

MINUTES
MEETING OF THE CENTRAL VALLEY FLOOD PROTECTION BOARD
August 23, 2013

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 of the Central Valley Flood Protection Board was held on August 23, 2013, beginning at 9:06 a.m. in The Sacramento City Hall First Floor Council Chambers, 915 I Street, Sacramento, California.

The Members of the Board:

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

The following members of the Board staff were present:

Mr. Jay Punia, Executive Officer
Mr. Len Marino, Chief Engineer
Mr. Eric Butler, Chief, Projects and Environmental Branch
Ms. Mitra Emami, Chief, Permitting and Enforcement Branch
Ms. Nicole Rinke, Legal Counsel
Ms. Amber Woertink, Staff Assistant
Mr. Michael Wright, Chief, Enforcement Section

Department of Water Resources (DWR) staff present:

Ms. Jennifer Dong
Mr. Noel Lerner, Chief, Flood Maintenance Officer
Mr. Chris Williams, Staff Engineer

Also Present:

Ms. Debbie Baldwin, California Department of Human Resources
Mr. Eric Douglas
Mr. Pete Ghelfi, Sacramento Area Flood Control Agency (SAFCA)
Ms. Rosemary Sidley, California Department of Human Resources

Also Present (continued):

Mr. Ryan Larson, United States Army Corps of Engineers
Mr. Ric Reinhardt, MBK Engineers

1. ROLL CALL

Staff Assistant Amber Woertink called the roll and a quorum was achieved.

2. APPROVAL OF MINUTES: JUNE 14, 2013 AND JUNE 28, 2013

Upon motion by Secretary Dolan, seconded by Board Member Countryman, the Board unanimously approved the Minutes for June 14 and June 28.

3. APPROVAL OF AGENDA

Executive Officer Punia stated the staff recommendation that Item 4C be postponed to a future date.

Upon motion by Board Member Macdonald, seconded by Secretary Dolan, the Board unanimously approved the staff recommendation.

4. CONSENT

A. Permit No. 18166-4, Sacramento Regional Transit District

Consider adoption of Resolution No. 2013-19 to approve Permit No. 18166-4 to construct a retaining wall encroaching 8 feet into the south bank of Union House Creek at the Center Parkway Station in the City of Sacramento. (Sacramento County)

B. Permit No. 18844, Union Pacific Railroad

Consider adoption of Resolution No. 2013-20 to approve Permit No. 18844 to replace an existing timber string portion (Segment A) of Bridge 73.37, Martinez Subdivision, along the South Fork of Putah Creek approximately 0.5 miles downstream of Interstate 80. (Solano County)

C. Permit No. 18845, Westervelt Ecological Services - *Postponed*

Consider approval of Permit No. 18845 to develop a wetland and giant garter snake preserve; de-level portions of the site to create a managed-marsh complex; create interior berms 3 feet above existing grade; and utilize existing and new water control structures to efficiently direct water. (Colusa County)

D. Permit No. 18863, Feather Water District

Central Valley Flood Protection Board Meeting – Minutes
August 23, 2013

Consider approval of Permit No. 18863 to construct a barrier across an existing water supply inlet channel; install of two (2) 48-inch diameter water conveyance pipes with fish screens; and one (1) 24-inch culvert on the right (west) bank of the Feather River. (Sutter County)

E. Permit No. 18864, Feather Water District

Consider approval of Permit No. 18864 to construct a barrier across an existing water supply inlet channel; install of two (2) 48-inch diameter water conveyance pipes with fish screens; and one (1) 24-inch culvert on the right (west) bank of the Feather River. (Sutter County)

F. Permit No. 18872, City of Davis

Consider approval of Permit No. 18872 to replace invasive weeds with native vegetation in the Davis Drain. (Yolo County)

G. Permit No. 18875, Farmland Reserve, Inc.

Consider approval of Permit No. 18875 to construct two 7-foot high setback agricultural embankments approximately 1,400-ft and 1,500-ft long; authorize approximately 1.65 miles of existing connected agricultural embankment, for a total of approximately 2.2 miles of agricultural embankment on the east bank within the limits of the Sacramento River Designated Floodway. (Butte County)

H. American River Common Features General Re-Evaluation Report Letter of Intent

Consider approval of Resolution No. 2013-18 to:

- 1. Approve a Letter of Intent to participate as a Non-federal Sponsor with the U.S. Army Corps of Engineers and the Sacramento Area Flood Control Agency in the American River Common Features General Re-evaluation Report; and**
- 2. Delegate to the Executive Officer authority to sign the Letter of Intent.**

Upon motion by Board Member Countryman, seconded by Secretary Dolan, the Board unanimously approved Items A, B, D, E, F, G, and H of the Consent Calendar.

