

MINUTES
MEETING OF THE CENTRAL VALLEY FLOOD PROTECTION BOARD
June 22, 2012

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 special meeting of the Central Valley Flood Protection Board was held on June 22, 2012, beginning at 9:06 a.m. at the Resources Building, 1416 Ninth Street, Sacramento, California 95814.

The following members of the Board were present:

Mr. Bill Edgar, President
Ms. Emma Suarez, Vice President
Ms. Jane Dolan, Secretary
Mr. Joe Countryman
Mr. Clyde MacDonald
Mr. Tim Ramirez
Mr. Mike Villines

The following members of the Board staff were present:

Mr. Jay Punia, Executive Officer
Mr. Len Marino, Chief Engineer
Mr. Eric Butler, Supervising Engineer
Ms. Mitra Emami, Senior Engineer
Mr. Dave Williams, Senior Engineer
Mr. Michael Wright, Senior Engineer
Mr. Gary Lemon, Staff Engineer
Ms. Nancy Moricz, Staff Engineer
Ms. Amber Woertink, Staff Assistant
Ms. Deborah Smith, Legal Counsel

Department of Water Resources staff present:

Mr. Noel Lerner, Chief, Flood Maintenance Office
Mr. Keith Swanson, Chief, Division of Flood Management
Mr. Ward Tabor, Assistant Chief Counsel

Also present:

Ms. Denise Carter, Colusa County Supervisor
Mr. Kevin Crossland, H-Pond
Mr. Justin Fredrickson, California Farm Bureau Federation
Mr. Timothy French, H-Pond

Mr. Jack Palmer, H-Pond
Mr. Daniel Pellissier
Mr. Scott Shapiro, California Central Valley Flood Control Association
Mr. Dustin Smith
Mr. Nevada Smith
Mr. Ronald Smith
Ms. Helen Swagerty, River Partners

1. ROLL CALL

Executive Officer Punia reported that all Board Members were present except for Mr. Villines, who arrived later.

2. APPROVAL OF MINUTES – April 5, 6, 9, 11, 20, and 27, 2012

President Edgar stated the Board will vote on the Minutes of April 20, 2012, at a future date.

Upon motion by Secretary Dolan, seconded by Board Member Countryman, the Board unanimously approved the April 5, 6, 9, 11, and 27, 2012, Minutes.

3. APPROVAL OF AGENDA

Executive Officer Punia stated staff recommended Items 7A and 7I be postponed to a future date. The closed session will be held during lunch. He also stated staff recommended moving Item 10, or alternatively, Items 12 and 13 to before the lunch, if Item 8 is finished early.

Upon motion by Secretary Dolan, seconded by Board Member Countryman, the Board unanimously approved the agenda with the above changes.

4. PUBLIC COMMENTS

There were no public comments for items not on the agenda.

5. REPORT OF ACTIVITIES OF THE DEPARTMENT OF WATER RESOURCES

The Department of Water Resources (DWR) Division of Flood Management Chief Swanson stated the annual Floodplain Management Association Conference will be held the week of September 4-7 in Sacramento and encouraged the Board to attend. The DWR will be demonstrating the Flood Emergency Response Information System, which is the new generation California Data Exchange Center (CDEC) system.

He reminded the Board that October 15-21 is the California Flood Preparedness week. The DWR is assisting in the planning of an event, tentatively scheduled on October 27, at the Capitol and expecting State and federal agency participation.

The DWR is tracking and working with Senator Wolk's office on Senate Bill 1278, which is a rewrite of portions of Senate Bill 5. Earlier versions have suggested that the State of California take an active role in the floodplain mapping business. The DWR made a suggestion to the Senator's office that an alliance with the Federal Emergency

Management Agency (FEMA) would be logical, as FEMA mapping is controversial, technical, and resource-intensive.

The Marysville Ring Levee and Weir 2 on the east borrow pit of the Sutter Bypass are back under construction.

RT Contractors took the material in the Moulton soil stockpile, on Morrison Creek at Mack Road, thus resolving the problem of potential litigation due to the material being stockpiled there for a number of years.

A ribbon-cutting ceremony for West Sacramento Area Flood Control Agency's (SAFCA) projects, The Rivers Early Implementation Projects and the California Highway Patrol Academy levee, will be on June 26th. The DWR has been able to carry these out through the Early Implementation Program (EIP).

The DWR is advertising three erosion repair sites in Maintenance Area 9, and hopes to have a bid opening in early July.

The DWR's emergency response grant program, the Delta Communications Grant Program, will provide \$5 million of funding for communication equipment for Delta counties. The DWR also has a more basic emergency response grant that will provide money for the acquisition of flood fight materials, as well as the development of emergency response planning. The DWR encourages improved communication among maintainers in hydraulic basins through the grant program.

