board Members Villines and Suarez and Mr. Marino provided comments to the Delta Stewardship Council.

- California High Speed Train: Staff sent their comments on the EIR released for the Merced to Bakersfield high speed rail alignment.
- San Joaquin River Restoration Program: Mr. Marino participated in a meeting with landowners about alternatives being discussed for Reach 4B.
- 2006 PL 84-99 sites: Staff discussed the Corps' approval from their headquarters for the vegetation variance for the mitigation work.
- West Sacramento Levee Project: Construction is underway on the two projects approved by the Board – The Rivers and the CHP Academy. Staff is monitoring construction through the inspection team.
- Chowchilla Bypass: As part of the San Joaquin River restoration project, the Lower San Joaquin Levee District replaced the rubber seals on the head gates. The district is now reporting a harmonic vibration in those radial gates. They have approached staff to find a solution. Staff has come up with a short-term fix, and additional study is need for a long-term fix.
- The California Central Valley Flood Control Association has contacted staff regarding concerns that as part of the Bay Delta Conservation Plan (BDCP) program, DWR is planning acquire some lands for their geotechnical investigation for the alignment of the proposed peripheral canal alignment. They are requesting staff to work with DWR in contacting the local LMAs and property owners.

Vice President Rie asked about getting Corps concurrence for borings in the levees. Executive Officer Punia said that staff is making sure the LMA is informed, but staff is not asking DWR to go through the permitting process.

Vice President Rie inquired about a Board obligation under 208.10 to consult with the Corps when drilling into the federal project levees. Ms. Meegan Nagy of the Corps stated that she will work with staff regarding whether Title 23 excludes the State Water Project; if so, staff and the Corps need to work together to ensure that the borings are done correctly and have appropriate Corps approval, if it's not through a permit.

- Staff has submitted a Budget Change Proposal to the Department of Finance and they are asking various questions.

Curt Taras, Staff Supervising Engineer, gave an update on the activities of the Enforcement Branch.

- In the last month they issued up to 15 Notices of Violation (NOVs) in conjunction with code violations identified by Corps periodic inspections.
- They coordinated an NOV that was issued to the Sacramento Area Flood Control Agency (SAFCA) for using unsuitable material in the construction of a levee along the Sacramento River on the Garden Highway.
- Staff is updating a verbal commitment from two of seven Bear Creek property owners in Stockton, saying they'll enter into encroachment removal negotiations.

- The City of West Sacramento has advertised a construction project to remove a sinking dock that's at risk of breakaway on the Sacramento River in front of the Pyramid Building. It was subject to a staff issued NOV.
- Staff attended an outbrief by the Corps for the Chico Creek Mud Creek levee systems protecting the town of Chico. The system was found to have unacceptable violations, and is now deemed inactive in PL 84-99 funding. Staff will issue NOVs for private violation and Butte County will repair the maintenance problems. (Ms. Nagy clarified that the systems are not inactive yet, as the Corps has not issued the formal letter. The LMA has 30 days after the outbrief to correct violations.)
- Enforcement staff will bring a hearing before the Board for a permit to relocate 53 private fences on state land along the Feather River in Linda. They have received five protest letters for this action.
- Mr. Taras showed photos of work completed by the Enforcement staff.

Mitra Emami, Staff Senior Engineer, provided an update on the permits.

- She provided a chart showing that the backlog has been reduced about 63% from last year.
- So far this year they have issued 85 applications. There are zero applications approved that are pending issuance and three that are conditionally approved awaiting Corps approval.
- Part of this improvement is because of changes in the intake process. They work with the applicants to make them more aware of what's required in applications.
- Ms. Emami showed pie charts illustrating what the backlog is made of, the design issues, which applications are recommended denial, which ones have CEQA issues or are outside the agency, and so on.

