

MINUTES
MEETING OF THE CENTRAL VALLEY FLOOD PROTECTION BOARD
January 25, 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 January 25, 2013, beginning at 9:06 a.m. in The Resources Building Auditorium, 1416 Ninth 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 (absent today)

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. Angeles Caliso, Staff Engineer
Ms. Mitra Emami, Senior Engineer
Ms. Nicole Rinke, Legal Counsel
Ms. Deborah Smith, Legal Counsel
Ms. Amber Woertink, Staff Assistant

Department of Water Resources (DWR) staff present:

Mr. Arthur Hinojosa, Chief, Hydrology and Flood Operations Center
Mr. Jon Ericson, Floodplain Evaluation Branch
Ms. Tasmin Eusuff, Chief, Local Maintaining Agency Assessment
Mr. David Pesavento, Senior Engineer

Also Present:

Mr. Paul Brunner, Executive Director, Three Rivers Levee Improvement Authority (TRLIA)
Mr. Steve Fordice, TRLIA Secretary/Board Manager
Mr. Mike Inamine, Executive Director, Sutter Buttes Flood Control Authority (SBFCA)
Mr. Ryan Larson, U.S. Army Corps of Engineers (the Corps)
Ms. Meegan Nagy, the Corps
Mr. Chris Neudeck, Vice President, Kjeldsen, Sinnuck & Neudeck, Inc.
Mr. Scott Shapiro, Special Counsel, Oakstone Investments

1. ROLL CALL

Executive Officer Punia called the roll and a quorum was achieved (Board Member Villines was absent from today's meeting).

2. APPROVAL OF MINUTES – November 15 and 16, 2012

Upon motion by Secretary Dolan, seconded by Board Member Countryman, the Board unanimously approved the November 15 and 16, 2012 Board Meeting Minutes.

3. APPROVAL OF AGENDA

Executive Officer Punia reported that staff has no recommended changes to the agenda.

Upon motion by Board Member Countryman, seconded by Secretary Dolan, the Board unanimously approved the January 25, 2013 Agenda.

4. PUBLIC COMMENTS

Mr. Mike Inamine, Executive Director, SBFCA, on the Corps' System-Wide Improvement Framework (SWIF) and Letter of Intent (LOI)

Mr. Inamine discussed issues that highlight parts of the SWIF and LOI processes and some of the unintended consequences of those documents. He noted that SBFCA is working with the State of California, in terms of their Water Code 8361 responsibilities and MA-3716, but are also working with them on an LOI that comports with the Central Valley Flood Protection Plan, in addition to the long-term engagement on various operations and maintenance issues.

Board Members asked questions about specific elements of SBFCA's LOI process. Mr. Inamine stated that SBFCA will return to the Board on February 8th with a draft LOI.

5. CONSENT CALENDAR

A. Permit No. 18801, San Joaquin County

Upon motion by Secretary Dolan, seconded by Board Member Countryman, the Board unanimously approved Consent Calendar Item 5A.

6. INFORMATIONAL BRIEFINGS

A. DWR and the Corps: Presentation on Inspection Programs

Mr. Arthur Hinojosa, Chief of the DWR Hydrology and Flood Operations Office, introduced the briefing. He noted that many people ask why the inspection programs are not the same for DWR (representing the state level) and the Corps (representing the federal level). His response is that they do things similarly and in complement with each other. Together, the two agencies provide a more comprehensive analysis of the flood control system.

Mr. David Pesavento, DWR Senior Engineer, gave the presentation for DWR, noting that the objective of both programs is really to maintain the integrity of the state/federal flood protection system. DWR does twice-a-year inspections of the entire system, while the Corps does less frequent and more in-depth inspections. This frequency versus thoroughness model provides data that can be harvested in a way that is beneficial to all the partners in the system. He then discussed details of similarities and differences between the two inspection programs.

Ms. Meegan Nagy, the Corps, provided details of the Corps inspection program. She and Mr. Pesavento responded to Board Member questions.