The U.S. Army Corps of Engineers (Corps) is working on a way to implement their new 3x3x3 criteria by revising Preventive Maintenance Plans on a number of studies, but funding is low for construction or for conducting studies.

The DWR is optimistic about the opportunity to move forward and implement projects with the adoption of the Central Valley Flood Protection Plan (CVFPP) next week. The DWR has been working hard on the Program Environmental Impact Report (PEIR) program and will be in a position to certify before the next Board meeting. The DWR's regional planning initiative has been delayed due to efforts to support the CVFPP and get through the PEIR process. However, draft guidelines are anticipated being released in July to fund activities that help develop regional governance, identify prioritized projects, ascertain costs and benefits associated with those projects, and work with the community to establish local ability to fund their portion of projects.

With the adoption of the CVFPP and ensuing deliberation of funding options, it will be imperative to discuss how to conduct regional governance. San Joaquin County commissioned a study about regional governance in their area, which showed the complexity of existing flood control governance, and identified sixty different agencies that were involved with governance in the San Joaquin area. One of the conclusions out of the study was that locals felt there was no compelling reason to change the status quo.

The DWR continues work on the Flood Futures Report, which is the statewide planning effort, and hopes to have a policy-level document out by the end of the summer, and the full report released by the end of the year.

The DWR is working on the California Water Plan, which will be available early 2013.

The DWR has worked diligently to align the water management message in all their documents, integrating water reliability, public safety, and the environment. These documents will be the basis of future financing initiatives.

6. REPORT OF ACTIVITIES OF THE EXECUTIVE OFFICER

Executive Officer Punia reported on staff activities:

Central Valley Flood Protection Plan. Details will be presented under Item 8.

Sacramento Area Flood Control Agency. One of the two Notices of Violations issued to SAFCA has been rescinded. Upon further analyses based upon soil samples, staff concluded that the surplus bentonite in the levee meets the specifications outlined in the design and permit. The second Notice of Violation is still under investigation, and staff will continue to analyze new samples.

Natomas Project. Staff accepted the first closeout of the encroachment permit for the Natomas Cross Canal Phases 1A and 1B. Staff will coordinate with the Corps and the Natomas Project will become part of the Federal Flood Control Project.

Three Rivers Levee Improvement Authority. Staff is coordinating with the Three Rivers Levee Improvement Authority (TRLIA) to resolve the issue of compaction requirements in the Upper Yuba Levee Improvement Project. A site meeting has been arranged to continue to work with TRLIA to resolve this issue.

Sutter Butte Flood Control Agency. A field trip and briefing has been arranged during the September 14th Board meeting to view the Sutter Butte Flood Control Agency's proposed project.

West Sacramento Flood Control Agency. The City of West Sacramento has finished two projects: The Rivers Early Implementation Projects, and the California Highway Patrol Academy. The Board has been invited to participate in a ribbon-cutting ceremony scheduled for June 26th at 9:30 a.m. President Edgar will speak on behalf of the Board.

Bridge permits. Staff met with Merced County officials to discuss their potential bridge permit applications. They are expected to submit several permits in the coming year.

PL 84-99 erosion repair sites and the proposed mitigation. Staff has not reached a consensus with the Corps to transplant willow pole plantings. Staff had a meeting involving the local Reclamation Districts (RD) 3, 150, and 551 and plans to continue discussions with the Corps in the field. Staff, locals, and the DWR have expressed concern on the potential maintenance requirements of that mitigation feature.

The U.S. Army Corps of Engineers' letter. The Corps sent a letter indicating the Board should work with the DWR to align inspection programs with the Corps. The DWR is already aligned in some areas, and is willing to continue refining their inspection program to correspond with the Corps inspections. Staff is preparing the Board's response to the Corps' letter in coordination with the DWR.

Budget. Based on budget projections, there may be surplus money at the end of this fiscal year. The Budget Office advised manually reserving these funds so that they can be utilized next year against the contract with the Department of Justice to pay for legal counsel services.

The Executive Officer's Delegation Resolution. Staff will begin issuing simple permit applications in July and will report to the Board on a monthly or quarterly basis. Chief Engineer Marino stated the resolution requires items delegated to the Executive Officer to be posted on the website for public comment at the same time the package is sent to the Corps for analysis. After 30 days, if there were no comments, with the receipt of the approval letter from the Corps, the Executive Officer will issue the permit; if protests were made, the permit must go before the Board. Legal Counsel Smith added that protests must be submitted in writing per Section 12 of the regulations.

Methyl Mercury Open Water Workgroup. The Regional Water Quality Control Board has requested information on this subject. The extension was approved and the next submittal is due in August. Staff is working with the DWR and other agencies to develop that information.

Sacramento River Greenway. The Sacramento River Greenway has requested development of a bike trail along the Sacramento River from Freeport to the downtown area. Staff will gather information, meet with city council members, and develop a response to the letters received.

River Islands Project. The River Islands Project submitted plans to develop a nearby sales office; they are currently working with staff on this.