7. CONSENT CALENDAR

A. Permit No. 4913-A, Kent Lang

Consider approval of Permit No. 4913-A to replace a pipe in/through levee on the right (west) bank of the Sacramento River. (Yolo County)

B. Permit No. 18673, Charles Sylva

Consider approval of Permit No. 18673 to authorize removal of an existing driveway and install a new driveway with fill next to the existing Sacramento River levee to allow access to State Highway 160. (Sacramento County)

C. Permit No. 18677, Butte County Department of Public Works – Moved to Hearing

Consider approval of Permit No. 18677 to seismically retrofit the Ord Ferry Bridge by retrofitting six of the eight pier foundations, and by installing steel column castings on all eight pier foundations. (Butte County)

D. Permit No. 18679, Sacramento River Ranch LLC

Consider approval of Permit No. 18679 to remove an existing 24-inch steel pipe through the levee crown and landside levee slop and replace it with a new 24-inch steel pipe; restore the levee crown and landside levee slope; and authorize existing electrical conduit serving the existing waterside slope slant pump. (Yolo County)

Upon motion by Board Member Brown, seconded by Vice President Rie, the Board voted unanimously to approve the items on the Consent Calendar.

8. HEARINGS

A. Adoption of California Code of Regulations Title 23 Revisions Rulemaking

Hearing to accept public comments and consider adoption of the Tier 1B Revisions to Title 23 of the California Code of Regulations, as published in the California Notice Register. The proposed regulatory amendments address new California laws regarding added enforcement authority and delegated authority to the Executive Officer for permitting, as well as other substantive and non-substantive changes.

Mr. Taras gave the presentation. He stated that staff had presented the Tier 1B amendments to the Board previously this year, and the Board voted to accept them and submit them to the Office of Administrative Law.

Comment letters had come in from RD 17 and San Joaquin County. Mr. Taras read the content of the letters and the staff responses.

Board Member Suarez commented that this was an important milestone in implementing the changes the Legislature made in 2009 to the laws. It will help staff and the Board work through permits when they're delegated limited approval authority to the executive officer. They also provide the foundation for a stronger enforcement program for the Enforcement Branch to implement.

The Board discussed the 15-day public comment period with Ms. Smith. After that comment period, if there are no comments, the amendments will be sent to OAL for final approval for 30 days. When the Board receives notice that the amendments are approved, they officially become part of the regulations.

Upon motion by Board Member Suarez, seconded by Vice President Rie, the Board voted to adopt the proposed regulations, including the new changes and the extended 15-day public comment period, if there are no additional public comments. The motion carried unanimously.

7C. Permit No. 18677, Butte County Department of Public Works

Consider approval of Permit No. 18677 to seismically retrofit the Ord Ferry Bridge by retrofitting six of the eight pier foundations, and by installing steel column castings on all eight pier foundations. (Butte County)

David Williams, Staff Senior Engineer, gave the presentation as summarized below.

He gave the location and measurements of the bridge. It is in the designated floodway, and the map for this area showed the flow requirements to be 300,000 cubic feet per second. FEMA requirements also showed that the project was to be designed to that flow. .

However, the Corps Operation and Maintenance (O&M) Manual showed that the project should be designed at a flood capacity of 160,000 cubic feet per second.

Staff recommended to adopt the CEQA findings and approve the permit, contingent upon the receipt of a favorable Corps 208.10 comment letter; and to direct the applicant to run the hydraulics at the 160,000 cfs level (which is approximately a 10-year storm) as per the Corps O&M manual requirements. Staff recommended that the Executive Officer to take necessary actions to execute the permit, and to file a Notice of Determination with the State Clearinghouse.

The applicant had provided staff with the hydraulic run for the 160,000 cfs. Jason Jurens of Quincy Engineering introduced Han-Bin Liang of Wreco Hydraulic, who went through the existing and proposed conditions for the outcome of the 160,000 cfs. Mr. Liang reported that with the size of the floodplain and the channel, the difference between 160,000 cfs and 300,000 cfs would not be discernable in the water surface elevation, flow velocity, and erosive forces.

Ms. Nagy stated there had been geometry issues with the last model they saw – there was no change reflected in project versus existing conditions, so the Corps wanted to see the model before they could make a recommendation.

Raymond Cooper, Butte County Public Works, stated that the change in channel cross-section as a result of the project would be negligible, and he encouraged the Board to vote in favor. He stated that they have been working on the project since 1997 and are looking forward to moving ahead. It is a federally mandated seismic program on the high priority list with local assistance. They had Prop 1B funding; this was one of the last bridges in the seismic retrofit program that needed to be constructed.

