

MINUTES
MEETING OF THE CENTRAL VALLEY FLOOD PROTECTION BOARD
July 26, 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 July 26, 2013, beginning at 9:08 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 (not present 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
Ms. Mitra Emami, Senior Engineer
Ms. Nancy Moricz, Senior Engineer
Ms. Nicole Rinke, Legal Counsel
Ms. Amber Woertink, Staff Assistant
Mr. Michael Wright, Senior Engineer

Department of Water Resources (DWR) staff present:

Mr. Jeremy Arrich, Chief, Central Valley Flood Planning Office
Ms. Robin Brewer, Senior Staff Counsel
Ms. Laura Hollender, Staff Counsel
Mr. Keith Swanson, Chief, Division of Flood Management
Mr. Kent Zenobia, Chief, Project Delivery Branch

Also Present:

Mr. Tom Ellis
Mr. Reggie Hill, Lower San Joaquin Levee District

Also Present (continued):

Mr. Ryan Larson, United States Army Corps of Engineers (the Corps)
Mr. Ryan Schohr, Schohr Ranch

1. ROLL CALL

Mr. Jay Punia, Board Executive Officer, called the roll and a quorum was achieved.

2. APPROVAL OF MINUTES – May 10 and May 24, 2013

Upon motion by Secretary Dolan, seconded by Board Member Ramirez, the Board unanimously approved the May 10 and May 24 Minutes.

3. APPROVAL OF AGENDA

Mr. Punia stated the staff recommendation that Item 4C be pulled from Consent to a Hearing; and that Item 8A be postponed for at least 30 days. After discussion, the Board withdrew Item 8A from the agenda, to be rescheduled as a new hearing after proper notice to the respondent.

Upon motion by Secretary Dolan, seconded by Board Member Macdonald, the Board unanimously approved the change of status of Item 4C.

4. CONSENT

A. Permit No 18832, County of Stanislaus

Consider approval of Permit No. 18832 to retrofit the Geer Road Bridge (No. 38C-0048) over the Tuolumne River to improve seismic stability. (Stanislaus County)

B. Permit No. 18834, Brent Barton

Consider approval of Permit No. 18834 to replace an existing timber bridge by constructing a dual-culvert crossing in its place along Littlejohns Creek. (San Joaquin County)

C. 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 and the Central Valley Flood Protection Board and the State of California Department of Water Resources for the CVIFMS.

(As mentioned previously, this Item was pulled from the Consent and changed to a Hearing).

Mr. Kent Zenobia, Project Delivery Branch Chief, gave the presentation. He noted that Item 4C was brought to the Board hearing at the last Board meeting; DWR is simply asking for a resolution to approve the amendment and delegate authority to the Executive Officer. President Edgar commented that, because of the stakeholder interest in more detailed discussion about Cherokee Canal, the Board will probably recommend continuing this Item.

Mr. Tom Ellis, Colusa Basin landowner and President of the Sacramento River Westside Levee District, read from a previously shared e-mail and remarked that people in his area are very sensitive about the Cherokee Canal issue. He concluded by imploring the Board to include them in discussions about the issue.

Mr. Ryan Schohr, Butte County landowner in and along the Cherokee Canal, expressed the consensus of locals that the Cherokee Canal expansion and bypass project is really unwarranted and not a feasible solution, and thanked the Board for considering this delay, to allow the local people to have the time to reflect, gather information, and come prepared to local and regional meetings.

Mr. Jeremy Arrich, DWR Central Valley Flood Planning Office Chief, pointed out that--although DWR is happy to meet with the regional groups to talk about the issues along the Cherokee Canal and the potential solutions--delaying approval of the FCSA, which allows the Corps to fund themselves and thus enables them to participate in the Study, would mean that Corps involvement would be delayed. The FCSA simply allows the Corps to participate with DWR throughout the process of the State working with the locals on the regional planning.

The Board deliberated about possible postponement. Secretary Dolan commented on the ongoing need for full and open communication to ensure that all stakeholders are aware of planning activities that are underway.

President Edgar suggested adding a friendly amendment to the **motion** to instruct the Executive Officer to get in touch with the appropriate parties and to have them convene, as soon as possible, a meeting with the local stakeholders, the regional planning folks, DWR, and, if possible, someone from the Corps.

*Upon **motion** by Secretary Dolan, seconded by Vice President Suarez, the Board unanimously approved a one month continuation of the Hearing, along with the amendment cited in the paragraph above.*

D. Mid-Valley Levee Reconstruction Project

Consider approval of Resolution No. 2013-11 to:

1. Adopt the Mitigated Negative Declaration, Findings, and Mitigation Monitoring and Reporting Plan for the Mid-Valley Levee Reconstruction Project, Contract Area 3; and

2. Approve the design refinements for the Mid-Valley Levee Reconstruction Project, Contract Area 3, and delegate authority to the Executive Officer to execute the Notice of Determination.