California High-Speed Rail Authority. Staff has met with the California High-Speed Rail Authority to discuss the Merced to Fresno and Fresno to Bakersfield reaches.

U.S. Army Corps of Engineers' Inspection Reports. The Corps has two parallel types of inspection processes: Periodic Inspections and Continuing Eligibility Inspections.

- The Periodic Inspections, conducted every five years, verify the proper operation and maintenance of each hydraulic system within a levee system. The Periodic Inspections evaluate operational adequacy and structural stability, and identify features to monitor over time. The Board posts a draft report for 30 to 45 days for public comment; during this time, the Board works with local maintaining agencies to correct structural deficiencies and remove encroachments.
- The Continuing Eligibility Inspections are conducted every year; they are less rigorous, but comprise only ten percent of the project in any given year and are able to flag operational deficiencies that can affect the levee system's Public Law (PL) 84-99 eligibility.

U.S. Army Corps of Engineers' Levee Ratings System.

- A red status means the levee is rated inactive because it is likely to prevent performance during the next flood event. If a levee system is deemed inactive, it is no longer eligible to be in the PL 84-99 levee rehabilitation program or to receive

funding. If the levee is not eligible for PL 84-99, the Corps will still assist in flood fighting, but they will not assist in rehabilitation of the levee.

- A pink status means levees that were flagged during the last inspection have yet to be corrected.
- An orange status means an area would normally be red but is covered by the vegetation framework document.
- A yellow status means the levee is active.
- A purple status means the levee has less serious issues that still have to be addressed.

The Framework Document. The extension of eligibility in the PL 84-99 will expire soon. In their letter sent with regard to the CVFPP, the Corps recommended that the Board include a long-term vegetation management plan in accordance with their System-Wide Improvement Framework (SWIF) to retain their eligibility. When the framework document expires next month, the orange items may become red items and close to ninety percent of the levee systems throughout the State will become inactive under PL 84-99 and will not receive federal rehabilitation funding after a flood event.

Strategy and Goals. Staff will continue working with local partners to maintain an acceptable rating on the levee systems. Local maintaining agencies will undertake erosion control, rodents, vegetation, maintenance, and operational features; staff assists with encroachment removal. Staff also collaborates with local maintainers to prioritize removal of encroachments in order to maximize the number of levee systems that can receive an acceptable rating.

President Edgar stated the Board and the DWR are headed for a confrontation with the adoption of the CVFPP. The DWR has made the decision to not comply with the Corps' recommendation to proceed with a SWIF for those levees deemed ineligible for PL 84-99. Executive Officer Punia stated if the local maintaining agency is interested in following the SWIF requirement, then the Board will submit the SWIF package to the Corps on their behalf; however, staff and the DWR concur that this is a major undertaking and resources are not available at this time.

Board Member Ramirez suggested notifying the public of this change to let them know the implications of not having the framework anymore. Board Member MacDonald added this is a political as well as technical issue, and the public may not understand the proposal. President Edgar asked staff to add this discussion to the July agenda and coordinate with the DWR on a proposed strategy.

Overview of Enforcement Activities Conducted in June

Senior Engineer Wright gave an overview of enforcement activities conducted in June:

- Staff and TRLIA met with landowners on June 4th to discuss the plan improvements on the levee toe road in Linda.

- Board staff participated in a community meeting on June 11th, where TRLIA presented a grading and drainage plan to landowners and attempted to resolve the fence alignment issues.
- A Notice of Violation was issued to RD 2070 in Lake County this week pertaining to a pump station that pumps water through a levee. The discharge pipes are in disrepair, which could possibly cause levee failure.
- A Periodic Inspection Out-brief is scheduled for July 13th and will include the Yolano Cache Slough and Hastings Tract Levee Systems.
- A Periodic Inspection Out-brief is scheduled for July 20th for Bear River and the Sutter Basin North, Yankee Slough, and Nicolaus Feather River Levee Systems.
- The Final Periodic Inspection reports were issued in April 2012 for the Bear Creek and Mormon Slough Projects. The issues will be addressed by San Joaquin County. They will submit the plan and address the orange items.
- In late April, the Board staff received five Continuing Eligibility Inspection reports, wherein two systems were deemed unacceptable and inactive for PL 84-99: the Lower San Joaquin Levee District, and RD 1001, the Nicolaus Feather River. Two more reports were received in June; both RD 524 and 554, the Middle and Upper Roberts Island Levee Systems, were deemed unacceptable and inactive for PL 84-99.

Executive Officer Punia estimated the Periodic Inspection reports will rate a high number of the projects as ineligible for PL 84-99. Chief Engineer Marino added that this includes vegetation and encroachments.

President Edgar stated the Board was aware, because of the expiration of the framework agreement, the adoption of the plan, and the Department and the Board's position on vegetation, that most levees would fall out of eligibility because of the vegetation issue. However, according to Senior Engineer Wright's overview, most levees will fall out of eligibility regardless of this issue.