B. DWR Presentation of the 2012 Inspection and Local Maintaining Agency (LMA) Report

Mr. Pesavento and Ms. Tasmin Eusuff, DWR LMA Assessment Office Chief, provided the presentation of the Report.

Mr. Pesavento noted that this year, based on some recommendations from the Board, DWR combined the Inspection Report and the Local Maintaining Agency Report and added a Reader's Guide and Summary Profiles to further assist in navigating through the combined report.

Ms. Eusuff remarked that throughout the year her office does a lot of outreach to the local agencies not currently complying with the requested results of the inspections they conduct, and addressed the various reasons LMAs have for non-compliance, as well as

the results of 2012 reporting. She also noted that vegetation is the most important deficiency item that LMAs are focusing on in their maintenance practices.

Mr. Pesavento and Ms. Eusuff answered Board Member questions, many of which centered around ideas on how to assist LMAs with their compliance issues.

President Edgar remarked that the dilemma in forming a State maintenance area (as opposed to one on the local level) is that the cost of State employees is much higher and can bankrupt a small rural area quickly. Therefore it is best, where possible, that maintenance be done at the local level.

The Board further deliberated on how to approach enforcement on LMAs that continue to have unacceptable ratings.

C. Informational Briefing on The Rivers Development, Adjacent to Project Levees in West Sacramento

Executive Officer Punia provided some historical perspective on The Rivers Development.

President Edgar noted that, based on recent inspections, existing staff are obviously comfortable with the hydraulic components of the project but have reservations about the maintenance of the encroachments. He added that Board staff is bringing this to the Board's attention today, before it will consider permits. In addition, the potential applicants have been invited to give their perspective.

Mr. Scott Shapiro, Special Counsel for Oakstone Investments (and The Rivers Development), gave a presentation on the current status of various project elements. He oriented and refreshed the Board's information and knowledge about what happened on the site many years ago, and provided the key issues today. He introduced members of the project team; provided some regional context and geography to assist the Board in their viewing of aerials of the site, and their understanding of what lots have and haven't been developed; talked about past Board activity regarding the project; the site's characteristics and how it has been evolving; encroachment issues on the site; and recommendations for Board action.

He and Board staff then answered Board Member questions on various issues related to the site.

Mr. Shapiro concluded by asking that the Board direct staff to work with them, the West Sacramento County Flood Control Agency, the City of West Sacramento and the Corps to develop specified and agreed-upon templates for what activities can occur in what zones. He stated that his group will return to the Board after completion of a master permit for all the remaining lots, and ask for Board approval of that master permit as a "template" for future individual home permits.

Board Chief Engineer Mr. Len Marino detailed some of the staff's concerns about the site's development.

President Edgar remarked that the Board is coming into this process "in the middle of the movie;" that is, they are trying to sort out legal and in some cases illegal permitted encroachments. Their solution has been to try and work things out, and this sorting out process will continue.

Executive Officer Punia remarked that Board staff will continue to work with Mr Shapiro and the other site representatives, try to resolve the various issues, and then develop a staff recommendation for the Board's consideration.

7. REQUESTED ACTIONS

A. Cease and Desist Order 2009-29, Mr. Jesse Robles

Staff Engineer Caliso stated the staff recommendation to adopt the Cease and Desist Order for the encroachments action in 2009-28 and authorize the Board to order a contractor to abate the encroachments located on the Bear Creek project levees at 4433 Curlew Street in Stockton, California.

Board Members discussed how to develop and prepare a press package and talking points in anticipation of media coverage of the abatement action.

Legal Counsel Rinke added that, on March 24, 2010, enforcement notice was sent, via certified mail, notifying Mr. Robles that abatement action was possible if he failed to remove the encroachment. Additional notice is not required, although it could be provided if the Board so desires.

Upon motion by Secretary Dolan, seconded by Board Member Countryman, the Board unanimously approved Cease and Desist Order 2009-28 and its necessary abatement actions.

B. Cease and Desist Order 2009-30, Mr. Joe Phillips

Staff Engineer Caliso stated the staff recommendation to adopt the Cease and Desist Order for the encroachments action in 2009-30 and authorize the Board to order a contractor to abate the encroachments located on the Bear Creek project levees at 4409 Curlew Street in Stockton, California.