5. PUBLIC COMMENT-None

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

**U.S. Army Corps of Engineers Levee Inspection Results:
- RD 2031 (Stanislaus County)**

- RD 1602 (Stanislaus and San Joaquin Counties)

Mr. Ryan Larson, the Corps, gave the Briefing. He noted that RDs 2031 and 1602 had been found unacceptable and inactive for PL 84-99.

Mr. Michael Wright, Board Enforcement Section Chief, reported that, overall, there are now 52 levee systems active and 62 inactive (and thus ineligible for PL 84-99).

7. REQUESTED ACTIONS

A. Central Valley Integrated Flood Management Study (CVIFMS) Feasibility Cost Share Agreement (FCSA) Amendment No. 1

Consider approval of Resolution No. 2013-17 to approve Amendment No. 1 to the FCSA between the U.S. Army Corps of Engineers, the Central Valley Flood Protection Board and the State of California Department of Water Resources for the CVIFMS.

Mr. Chris Williams, DWR Staff Engineer, gave the presentation and answered Board Member questions. He provided a brief synopsis of the Resolution's background and noted that the integrated Study is to identify and evaluate system-wide issues. Future implementation of any kind would require subsequent studies. He concluded with the staff recommendation to approve Resolution 2013-17, to approve the feasibility cost sharing agreement between the Corps, DWR and the Board, and to delegate authority to execute the agreement to the Executive Officer.

Upon motion by Board Member Countryman, seconded by Secretary Dolan, the Board unanimously approved Resolution No. 2013-17.

B. Senate Bill 753, An Act to Amend the Water Code Relating to Flood Protection

Consider the status of, modifications to, and other actions related to legislation approved by the Board for the legislature's consideration to broaden the Board's authority, primarily related to encroachment permitting and enforcement including the authority to issue administrative fines for uncorrected code violations.

President Edgar commented that there is nothing new to report at this time.

C. Employment of Board Legal Counsel

- 1. Discussion of the status of the hiring process for employment of Board Legal Counsel.**
- 2. Discussion and decision to continue with or modify the current hiring process.**

Executive Officer Punia introduced the discussion. Mr. Eric Butler, Projects and Environmental Branch Chief, reported on the three hiring options available to the Board—as a civil service employee, as a career executive assignment, or as an exempt employee—and he and Mr. Punia answered Board Member questions.

Ms. Jennifer Dong, DWR, clarified elements of the formal disciplinary issues involved with new hires and answered Board Member questions.

Mr. Butler stated the staff recommendation that the Board continue the current process of interviewing, selecting and ultimately hiring a civil service position at the Attorney 3 classification. Following deliberations and clarifying questions, the Board agreed.

President Edgar suggested that the Board approve a two-person subcommittee (a panel) to handle the hiring interviews. Mr. Punia stated the staff recommendation that the panel be composed of Board President Edgar, Vice President Suarez, and himself. The Board deliberated about the potential members of the interview panel.

*Upon **motion** by Secretary Dolan, seconded by Board Member Countryman, the Board unanimously agreed to designate the interview of the top candidates to a panel composed of President Edgar, Secretary Dolan and Executive Officer Punia; that the panel have assistance during the interview process from Legal and HR as deemed appropriate; and that the top candidate be brought to the Board in a timely fashion for the Board to make a final decision.*

Ms. Nicole Rinke, Board Legal Counsel, reported on the need for a continued separation between the new hire’s prosecutorial and advisory functions. Currently, DWR legal advises Board staff on enforcement (referred to as option 1). Another option (option 2) would be to have Board staff (i.e., the new hire) advise on enforcement and all other matters, but then that same person cannot be the advisor to the Board on any matters. After brief discussion the Board unanimously agreed to continue with option 1.

8. INFORMATIONAL BRIEFINGS/DISCUSSIONS

A. Implementation of the Board’s Strategic Plan

- 1. Overview of the final Strategic Plan and release hard copies for the Board Members.**
- 2. Preparation of the work program for implementation of the Strategic Plan.**
- 3. Next Steps.**

Prior to the discussion, hard copies of the final Strategic Plan were released to the Board Members and the public in attendance. Executive Officer Punia then gave the initial presentation. He expressed his thanks to the Board for initiating the plan and to DWR for financing the strategic plan contract.

Mr. Eric Douglas, the Strategic Plan Consultant, discussed specific elements of plan implementation and achievement and answered Board Member questions.

President Edgar shared a two-page memo of his perspective of the big issues that the Board will want to address, and the other Board Members discussed appropriate prioritizing for those as well as other issues. The discussion will continue at the next Executive Committee meeting.