Chief Engineer Marino stated many levees have both vegetation and encroachment issues, either of which can fail them. President Edgar asked Executive Officer Punia to provide the Board with a breakdown of the numbers in the next Board meeting.

Board Member Ramirez requested that staff provide a calendar listing future Board meetings and conference dates for Board members.

7. CONSENT CALENDAR

President Edgar stated two of the eleven items on the Consent Calendar have been postponed.

A. Permit No. 18621-1, Department of Water Resources – Flood System Sustainability Branch *(Steve Dawson)*

Consider approval of Permit No. 18621-1 to construct a 1,500-foot long, 3-foot wide soil-bentonite slurry wall to an average depth of 45 feet (below the levee

crown), a 300 foot add-on levee, and a 700-foot seepage berm on the right (north) levee (River Mile 42.3) of the San Joaquin River. (San Joaquin County)

B. Permit No. 18707, Department of Water Resources (DWR) (Steve Dawson)

Consider approval of Permit No. 18707 to install eight flow monitoring stations at separate sites throughout the southern Delta in Middle River, Old River, Grantline Canal, and San Joaquin River, and the intake at Clifton Court Forebay. Each station consists of one 12-inch steel pile in the bed of the channel. At Site 8, rock rip-rap will be placed 25 feet upstream and 25 feet downstream from the pile locations. (San Joaquin/Contra Costa County)

C. Permit No. 18719, Reclamation District 1000 (RD 1000) (Gary Lemon)

Consider approval Permit No. 18719 to abandon a deep 60-inch diameter RCP drain under the levee; to install two new drain pipes, 30-inch and 42-inch diameter, up and over the levee(s); to construct a new outfall structure, all in conjunction with the reconstruction of RD 1000's Pump Station No. 2. Item includes approval of Resolution 2012-29 adopting the Lead Agency's Findings of Fact and Statement of Overriding Considerations pursuant to the California Environmental Quality Act (CEQA). (Sacramento County)

D. Permit No. 18736, Richard Nguyen (Ashley Cousin)

Consider approval of Permit No. 18736 to install a fence, retaining wall, and outfall structure adjacent to Morrison Creek. (Sacramento County)

E. Permit No. 18737, Philip Berolzheimer (Gary Lemon)

Consider approval of Permit No. 18737 to authorize an existing boat dock, gangway, wood landing, concrete steps, and riprap bank protection on the north bank of Atherton Cove. (San Joaquin County)

F. Permit No. 18738, City of Vacaville – Public Works Department (Ashley Cousin)

Consider approval of Permit No. 18738 to construct an approximately one-mile Class I asphalt concrete bike path on an existing dirt and gravel maintenance road along the north bank of Ulatis Creek (Solano County)

G. Permit No. 18743, Central Valley Independent Network, LLC (Gary Lemon)

Consider approval of Permit No. 18743 to bore (directional drill) a 4-inch diameter high density polyethylene (HDPE) casing pipe beneath Mormon Slough that will contain two 1.25-inch diameter HDPE fiber optic cable conduits. (San Joaquin County)

H. Permit No. 18744, Central Valley Independent Network, LLC (Gary Lemon)

Consider approval of Permit No. 18744 to bore (directional drill) a 4-inch diameter high density polyethylene (HDPE) casing pipe beneath Duck Creek that will contain two 1.25-inch diameter HDPE fiber optic cable conduits. (San Joaquin County)

I. Permit No. 18747, Javed T. and Amna J. Siddiqui (Sterling Sorenson)

Consider approval of Permit No. 18747 to construct a private irrigation system including a river pump, pipe through the levee, and appurtenant structures. (Sacramento County)

J. Hamilton City Flood Damage Reduction and Ecosystem Restoration Project (Liz Bryson)

Consider approval of Resolution No. 2012-12 to approve an amendment to the design agreement for the Hamilton City Flood Damage Reduction and Ecosystem Restoration Project for immediate release of the increased funds to maintain the project schedule.

K. Deed Restriction Removal, City of Rio Vista (Alejandra Lopez and Michael C. Wright)

Consider approval of Resolution No. 2012-28 to remove the Sacramento-San Joaquin Drainage District deed restriction on property owned by the City of Rio Vista identified as Solano County Assessor's Parcel Numbers 178-200-010, 178-200-020, 178-200-030, and 178-200-040.

Upon motion by Vice President Suarez, seconded by Board Member MacDonald, the Board unanimously approved the Consent Calendar.

8. CENTRAL VALLEY FLOOD PROTECTION PLAN

A. Proposed Adoption Resolution and Package for the Central Valley Flood Protection Plan.

President Edgar stated the Board members and staff have met with various stakeholders in the Central Valley to ascertain public opinion regarding the CVFPP. He asked staff to present the materials used in the stakeholder meetings for consistency and familiarity. He stated the purpose of today's meeting is to give members of the Board and public additional time for discussion before the adoption meeting next week.