As discussed in 7A above, staff will prepare a press package and talking points in anticipation of media coverage of the abatement action.

Upon motion by Secretary Dolan, seconded by Board Member Countryman, the Board unanimously approved Cease and Desist Order 2009-30 and its necessary abatement actions.

C. Petition for Reconsideration, Ms. Carol Miller, Enforcement Resolution 2012-05

Staff Engineer Caliso provided the history of the petition and concluded with the staff recommendation to deny the petition; i.e., that the resolution adopted by the Board in November 2012 is still proper.

Upon motion by Secretary Dolan, seconded by Board Member Countryman, the Board unanimously approved the staff recommendation to deny the petition and enforce the previously adopted Resolution 2012-05.

D. Petitions for Reconsideration, Ms. Janine Ensslin, Enforcement Resolution 2012-03

Staff Engineer Caliso provided the history of the petition and concluded with the staff recommendation to deny the petition; i.e., that the resolution adopted by the Board in November 2012 is still proper.

Mr. Paul Brunner, TRLIA Executive Director, and Mr. Steve Fordice, General Manager for Reclamation District 784, also spoke in support of the staff recommendation.

Upon motion by Secretary Dolan, seconded by Board Member Countryman, the Board unanimously approved the staff recommendation to deny the petition and enforce the previously adopted Resolution 2012-03.

E. Schedule for Central Valley Floodplain Evaluation and Delineation Program (CVFED)

Mr. Jon Ericson, on temporary assignment with the Floodplain Evaluation Branch, provided background information on the CVFED schedule and its 2012 update.

Mr. Erickson noted that the CVFED programs consist of three projects: 1. Topography acquisition; 2. Hydraulic model development throughout the Central Valley; and 3. The Central Valley Delineation Project.

He stated that Project 1 is expected to be complete in April 2013; Project 2 in July 2013; and Project 3 will be completed as far as possible by July 2013, and at that time will be released, in draft form, to the local agencies.

Board Member Countryman expressed misgivings about releasing the Project 3 delineation maps and models to the local agencies prior to a finalized product. Other Board Members expressed concerns about releasing a product prior to finalizing it.

Secretary Dolan suggested that the resolution include wording that the maps are being released in July 2013 to meet the statutory deadline, but the work will continue to further assist the local agencies.

DWR Assistant Division Chief Paul Marshall further clarified that the delineation maps that DWR will release in July 2013 are going to meet the Urban Levels of Flood Protection (ULOP) and Senate Bill (SB) 1278 criteria. The assumptions made to meet those criteria are probably not going to be the same assumptions that the cities/locals would want to take to prove that they have 200-year protection.

After further discussion President Edgar suggested that DWR report back to the Board in July and discuss whether an interim map or final map has been issued; or whether the technical criteria only (pertaining to the statutes for ULOP and SB 1278) has been completed.

Upon motion by Board Member Ramirez, seconded by Secretary Dolan, the Board adopted the timelines referenced for the three projects, with the caveat that DWR will report back to the Board in July 2013 regarding the status of the finalized delineation maps and models.

8. POLICY BRIEFINGS

President Edgar and Board Member Macdonald provided the two briefings in tandem. First, the Water Resources Development Act (WRDA), which contains the specific language related to vegetation management on levees, is under intensive review internally at DWR, which has been working with people in Washington to try to influence pending WRDA legislation from Senators Feinstein and Boxer and Congressman Matsui.

Second, the Board has been expressing concerns to the appropriate parties about its lack of enforcement authority. They are still working with the upper management levels on how to increase authority and no decisions have been made as yet.

9. BOARD COMMENTS AND TASK LEADER REPORTS

President Edgar commented that Board Members and staff have been spending considerable time on Coordination Committee activities, especially now that the meetings have been made public. Members Macdonald and Villines attended the last meeting. Kim Floyd has been doing a great job keeping the Regional Planning efforts moving forward.

He noted that Member Macdonald has been working quite a bit with DWR, helping them to get comfortable at sharing information with the stakeholders; and in facilitating that collaboration on the technical side.

