

MINUTES
MEETING OF THE CENTRAL VALLEY FLOOD PROTECTION BOARD
February 8, 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 February 8, 2013, beginning at 9:11 a.m. in The Bonderson Building Cafeteria, 901 P 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 (absent today)
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. Nicole Rinke, Legal Counsel
Ms. Amber Woertink, Staff Assistant
Mr. Michael Wright, Senior Engineer

Department of Water Resources (DWR) staff present:

Mr. Paul Marshall, Assistant Chief, Division of Flood Management
Mr. Eric McGrath, Senior Engineer
Mr. George Qualley, Division of Flood Management

Also Present:

Mr. Mike Inamine, Executive Director, Sutter Butte Flood Control Authority (SBFCA)
Ms. Meegan Nagy, U.S. Army Corps of Engineers (the Corps)
Mr. Scott Shapiro, Special Counsel, SBFCA

5. ROLL CALL

Executive Officer Punia called the roll and a quorum was achieved (Board Member Countryman was absent from today's meeting). He also went through the day's Agenda.

Upon motion by Board Member Macdonald, seconded by Board Member Ramirez, the Board unanimously approved the Agenda.

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

Mr. Paul Marshall, Division of Flood Management Assistant Division Chief, gave the presentation. Some highlights:

- DWR has had some personnel moves—Mr. Rod Mayer has left his position as Chief of the Flood Projects Office and Mr. Eric Koch, former FloodSAFE Office Chief, has replaced him. DWR is now accepting applications for FloodSAFE Office Chief.
- Letters of commitment have been received from three RFMP regions—Lower Sacramento and Delta North combined; Mid Sacramento and Upper Sacramento combined; and the Feather River. DWR is now reviewing them (along with previously received Letters) through a number of committees. The draft funding agreements are also being reviewed.
- The non-Delta emergency response grant guidelines are now out for public review; the repairs program grant guidelines will be out for public review in the near future.
- The ULOP workgroup had a meeting last week. Many local representatives were there and provided a list of nine elements that they want resolution on. DWR has been developing a strategy for these, as well as working with the local representatives on both the ULOP criteria and the potential clean-up legislation for Senate Bill (SB) 5.
- Mr. Rick Johnson, Sacramento Area Flood Control Agency (SAFCA), was invited to testify to the U.S. Senate Committee on Environment and Public Works about oversight hearing on implementation of the Corps water resources policies.
- FEMA and DWR held a meeting on mapping modernization in the Colusa County area. FEMA is paying for some LIDAR work there and is going into the mapping of communities in Colusa County.

7. REQUESTED ACTIONS

A. Sutter Butte Flood Control Agency (SBFCA) Letter of Intent (LOI)

Mr. Michael Wright, the Board's Enforcement Section Chief, gave the presentation.

He stated that SBFCA's LOI is to develop and implement a System-Wide Improvement Framework (SWIF) plan. SBFCA is the regional flood control agency of the basin and its levee system and will be taking the lead in developing the LOI and SWIF plan, while coordinating with the Local Maintenance Agencies (the LMAs).

In January 2010 the Corps issued a periodic inspection report which determined that the current system was unacceptable and thus ineligible for Public Law 84-99 Rehabilitation and Inspection Program (RIP) assistance.

If accepted by the Corps, the LOI will allow the levee system to retain eligibility for RIP assistance for two years while SBFCA develops a SWIF.

The LOI and SWIF will also assist the Corps in processing permits for the Feather River West Levee EIP, as well as assisting with development of the Feather River Feasibility Study.

If accepted, the SWIF will allow the system to retain RIP eligibility while work is being performed in accordance with the SWIF.

Board staff has reviewed the draft LOI submitted by SBFCA and finds that it adequately addresses the Corps' requirements for submitting a LOI for a SWIF, and therefore recommends that the Board authorize the Executive Officer to finalize a letter of transmittal and signed LOI to the Corps.

Mr. Scott Shapiro, SBFCA special counsel, provided additional clarification of the issues and timelines involved, and asked that the Board approve the LOI package.

Mr. Eric McGrath and Mr. George Qualley, DWR Flood Maintenance Office, answered Board Member questions. Mr. Qualley stated that DWR plans to participate in the LOI and SWIF processes, and that they support the Board staff recommendation.

Ms. Meegan Nagy, the Corps, also supported approval, noting that the Corps is happy to work with the Board and DWR to finalize the LOI and ensure that it contains the information that Corps Headquarters will be seeking.