Staff Engineer Moricz stated staff received eight letters over the last week supporting the adoption resolution and the changes that have been made to the plan. She presented a chronology of the Board plan activities:

- December 30, 2011 – The 2012 public draft was delivered to the Board and posted to the website.
- January 27 – The DWR formally presented the plan to the Board.
- February 24 – Focus points were solicited from the public for topics for the public outreach hearings.
- March 22 – The DWR gave a technical briefing on the plan to the Board.
- March 23 – The DWR formally presented the draft PEIR to the Board.
- Public Outreach Hearings:
 - April 5 – Sacramento
 - April 6 – Marysville

- April 9 – Stockton
- April 11 – Woodland
- April 20 – A public workshop was held covering the key public comment issues that were summarized at the meeting and discussed by the Board.
- April 27 – The Board had its regularly scheduled meeting with a comment summary and public process update, and the DWR did regional planning.
- May 11 – The draft adoption package was presented and discussed.
- May 25 – The Board had its regularly scheduled meeting with discussion of the draft adoption package.
- June 1 – The meeting from the 25th was continued, including discussion on the adoption package.
- June 5 – A drafting committee convened to refine the resolution per the direction of the June 1st meeting.
- June 8 – There was continued discussion from the prior week on the adoption package, and a final drafting committee to refine the resolution on June 12th.
- June 15 – There was a special meeting to consider posting the changes to the proposed plan; and all of the changes to the resolution were made and successfully posted.
- June 22 – Today’s meeting will continue discussion on the package.
- June 29 – The Board will consider final adoption of the package.

Staff Engineer Moricz presented a brief summary of public comment and input:

- Comments have been received officially from January 1st to May 4th of this year.
- There were 297 individual comment submittals, which included 1 email petition with 4,499 supporters.
- There were 16 key issues outlined for Board consideration and discussion, which are outlined in Whereas LL in the resolution.
- Comments were received through email, mail, and transcribed public testimony.
- The formal public comment record was posted on the website.

Staff Engineer Moricz outlined the regional planning:

- The main concept is to create a more interactive approach to engage local participation in the creation of future planning activities and feasibility studies.
- The Board’s involvement will include future outreach activities where the Board can engage the public to evaluate effectiveness.
- The Board will invite stakeholders to Board meetings to give their opinion on how the process is going or flag any problems that may be occurring and give feedback.
- Current regional planning information will be posted on the website with a link to the DWR’s website.

President Edgar stated, based on the testimony of residents, staff, and the DWR, the Cherokee Canal – the Feather River Bypass – needs improvement, but will not be included in the plan at this time. Removal of the Feather River Bypass was not meant to prevent the Department from doing necessary studies to consider all alternatives on an

equal footing to improve flood control for the area. The difference between the Feather River Bypass and the Sutter and Yolo Bypasses is that if, based on these studies, an issue needs to be addressed, then it will be amended back into the plan in 2017.

The Yolo and Sutter Bypasses were vetted at length in workshops and discussions that the Department held over the last three years. The Feather River Bypass was inserted into the plan at the last minute without public stakeholder discussion and did not have the opportunity to be evaluated the way the others did. The majority of the Board felt it necessary to respond in a positive way, so that implementation could move forward in a constructive manner. President Edgar stated the Department is willing to move on into the implementation phase, as long as they can look at system-wide benefits with all alternatives under discussion on the same footing.

In response to Board Member Countryman's question, DWR Assistant Chief Counsel Tabor stated the resolution, as it currently stands, will not limit the Department from being able to study what they feel will be necessary for system-wide improvements.

Public Comment – Justin Fredrickson

Justin Fredrickson, of the California Farm Bureau Federation, stated he was pleased to hear that the DWR is comfortable with the current language of the plan. He brought a packet of letters from a number of interests in the area, including all affected farm bureaus and some of the rice growers in Butte, Colusa, and Sutter Counties, as well as a letter from the California Farm Bureau Federation defending the Board's proposed plan.

He asked for clarification of President Edgar's statement, regarding the Feather River Bypass proposal, whether different alternatives will be considered and whether there will be attention focused on the Cherokee Canal where there are regional and local issues. He asked if this focus was to consider regional alternatives before system-wide alternatives, or to consider system-wide alternatives until a regional alternative is found.

Public Comment – Scott Shapiro

Scott Shapiro, general counsel for the California Central Valley Flood Control Association, stated the Board of the California Central Valley Flood Control is grateful for the time and effort that has gone into the plan, including incorporation of urban and rural levee repair, system-wide improvements, and a regional planning process. The California Central Valley Flood Control Association looks forward to partnering with this Board in the regional planning process, and continuing to work with the DWR in future.