Executive Officer Punia stated that staff was seeking that if the Board would issue a conditional approval, and the Corps had no concerns, that staff would issue the permit after receiving the concurrence letter from the Corps. If the Corps raised issues, then staff would bring the permit back to the Board.

Upon motion by Vice President Rie, seconded by Secretary Hodgkins, the Board voted to approve the permit as recommended by staff above. The motion carried unanimously.

9. BOARD SPONSORED PROJECTS AND STUDY AGREEMENTS

A. Central Valley Integrated Flood Management Study – Postponed

10. CLOSED SESSION

The Board recessed into closed session at 11:50 a.m. They reconvened into open session at 1:42 p.m.

11. REQUESTED ACTIONS

A. Petition for Reconsideration – Lino Catabran Enforcement Order

Mr. Butler reviewed the enforcement order, which was for unauthorized encroachments on the Catabran property: excavation, a block wall, and utility lines. He stated that he and Ms. Smith had reviewed the petition and transcripts from the August hearing. (Mr.

Butler is in a branch separate from the Enforcement branch, and was independent to the decision and review.)

They recommended that the Board review the record and petition, make one of the findings, and consider clarification of the written findings adopted on August 26.

Lino Catabran provided a statement to the Board.

Mr. Taras presented the staff rebuttal to the written reconsideration petition authored by Mr. Kassouni, attorney for Mr. Catabran. Staff rebutted four of Mr. Kassouni's arguments that seemed pertinent to reconsideration.

Mr. Taras gave the staff Enforcement Branch recommendation: that the Board deny the petition upon finding that the decision and order were proper, and direct the California Attorney General to commence maintaining a suit in the name of People of the State of California for the abatement of the wall as a nuisance consistent with sections of the California Water Code, which Mr. Taras listed.

John Bassett, Director of Engineering for SAFCA, recommended that the Board hold its prior action to enforce the encroachment permit requirements.

Ms. Nagy of the Corps also recommended the staff's decision and supported the Board's decision from the August meeting.

Mr. Catabran related his story to the Board, maintaining that he thought he had gotten the proper permits, and after work had commenced, he couldn't halt it because the rainy season was approaching. He still tried to get permits as the work continued.

Board Member Suarez asked for identification of the areas needing clarification in the findings. Mr. Taras replied that staff didn't feel that there was a need to provide further clarification, other than to deny the reconsideration on the basis that it was proper. He mentioned that this might be the time for the Board to discuss the option of fining and seeking removal of the wall through a nuisance suit.

Ms. Smith noted that if the Board were to deny the petition, she would recommend that the Board clarify that the findings supported a finding that the wall was in violation of California Code of Regulations, Title 23, Section 6 and Section 212.

Responding to a question from Board Member Suarez, Mr. Butler agreed with that finding of violations.

*Upon **motion** by Board Member Suarez, seconded by Secretary Hodgkins, the Board voted to deny the request for reconsideration and clarify the findings that the encroachment was in violation under Title 23, Section 6 and Section 112, and that the order was correct and proper. The motion carried unanimously.*

12. INFORMATIONAL BRIEFINGS

- A. Overview of the FloodSAFE Environmental Stewardship and Statewide Resources Office programs, including Delta Levees and Environmental Engineering, Delta Ecosystem Enhancement, Fish Passage Improvement and Urban Streams Restoration, the 2012 Central Valley Flood Protection Plan Conservation Framework, 2017 Central Valley Flood System Conservation Strategy, and Regional Advance Mitigation Planning**

Gail Newton, Chief of the FloodSAFE Environmental Stewardship and Statewide Resources Office (FESSRO), began the presentation. She gave a background of FESSRO. Its programs have the same goals as FloodSAFE, and it emphasizes protection and enhancement of ecosystems while promoting sustainability – which speaks directly to environmental stewardship: integration instead of mitigation.

Integrated projects successfully achieve the following:

- They lead to easier and faster implementation.
- They reduce costs.
- They reduce operations and maintenance costs.
- They promote trust with regulatory agencies and the public, which help the projects move forward more quickly.

Ms. Newton listed the main branches and programs in FESSRO. She asked the managers whose programs exemplify the concept of integration to speak.