Upon motion by Secretary Dolan, seconded by Board Member Macdonald, the Board unanimously approved the staff recommendation and authorized the Executive Officer, in consultation with Board President Edgar and Vice President Suarez, to finalize the letter of transmittal to the Corp regarding the LOI.

B. Legislation and Other Options to Broaden the Board's Enforcement Authority

President Edgar noted that he and Board Member Macdonald have been working in past months on tentative legislation, designed to broaden the Board's enforcement authority, for submittal to the Legislature. They are not asking for specific approval of the legislative language today; rather, they are asking for concurrence from other Board Members to proceed to solicit comments from all parties concerned and to try and get a legislator to carry the bill for the Board. He also asked for Board approval that a committee of Board Members Macdonald and Villines continue to work on the issue and hopefully perfect the legislation if the Board generally thinks it is worth pursuing further.

Board Member Macdonald discussed what the legislation proposes, some specifics of current law, and some of the circumstances that have arisen to block or delay enforcement of the current law. He suggested that a starting point for introducing the legislation would be to finalize the language on a specific initial provision of the potential bill, to find a legislator willing to sponsor the bill, and to then take the remainder of the language and discuss it internally within the Board and externally with the other interested parties—the Flood Control Association, the Farm Bureau, the environmental community, and so forth.

Board Member Villines added that the most important steps to take are: first, to ensure that the Board is comfortable with the language; and second, to state publicly that the Board is trying to create a dialogue with outside groups as well. Further, someone should be delegated to take comments from all participants that can then be emailed and digested by all the interested parties.

President Edgar suggested that Executive Officer Punia be named as the “repository” for comments as he is allowed, under the Bagley-Keene Act rules, to communicate with the entire Board.

Executive Officer Punia remarked that, if he is chosen for this task, all comments should also be sent to Legal Counsel Rinke, as she is the lead on this process. He and Ms. Rinke will work together to make sure that they incorporate everyone's comments.

Secretary Dolan suggested that, at some point in the coming months, the Board should have a workshop to allow for open discussion of the impediments to achieving enforcement. It is important that the public know that the Board is going to enforce and remove illegal structures and other impediments to the safe functioning of the flood control system.

President Edgar concurred with the idea of a workshop and added that, in order to be consistent with the Bagley-Keene Act, Board Members making comments in a draft to

Executive Officer Punia should then be summarized in a document that is made available to the public for discussion and distribution.

Board Member Macdonald detailed the timelines for introduction of the bill.

Mr. Macdonald added that, initially, he and President Edgar had discussed the possibility of introducing legislation with DWR, then with Natural Resources Agency upper management, and then with to the Governor's Office, who approved introduction of a bill. He further noted that this will be the Board's bill, not the Governor's.

The Board and Board staff deliberated on the timelines involved and how best to proceed. Subsequently, Secretary Dolan made the following motion:

That the Board authorize seeking legislation to address means to improve its encroachment authority; that it designate a committee of Board Members Macdonald and Villines to work with the Executive Officer and Board counsel on the language of the legislation; that it make an effort to seek an author to introduce the legislation in the current legislative session; that the Board begin specifically with the matter of improving the way that it provides notice and posting to begin enforcement action; that the designated committee initiate discussions and outreach with interested parties and stakeholders on other possibilities of improving the enforcement process; that the Board place this matter for discussion on each of its future Agendas, so that Board Members can be kept updated, provide input, and have a continuous discussion with staff and the public as it continues to seek the specific needed actions to improve its enforcement authority; and that the Board's Executive Officer, in consultation with its legal counsel, will be the custodian of comments and suggestions that come forward and will subsequently provide those comments and suggestions to the Board at its meetings.

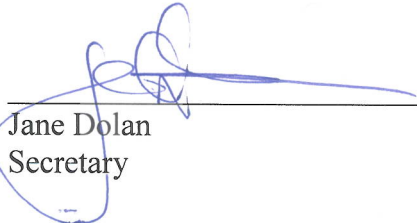
*Upon **motion** by Secretary Dolan, seconded by Board Member Villines, the Board unanimously approved the motion, as detailed in the paragraph above.*

8. ADJOURN

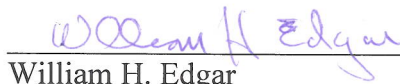
The Board unanimously adjourned the Open Session at 10:35 a.m.

Dated: April 26, 2013

The foregoing Minutes were approved:



Jane Dolan
Secretary



William H. Edgar
President