Public Comment – Denise Carter, Colusa County Supervisor

Denise Carter, the Colusa County Supervisor, stated the constituents of Colusa County feel they are heard and valued with Resolved 23. Ms. Carter looks forward to continuing the collaborative spirit in the regional planning process.

B. Board discussion of Proposed Adoption Resolution and Package.

Board Member Ramirez stated, with regard to the Cherokee Canal, it is important to do at least two things when making statements of policy – to be as clear as possible, and to base policy on everything that needs to be considered: technical information as well as

political information, State and federal regulations, and other policies. Although the proposed language is open to interpretation, the DWR confirmed they will not be restricted in doing the work that needs to be done system-wide.

He stated he does not support the wording that was adopted and is now proposed, as he felt it may restrict the ability to collect necessary technical information. President Edgar responded that this resolution adopts the DWR's plan as a framework for moving forward with a few amendments, and commits this Board, as well as the Department, to interact with stakeholders on an ongoing basis as the plan is implemented. Therefore, issues will be considered, discussed, and studied in a collaborative way during the implementation process.

Board Member MacDonald stated the Legislature gave the DWR the authority to develop a plan, which included Cherokee Canal. Although the Board took it off the plan, the Department still has authority from the Legislature to recommend other changes later.

Secretary Dolan stated there are many things about this plan and resolution that are not perfect or as clear as stakeholders, local partners, or even State agencies would like them to be. The Board has worked hard to address concerns in a truncated process. This resolution assures that the move will be toward collaboration, information, and partnerships; and that the work will be done to improve the current system and attain a statewide system that meets future needs.

C. Next steps in the adoption process.

Board Member Ramirez asked about some of the next steps in the regional planning process, such as grant development and forming advice committees. Executive Officer Punia stated and the Board will establish a Committee comprising of Board members and staff. The Committee, along with the DWR, will engage in this process.

9.* HEARINGS AND DECISIONS

A. Enforcement Appeal Hearing for Mr. Ronald Smith to Cease and Desist Order No. 2012-145)

Consider appeal of Cease and Desist Order No. 2012-145 which ordered the removal of code violations and unauthorized encroachments including a barn, tanks, earthwork, and blockages constructed in the Yolo bypass approximately 10 miles south of the I-80 causeway and approximately 1.5 miles west of the Sacramento Deep Water Ship Channel. (Yolo County)

Senior Engineer Wright outlined Enforcement Action number 2012-145. The respondent is Ronald Smith, and the encroachments exist in the Yolo Bypass. He asked that the Board consider ordering compliance with the Cease and Desist Enforcement Notice number 2012-145 to remove the following unauthorized encroachments from the Yolo Bypass:

- Item 1: Damaged agricultural barn
- Item 2: Elevated earthen equipment pad
- Item 3: Leaking diesel fuel tank

- Item 4: Ammonia tanks in the regulated floodway
- Item 5: Non-anchored farming equipment in the floodway
- Item 6: Soil berms blocking the free flow of drainage
- Item 7: Blockages of ditches and culverts

Senior Engineer Wright stated Yolo County supports Board staff's enforcement action and has informed the respondent that a Yolo County permit for the barn and berm will not be issued until the Board issues a permit. The Corps has expressed support of enforcement actions related to encroachments that are not Title 23 compliant. Board staff has prepared the following CEQA determinations: the Board, acting as the CEQA lead agency, has determined the project is categorically exempt in accordance with CEQA guidelines, Section 15321 under Class 21(a), Actions of Regulatory Agencies to Enforce Standards, and Section 15301 under Class 1, Covering the Removal of Existing Facilities.

Senior Engineer Wright stated the determinations and information presented today constitute evidence that these encroachments will obstruct the performance of the Sacramento River Flood Control Project pursuant to Water Code 8708 and 8709. The State is obligated to enforce removal or modification of encroachments that impact the flood control system operation and maintenance pursuant to Water Code 8708. Staff recommends that the Board consider the following actions: Adopt Enforcement Action number 2012-145; determine the encroachment removal as exempt from CEQA; and, order the removal of unauthorized encroachments in accordance with Enforcement Action number 2012-145.

Dustin Smith stated the Yolo County Building Department and the Yolo County Farm Bureau gave them misinformation about the permit requirement and misinterpreted their applications. He asked the Board to consider allowing the mound and the barn to remain on the property through a variance. If this cannot be granted, he requested the mound and barn remain through the approval of the mitigation project, because the mitigation project will, ultimately, take this property out of agricultural use and into permanent conservation.