B. Briefing on draft Sacramento Area Flood Control Association (SAFCA) encroachment white paper to support FEMA certification and Urban Levee Design Criteria (ULDC) compliance for the levees protecting the City and County of Sacramento.

Mr. Pete Ghelfi, SAFCA Director of Engineering, and Mr. Ric Reinhardt, MBK Engineers, gave the presentation and answered Board Member questions. They provided a quick outline of SAFCA's levee certification overview, talked about Corps encroachment assessments, provided some examples of encroachments, and discussed the white paper itself and SAFCA's next steps.

Mr. Noel Lerner, DWR Flood Maintenance Office Chief, expressed his endorsement and support for SAFCA's efforts and answered Board Member questions.

9. CLOSED SESSION

- **To discuss the evaluation, selection, employment, and other personnel matters related to the Board's interviewing of candidates and hiring for the position of Board Counsel pursuant to Govt. Code Section 11126(a)(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).**
- **To discuss litigation (Central Valley Flood Protection Board v. Lino Catabran, Sacramento Superior Court Case No. 34-2013-142003) pursuant to Govt. Code section 11126(e)(1).**
- **To discuss litigation (Fay Island Reclamation District v. California Department Fish and Game, et. al; California Superior Court, County of San Joaquin, Case No. 39-2009-00228660-CU-BC-STK) pursuant to Govt. Code section 11126(e)(1).**
- **To discuss litigation (Ward v. State, et al., Sacramento Superior Court Case No. 34-2013-00144886) 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.

10. BOARD COMMENTS AND TASK LEADER REPORTS

President Edgar commented that he has been spending most of his time in support of SB 753, testifying at various Assembly committee meetings and working with the Board's Republican friends to expand the support beyond the party-line vote.

He has also been spending a lot of time thinking about the big policy issues discussed in the Strategic Plan meetings, and has talked with officials at DWR and the Agency to get a sense of whether they think the Board can be more helpful on some of these big issues.

Board Member Macdonald continues to work on SB 753.

He has been working with Permitting and Enforcement Branch Chief Mitra Emami on permits and the cost of permits, and preparing a report in case the Board decides to go forward with other legislation.

He attended the Interagency Flood Management Collaborative Program.

Secretary Dolan has been working extensively on Executive Committee and Coordinating Committee work, especially on fulfilling the strategic plan and other organizational issues related to the Board and its organization.

She has been attending all meetings and activities of the Upper/Mid-Sac Regional and Feather River Regional flood planning groups.

She has been working, along with Board Member Countryman, as liaison for the ULOP.

She has been providing the necessary communication with the local and state Farm Bureau on issues that come before the Board.

Board Member Villines has been working on SB 753 and briefing Legislative members and their staffs on who the Board is and what it does.

He has been meeting with different constituent groups regarding development of regional flood plans that do not meet state system-wide objectives.

Board Member Countryman attended the first of two meetings concerning the West Sacramento 408 and EIS processes. Chief Engineer Marino provided a short summary of the second meeting.

He attended the Rural Levee Reconstruction Committee meeting -- a technical work group that is putting together standard cross-sections of criteria to be generally approved ahead of time for different aspects of repair work.

He attended the ULOP group meeting, which is now on track to conclude in September. He noted that the meeting was very spirited but cooperative between the State and the local entities and a lot of good work was done.

Vice President Suarez has been engaged with numerous phone and conference calls related to the Executive Committee.

She has been working with staff on the selection of the candidate pool for the hire of the new Board attorney.

She has been working with staff on clarifying the Board's authority for emergency regulations.

11. FUTURE AGENDA

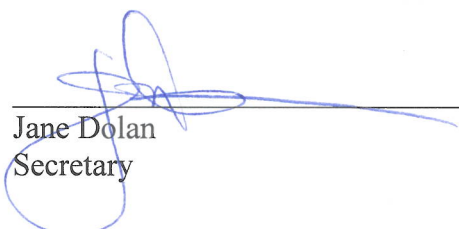
Executive Officer Punia read the draft Agendas for the August 28 Coordination Committee and Executive Committee meetings, and the September 13 Board meeting, and answered Board Member questions. He also noted that the first half day of the September 27 meeting will include a site visit to tour the Folsom Dam spillway construction project.

12. ADJOURN-REGULAR BOARD MEETING

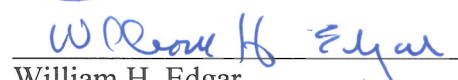
The Board unanimously adjourned the Open Session at 3:01 p.m.

Dated: 10-25-2013

The foregoing Minutes were approved:



Jane Dolan
Secretary



William H. Edgar
President