Upon motion by Secretary Dolan, seconded by Board Member Macdonald, the Board unanimously approved Items 4A, 4B, and 4D of the Consent Calendar.

5. PUBLIC COMMENT- None

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

U.S. Army Corps of Engineers Levee Inspection Results:

- Lower San Joaquin Levee District - Unit 24

- Blewatt District – RD 2101

Mr. Ryan Larson, the Corps, gave the Briefing and answered Board Member questions. He remarked that RD 2101, Blewatt District had received an overall unacceptable and inactive rating for the Corps' Rehabilitation and Inspection Program (RIP); and Unit 24 a minimally acceptable and active rating.

7. REQUESTED ACTIONS

A. 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 stated that the latest printed version was approved by the Assembly. The bill next goes to the Appropriations Committee.

8. HEARINGS AND DECISIONS

A. Cease and Desist Order 2009-33 - Mr. Jesse Castellon -- *Withdrawn For Rescheduling*

Consider adoption of Cease and Desist Order to authorize the abatement of existing code violations located on the Bear Creek Project Levee in Stockton, California for

which the Respondent waived the right to a hearing and failed to remove the code violations. (San Joaquin County)

9. BOARD COMMENTS AND TASK LEADER REPORTS

President Edgar commented that the Executive Committee, and particularly Secretary Dolan, has been working on the new committee assignments and Board committees, and these Items will be on the Board's August 9 Agenda.

He remarked that it is hoped that the recently adopted Strategic Plan, along with next steps in the process, will be ready for distribution on August 23.

He has been spending a lot of time on the Coordinating Committee issues.

He remarked that the Executive Committee meetings, now public meetings, will meet on the afternoon that the Coordinating Committee meetings take place.

Secretary Dolan commented that, in addition to her Executive Committee work, she and Board Member Countryman attended two large, well-attended Urban Level of Protection (ULOP) meetings. Meeting participants were trying to get to points of consensus from local government, DWR and other interested parties as to what the SB 1278 really meant and whether or not there is a need to go back for new legislation.

Board Member Macdonald commented on the way the legislature does mandates.

Board Member Ramirez remarked that he has been trying to keep up with Mr. Reggie Hill and everyone else on the San Joaquin River, talking to some folks as follow-up to Board comments on some of the projects that are being considered as part of the restoration program and its inspections.

Working with Board Chief Engineer Butler, they sent comments back to the Delta Vision committee members and staff.

He has been drafting a letter intended to summarize where the Board is now with the valley-wide Corps inspection programs and their implications for the State; the letter is now ready for Board review.

Board Member Villines has continued to work at keeping SB 753 a bipartisan bill.

He has been spending time in Fresno and Madera Counties talking to farmers, the Farm Bureau and other people, trying to cultivate a better sense for the general knowledge and awareness of area people regarding the restoration at the river, now becoming another big issue as more lawsuits are starting to be filed and key areas of agreement are dissolving.

Vice President Suarez reported that she, DWR Legal Counsel Robin Brewer and Deborah Smith, former Board Counsel, will be meeting and interviewing the first set of seven applicants for the Board's open attorney position. The hope is to then narrow down the pool to the top four applicants, who will be brought before the Board for additional interviews.

She and Secretary Dolan attended two meetings: one a "fact-finding" about fish getting stranded in the Colusa Basin Drain that was put together by the federal and State Fish and Wildlife agencies; the other in Redding, where there was a public meeting by the federal Bureau of Reclamation to discuss a raising of Shasta Dam.

10. FUTURE AGENDA

Executive Officer Punia summarized the proposed Agendas for the August 9 and 23 Board Meetings and clarified some Items in response to Board Member questions.

12. CLOSED SESSION

Pursuant to the authority of Government (Govt.) 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.

To discuss litigation (Hardesty et. al. versus 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 of 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).

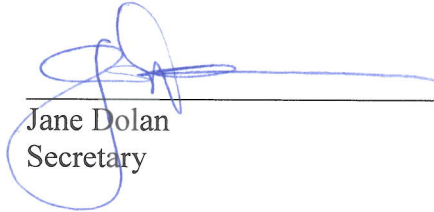
To discuss litigation (Ward v. State, et al., Sacramento Superior Court Case No. 34-2013-00144886) pursuant to Govt. Code Section 11126(e)(1).

13. ADJOURN-REGULAR BOARD MEETING

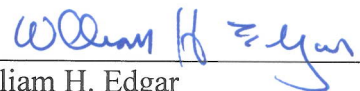
The Board unanimously adjourned the Open Session at 11:42 a.m.

Dated: September 27, 2012

The foregoing Minutes were approved:



Jane Dolan
Secretary



William H. Edgar
President