Public Comment

- Timothy French has been a member of H-Pond for over twenty years. There have been three neighbors during that time: Burt Swanson, Capital Oil, and the Smiths. He stated the Smiths have disregarded H-Pond's riparian water and drainage rights, and have buried one of the concrete risers that H-Pond bought for managing the property. Due to the buried concrete riser, there are mosquito abatement and vegetation management issues, since H-Pond can no longer drain from there. He stated if the Smiths would allow them to maintain their property and drain without interference, there would be no problem.
- Jack Palmer stated he has been a member of H-Pond Duck Club for almost twenty years. He affirmed members farm on the H-Pond property during the summer months. He stated he understands the Smiths' need to keep their farm equipment up off the

ground, but supplementing the berm is violating the precepts of flood management in the bypass.

- Kevin Crossland stated he is a member of H-Pond. H-Pond has been on this property since the late 1800s and is part of the easement for the U.S. Fish and Wildlife and would like to reach a compromise. The issue is that existing structures on H-Pond's property have been changed. Those structures were put in place, either by the Flood Control or by the U.S. Fish and Wildlife, or other State or U.S. Government agencies. H-Pond requests the property be put back, legally and correctly, the way it was before the Smiths altered it.

Nevada Smith stated the blocked pipe is still in the ground where it was first placed and it was blocked prior to the Smiths owning the property. He also responded to the accusation of blocking H-Pond's drainage structure. The problem with the drain in that location was that, after duck season, all the ponds were full; when the weather turned nice again, they pulled the drain boards. During that time of year, when the Smiths were out farming, the water would go down the Smiths' drain, which was not built to hold that much water and would backflow out into the Smiths' fields. Two years in a row, the Smiths had flood damage from H-Pond's stored water being released down the drains. The pile of dirt H-Pond claims the Smiths put in on the south end of their property is, in fact, dirt that washed in from the last flood.

President Edgar stated the purpose of this hearing is to reach an agreement and bring this property into compliance. He recommended setting a timetable and posting a bond to ensure that this is done properly with an incentive for the parties to cooperate quickly. If an agreement is not reached by next month, the Board will take further action.

Vice President Suarez stated it is important to empower staff to use the negotiation tool of the enforcement process. She suggested affirming the Enforcement Action, but staying the Enforcement Action for 60 days to give the parties an opportunity to come to an agreement. In 30 days, staff will report to the Board on the status of the negotiations and the Board will either set aside or proceed with the Enforcement Action.

Board Member MacDonald suggested the Smiths sweep all the issues together and come to a compromise with their neighbors.

Board Member Ramirez agreed there are issues to be discussed between the neighbors, but felt the barn and the mound do not require 30 days' discussion. He asked if any of the seven encroachments have already been remedied. Senior Engineer Wright stated Items 3, 4, and 5 have been rectified. He added the tanks are still on the property, because the Smiths have agreed to apply for a permit and remove them during flood season.

Upon motion by Vice President Suarez, seconded by Board Member Countryman, the Board unanimously denied the appeal for the Smith Cease and Desist Order 2012-145, and affirmed and stayed the Enforcement Action to give parties an opportunity for negotiation until the August 24, 2012, Board meeting, with a negotiation progress report due at the July 27, 2012, Board meeting, and a November 1, 2012, deadline for removal of unauthorized encroachments. If no

resolution has been reached by August 24, 2012, the Board will continue with the Enforcement Action.

B. Variance Hearing for Permit No. 3914-A, Daniel and Laura Pellissier

Consider approval of Resolution No. 2012-22 to approve a variance to board standards for Permit No. 3914-A which includes existing and proposed residential appurtenances on the waterside of the Sacramento River Levee at 7021 Garden Highway in Reclamation District No. 1000. (Sacramento County)

Staff Engineer Lemon presented the information for Permit number 3914-A. The respondents are Daniel and Laura Pellissier, who requested authorization of an existing gazebo and pool security fence, and to construct a 2,400 square foot home addition, an attached garage, a new driveway, a concrete driveway entrance platform, retaining walls, a column and panel iron fence along the Garden Highway, a new leach field, a geothermal heat pump system, new landscaping, and to import approximately 590 cubic yards of fill. This is on the waterside of the levee RD 1000.

Hydraulic analysis was performed to show the encroachments being considered have no measurable impact on the water surface elevation. All encroachments are or will be securely anchored to prevent flotation into the floodway. There is no evidence to suggest that any of the encroachments will be injurious to the Sacramento River Flood Control Project. Encroachments do not interfere with maintenance responsibilities of RD 1000, as signified by their endorsement of the project on August 18, 2011. The Corps' approval letter was received yesterday.

Staff Engineer Lemon stated staff recommends that the Board adopt Resolution number 2012-22, the CEQA findings, and the Findings of Fact. In addition, staff recommends that the Board approve Permit number 3914-A, direct the Executive Officer to take the necessary actions to prepare and execute the permit and related documents, and prepare and file a Notice of Exemption with the State Clearinghouse.

Upon motion by Board Member Countryman, seconded by Secretary Dolan, the Board unanimously approved Permit number 3914-A.