He spent time with Vice President Suarez, Secretary Dolan and Eric Douglas and their respective staffs in preparation for the upcoming Board training, all leading to the strategic planning sessions that will begin February 7-8.

He was in Colusa yesterday (January 24) attending a FEMA presentation, which had a good turnout.

He and Ms. Suarez will be meeting with Ben Hueso and Senator Pavley to brief them on Board issues. These legislator briefings may expand as time permits.

It is apparent that the city and county officials who need to be involved in the ULOP process are really not. He, Ms. Suarez and Ms. Dolan are strategizing on how to deal with this. Staff will put together, with Kim Floyd, a report that discusses how the Board can provide better outreach to cities and counties regarding the ULOP. It seems critical to get the council members and local Boards of Supervisors involved.

Chief Engineer Len Marino commented on Board staff's follow-up with the Delta Council after President Edgar's recent presentation at their council meeting. The respective staffs have met on at least three different occasions and have gone through the comments and concerns that each side has. A five-page document was produced, which was taken to the Delta Council's public meeting yesterday (January 24). Highlights of the document were read into the record, followed by written comments provided to the Council via e-mail.

He also stated that the collaboration was successful and they are on the right path together. Supervising Engineer Butler added that they have received written confirmation from Delta Council staff via e-mail that they have received the Board's written comments and are appreciative of them, and they will continue to work with the Board on the concerns presented.

Board Member Ramirez remarked that he has also been involved in working with Board and Delta Council staff and the interaction has been very positive.

He noted a recent San Francisco Chronicle article on Dos Rios and the restoration effort ongoing in that area. John Carlon and the River Partners, now known as RB 2082, are referenced in the article. Mr. Ramirez has talked with Mr. Carlon, as well as Peter Penwright, who wrote the article. Their conversations were very positive.

He suggested that the Board make one more stop on its tour of other agencies and tour the Fish and Wildlife Service. He will try to get them on the calendar.

Board Member Macdonald noted his work with the Coordinating Committee and the upcoming WRDA legislation.

Board Member Countryman commented that, in addition to his work on the Coordination Committee, he had a couple of meetings on the Sutter Bypass 2D model results and their subsequent display. He talked with the locals and they are aware that the model is now available for them to use. Executive Officer Punia added that Board staff is planning to have a briefing on the model as part of the next Coordination Committee meeting.

He added that this model is not going to be easy to pick up; it is extremely complex. DWR staff had many hours of training on how to utilize the model. CH2, the engineer that is developing the model, is finalizing their report on it. There are many ways to approach the use of the model, either from a system-wide or a regional basis. It will be important for the Board to look at it and give the Regional Planning groups and the System-Wide Planning people some room to operate within the model, and to use the model to formulate alternatives.

He also attended some meetings on the urban levee design plan.

Secretary Dolan commented that she has been working extensively with President Edgar and Board staff to ensure that the February 7-8 Strategic Planning sessions will be productive.

She is still doing the Minutes and reading through all the meeting transcripts.

She remarked that, when she and staff looked at SB 1278, it didn't say specifically "to provide informational maps." Rather, it said "provide maps to the local government so they can use that information for updating."

The Board discussed the distinctions this raised--how to coordinate communications with the various stakeholders regarding the information and maps that will be provided to them, to ensure that stakeholders understand that it will be the responsibility of the local levels to provide their own updated informational maps.

10. FUTURE AGENDA

Executive Officer Punia read portions of the February 7-8, 2013; and February 22 Board Meeting Agendas. He also remarked that counsel has suggested and staff has added a Closed Session Agenda Item to the February 7th Agenda as a placeholder, in case anything needs discussion.

11. CLOSED SESSION

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.

12. ADJOURN

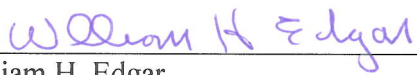
The Board unanimously adjourned the Open Session at 4:36 p.m.

Dated: 3-22-2013

The foregoing Minutes were approved:



Jane Dolan
Secretary



William H. Edgar
President