- Sara Denzler spoke about the Fish Passage Improvement Program and the Urban Streams Restoration Program.
- Chuck Tyson talked about the Delta ecosystem enhancement programs, which include an innovative programmatic mitigation involving a bulk purchase of mitigation credits from an existing bank.
- Marc Hoshovsky spoke about the Regional Advanced Mitigation Program, the conservation framework for the CVFPP.

Secretary Hodgkins asked if the Urban Stream Restoration Program might be expanded further up into the watersheds to get the benefits for both flood and water supply, as well as environment. Ms. Newton responded that many of FESSRO programs are not limited to the State Plan of Flood Control in the Central Valley. It has projects up and down the watersheds statewide.

Ms. Denzler stated that the Urban Streams Program isn't specifically focused on fish, but on a combination of flooding and erosion problems, and environmental restoration whether that is for fish or riparian. It also promotes awareness in the community. FESSRO has funded projects in Truckee, Susanville, and Auburn, and some of the other higher locations, but this program is an urban program.

Board Member Brown asked if FESSRO looks at water and soil conservation practices in the watersheds. Ms. Newton responded that FESSRO is closing out the statewide watershed planning program, which addressed many of those issues. Currently FESSRO has a study in progress, in cooperation with the U.S. Forest Service, that looks at upper meadow restoration.

Ms. Denzler added that the Soil Conservation Service and the Resource Conservation Districts do a fair amount of work in the watersheds. Funding is always an issue, and some of the financing comes with specific geographic constrictions. FESSRO tries to work as much as possible to address the problems where they're starting, as well as down in the lower sections.

Board Member Suarez asked how the conservation framework addresses the issues of long-term funding and support necessary to make programs successful, not only from the flood control perspective but from the perspective of the neighbors in rural areas.

Ms. Newton replied that the conservation framework addresses a very broad scale, recognizing that maintenance has to be done on these sites. Some of the local farming interests would be willing to help maintain areas that are adjacent to them. With all of their advanced mitigation planning, the Resource Agencies require assurances. They also require endowment funds of some other type of long-term funding strategy for maintenance. There are a variety of mechanisms that they can use.

President Carter commented that environmental improvement must be in harmony with the rural values – not just the ag values, but also the rural communities and their ongoing economic viability and vitality.

B. Presentation and Update: Sutter Bypass 2D Model

Mark Glidden of CH2MHill spoke first, saying that the company had been asked to develop a 2D model for the Sutter Bypass. Mr. Williams, Staff Chief of the Levee Improvement Section, stated that they would be giving some results of the model. It is an RMA2 model with a scheduled completion date of March 2012.

The main goal of the model is to check existing blockages, such as bridges, groins, topography, and vegetation for impediments that make the Sutter Bypass undesirable in the flow regime. Once they have all the tools that they'd like to learn from the model, they will work even closer with their maintainers to improve the flow characteristics by prioritizing future maintenance operations.

The presentation revealed two of the extreme scenarios within the bypass, and compared them to the existing east and west levees.

Mr. Williams detailed the backgrounds and expertise of those working on the model.

Mr. Glidden explained that the advantage of a 2D model was that it allows them to look at water flowing both down the channel and around obstructions. It allows simulation of impacts of vegetation, landforms, and structures in considerable detail. They can also build a lot of resolution into the model to let them look at site-specific issues and impacts, and how those impacts may affect the water surface.

Dr. Kyle Winslow, CH2MHill, demonstrated the preliminary calibration results. He stated that the RMA2 hydrodynamic model was the tool that, once it has been calibrated and verified, will allow them to understand future conditions in the system.

Dr. Winslow explained the steps in the modeling process, then explained the calibration process in technical detail. The scenarios they have looked at are two-fold: variations in flow and variations in vegetative cover. They ran a 100-year event through the model and will run a 200-year event as well.

Dr. Winslow stated that the general point is that the model going forward is going to be a tool for looking ahead of time at the effectiveness of management maintenance operations on the system, to see which has the most benefit in terms of maintaining flood capacity.

Vice President Rie asked why they had used the 2006 event on the model, and the cfs of its flow. Dr. Winslow replied that the 2006 event was the second largest storm in recent memory, only exceeded by the 1997 event. Between the two, the 2006 event had much better data against which to calibrate. Its peak flow on the Feather River was 183,000 cfs and on the Sutter River, 109,000 cfs.