10. INFORMATIONAL BRIEFINGS

A. The Riparian Sanctuary Project

A collaborative effort between Princeton-Codora-Glenn and Provident Irrigation District (PCGID-PID), the US Fish and Wildlife Service (USFWS), and River Partners for restoring riparian habitat and protecting PCGID-PID's pumping plant.

Helen Swagerty, a Senior Restoration Biologist and Project Manager at River Partners, presented a summary of a project that River Partners has been working on for the last eight or nine years in collaboration with Princeton-Codora-Glenn and Provident Irrigation Districts (PCGID-PID), and the U.S. Fish and Wildlife Service. The Riparian Sanctuary Project is an effort to protect the PCGID-PID's pumping plant and fish screen facility, as

well as restore riparian habitat on the Llano Seco Riparian Sanctuary Unit of the U.S. Fish and Wildlife Service, Sacramento River National Wildlife Refuge.

In the next three months, River Partners will be submitting an encroachment permit application. Ms. Swagerty stated the Riparian Sanctuary Project will link the flood protection system with the water supply system; promote natural dynamic, hydrologic, and geomorphic processes that are rarely occurring on the Sacramento River; promote the recovery and stability of native species populations and overall biotic community diversity; minimize flood management system operations and maintenance requirements; and improve flood protection for urban areas that lie downstream.

Ms. Swagerty asked that the Board assign a staff member to reengage in this project, give feedback on the project design, and be actively involved and participate in the Riparian Sanctuary Project, not only from a regulatory standpoint, but also as landowners.

DWR Flood Maintenance Office Chief Lerner stated this project has water supply benefits and environmental restoration. The hydraulic analysis is a key area for the functioning of the Sacramento River and the flow splits. The DWR has reviewed the modeling that was part of the draft EIR and is willing to do additional modeling that would address their concerns. He stated it is a promising project in concept, but the DWR will have to see the details of the hydraulic analysis.

Ms. Swagerty asked for the Board's opinion about rock removal in the Sacramento-San Joaquin Drainage District, as River Partners will be submitting a permit application in the future. Senior Engineer Williams stated staff has been working with the River Partners consultants over the past year. While attending a presentation on this project to the Corps, he conferred with several proposed hydraulic consultants for this project. He stated cutting out the Oxbow speeds up water that can move sediment further downstream and cause havoc upstream. He recommended further analyses and is willing to work with River Partners once the permit is approved.

11. CLOSED SESSION

To discuss litigation (Giudice v. State of California et. al; San Joaquin County Superior Court Case No. 39-2011-00256176-CU-OR-STK) pursuant to Govt. Code section 11126(e)(1).

To discuss litigation (Hardesty et. al. v. Sacramento Metropolitan Air Quality Management District et. al; United States District Court, Eastern District of California - Sacramento Division Case No. 2:10-cv-02414-GEB-JFM) pursuant to Govt. Code section 11126(e)(1).

Pursuant to the authority of Government Code section 11126, subdivisions (e)(1), (e)(2)(B)(i), and (e)(2)(C)(i), the Board will meet in Closed Session to consider potential litigation involving the Board.

President Edgar stated the Board met in closed session pursuant to the agenda as published.

12. BOARD COMMENTS AND TASK LEADER REPORTS

President Edgar assigned Board Member MacDonald and himself to the new committee to begin working with the DWR on the regional planning initiative. Secretary Dolan will bring some ideas to the Executive Committee meeting at a later time.

13. FUTURE AGENDA

President Edgar stated there will be a special meeting next week, ideally to adopt the Central Valley Flood Protection Plan. There will be regular Board meetings in July and August. The meeting in July is on July 27th. The Board will begin holding two meetings per month, starting with September 14th and 28th. September 14th is a scheduled tour at the Sutter Butte Flood Control Agency (SBFCA). The general concept with holding two meetings per month is the additional meeting will be devoted to planning and informational items.

In answer to a question from Board Member Countryman, Executive Officer Punia stated the September 14th meeting will be dedicated to the SBFCA field trip and the briefing. The Department Status report and other items will be discussed in a future meeting.

President Edgar asked Board Member Countryman to explain the CDEC State database system. Board Member Countryman stated the CDEC is a real-time data network. During flood periods, the CDEC tracks, for instance, potential problem locations, warning areas, and changes in rivers and reservoirs. In his experience, this system works better than any other he has seen across the United States. He suggested a demonstration of the capabilities of the system and discussion of recent updates in the October Board meeting. He would also like the Board to consider giving a commendation for the people who have put CDEC together for the effort and intelligence that went into that system.

Board Member Villines requested staff send emails to Board members to remind them of upcoming calendar events.


14. ADJOURN BOARD MEETING

President Edgar stated the Executive Meeting will not meet today.

President Edgar adjourned the meeting at 4:14 p.m.

Dated: August 24, 2012

The foregoing Minutes were approved:



Jane Dolan
Secretary



William Edgar
President