In response to a question from Vice President Rie, Dr. Winslow stated that the bypass doesn't have the capacity in terms of freeboard for a 200-year event.

Vice President Rie asked about existing ground and levee elevations used in the model; Dr. Winslow said that they are from the 2009 Light Imaging Detecting and Rating Technology (LIDAR) flights as part of the Central Valley Floodplain Delineation and Evaluation (CVFED) program.

Board Member Brown asked about how they figured out the various friction data. Dr. Winslow replied that they fine-tuned the calibration through adjustment of the friction values; backing into them is basically the calibration approach with hydraulic modeling. They feel that the friction is well within the average range.

Board Member Brown asked if there's anything they have discovered that they might recommend in some areas that were heavily vegetated or have other obstructions, that might point to corrective measures that the Board might take in the way of maintenance.

Dr. Winslow responded that the final report will have a complete section of recommendations. At this point he could say that locations with a lateral obstruction to flow (for example Willow Slough which has vegetation growing along both banks, traversing from one levee crest to the other) cause a complete impediment to the flow. It would provide more impediment than a similar area of dense trees that are oriented longitudinally, parallel to the levees. So if the water can flow around it, it's going to be less of an impediment than if there's a vegetation structure or a tree line that runs across the system.

Dr. Winslow assured Board Member Brown that the Board can expect some recommendations on how to help improve the flow – the capacity in those channels – and increase the freeboard.

In response to a question from Secretary Hodgkins, Mr. Williams said that they will be at a point within months where they will have called out 10 or 12 different options of things to do; and they will be sharing these with stakeholders, DWR, and others. The data will be going on the new DWR modeling library, accessible to anyone. Secretary Hodgkins commented that it was important to include the stakeholders and give consideration to the things that they'd like to look at.

C. Overview of Interim Findings of Flood Risk Analysis of the Yuba Goldfields

Paul Brunner, Three Rivers Levee Improvement Authority (TRLIA), began the presentation, summarized below.

- Mr. Brunner noted that so far the mining community has been very open and cooperative.

- He gave the location and background on the Goldfields. The Debris Commission built the training walls early in the 1900s to deflect the Yuba River away from mining operations, so the debris would not go downstream.
- Right now, the Goldfields area and the training walls are not part of the flood control system. The Yuba River flows through the Goldfields and then enters into the state project at the point where the TRLIA project ends.
- The current draft GRR that the Corps has, that was part of the briefing to the Board in 2010, concluded that there was not a 100-year issue but there was a 200-year issue.
- The Corps analysis in 2010 showed that they would have a levee along the south side of the Goldfields area. The cost was about \$45 million.
- The current Goldfields area regulatory approach does not take flood risk into consideration.
- The training walls have been relied upon by local and state agencies to provide flood protection by blocking Yuba River high flows from exiting the Goldfields area – not to prevent them from going into the mining areas, but to block the majority of the flow, keep it north into the floodplain.
- Whenever there's a high flow, the training walls slough off or erode.

Don Trieu, MBK, explained what they had done during the project, and the results.

- The scope was to develop a hydraulic model to simulate the surface water flows through the Goldfields and the resultant floodplain that may result of water leaving the Goldfields.
- The purpose of the model was to verify that the 100-year flows can be contained within the Goldfields. Also, the model supported the identification of actions necessary to provide a 200-year level of protection to RD 784.
- They also had a HEC-TAS model that simulated the water surface elevations in the Yuba River. That will give an idea of how much force is against the training wall. The HEC-RAS model can also calculate flows leaving the river into the Goldfields.
- Preliminary analysis has shown that the training wall is eroding. Problem spots either have low freeboard or are actively eroding.
- The project identified 10 problem locations, three of them critical.
- Mr. Trieu showed photos and graphics to demonstrate the effects of breaches at sites in the training wall.

Mr. Brunner talked about the future of the program.

- A four-phased program extends beyond the current program. Yuba County and the various stakeholders are endorsing the program to go forward.
- A key component is funding. They are still working out with the State which program they fit into – possibly the EIP or the Upper Yuba program.
 - Phase 1: Identify and fix critical spots where the water flows out.

- Phase 2: Certify the levee system and certify high ground in the area.
- Phase 3: Work with the various stakeholders to come up with a plan that provides sustainable 200-year flood protection for the area. This phase is contingent on working with the State to provide funding.
- Phase 4: Implement the solutions, which will include heavy involvement of the mining companies.
- The first conclusion is that no one is maintaining the training walls and they can't be relied upon. They are eroding. They need to be fixed, or alternative solutions and high ground solutions need to be developed with the mining companies.
- Another conclusion is that the program cannot move forward with only local Yuba County funding. They need state help, and would appreciate Board support in the efforts to work out funding with DWR.

Board Member Villines asked what would physically come out of water that floods through the Goldfields. Mr. Brunner responded that it would be just cobble that flushes through sand – there would be no toxics coming out.

In response to a question from Board Member Suarez, Ric Reinhardt of MBK Engineers stated that in the Tetra Tech study, they identified no problem at the 100-year, and a small problem at the 200-year. Last year, the Corps stated that there was not a problem at the 100-year, and a substantial problem at the 200-year. As the project nears completion, the greater level of detail is revealing that there's a problem at both the 100 and 200.

Vice President Rie asked if they are considering expanding the assessment district to include more properties to help pay for the solution. Mr. Brunner replied that they haven't thought that far ahead yet, but logically the answer would be yes.

Scott Shapiro, General Counsel for TRLIA, stated that increasing the size of the assessment district to raise O&M monies from the Goldfields would require that they do an analysis on whether the Goldfields benefit from the O&M. And it's not completely clear that they do, because the water largely just passes through them.

Secretary Hodgkins reminded Mr. Brunner to consider the possibility of getting the Board involved in some sort of sponsorship as they negotiate with DWR.

President Carter raised the point that with the amount of erosion occurring over the years and where the sediment and gravel are ending up, there may be implications for the rest of the system.

Mr. Punia commented that the local community felt concern about this potential problem as well. He acknowledged that Don Schrader in the audience had raised the question to TRLIA and the CVFPB that this area needs study.

13. BOARD COMMENTS AND TASK LEADER REPORTS

- Board Member Brown had attended the CVFPP meeting; he had taken a Sacramento Valley tour with staff; he attended the Integrated Flood Management Calibration Management Group with Secretary Hodgkins.

He had attended the Central Valley Flood Protection Committee meeting with Mr. Arrich and Secretary Hodgkins. He planned on having an invite from RD 1000 to an open house on November 2, and on November 3, he has been invited to attend the Yolo County Landowners Association annual meeting.

- Vice President Rie reported that she had attended the Delta Stewardship Council meeting with Board Member Villines. She also attended the SAME conference.
- Secretary Hodgkins reported that he had been working with staff on SERP, and making good progress. They have also been working with BDCP.
- Board Member Suarez reported that in addition to participating in the SAME conference with Mr. Butler, and the work relating to the outreach activities with the CVFPP, they will be teaming up with DWR to identify the particulars, in terms of how they can help with outreach, funding, and resources.

They also plan to recommence with Tier 2, having received many important comments from key stakeholders.

Board Member Suarez requested the Board to look at the slide presentation she had shared with the California Levee Roundtable.

- Board Member Villines reported that he had attended the hearing in the State Capitol on the Bay-Delta report. He also observed the presentation by Board Member Suarez at the Levee Working Group.
- President Carter had been busy with Roundtable meetings, both Steering Committee and general meetings. They are in the process of transitioning into more of a policy problem solving work group, as opposed to information sharing.

The Roundtable will be having a meeting on November 8. The stakeholders will be reviewing the working draft of the CVFPP and looking for red flags.

He has been participating in the FESSRO conservation strategy being tied into the CVFPP. He also made a presentation on levee vegetation with Mr. Qualley, Ms. Nagy, and a representative from Mr. Garamendi's staff at the SAME conference.

14. FUTURE AGENDA

The Board discussed items for the December meeting agenda.

10. CLOSED SESSION – *Continued*

The Board recessed into closed session at 5:00 p.m. They reconvened into open session at 5:28 p.m. President Carter stated that the Board had conferred with counsel on potential litigation involving the Board. No action was taken.

15. ADJOURN

President Carter adjourned the meeting at 5:28 p.m.

Dated: 26 JANUARY 2012

The foregoing Minutes were approved:



Butch Hodgkins
Secretary



Benjamin F. Carter
President