

MINUTES
MEETING OF THE CENTRAL VALLEY FLOOD PROTECTION BOARD
March 22, 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 March 22, 2013, beginning at 9:08 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 (not present 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. Mitra Emami, Senior Engineer
Mr. Martin Janolo, Staff Engineer
Ms. Nancy Moricz, Senior Engineer
Ms. Nicole Rinke, Legal Counsel
Mr. David Williams, Senior Engineer
Ms. Amber Woertink, Staff Assistant

Department of Water Resources (DWR) staff present:

Ms. Carol DiGiorgio, Mercury Monitoring and Evaluation Section
Mr. Noel Lerner, Chief, Flood Maintenance Office
Mr. Eric McGrath, Senior Engineer
Mr. Keith Swanson, Chief, Division of Flood Management
Mr. Zachary Wright
Mr. Kent Zenobia, Chief, Project Delivery Branch

Also Present:

Mr. Lewis Bair, Sacramento River West Side Levee District
Mr. George Basye
Mr. Tom Engler, MBK Engineers
Mr. Justin Fredrickson, California Farm Bureau Federation
Mr. Josh Garcia, United States Army Corps of Engineers (the Corps)
Mr. Pete Ghelfi, Sacramento Area Flood Control Agency (SAFCA)
Mr. Mark Glidden, CH2MHill
Mr. Brandon Muncy, the Corps
Ms. Meegan Nagy, the Corps
Mr. Scott Shapiro, California Central Valley Flood Control Association (CCVFCA)
Mr. Andrew Stresser, Reclamation District 1001
Ms. Melinda Terry, CCVFCA
Dr. Kyle Winslow, CH2MHill

1. ROLL CALL

President Edgar introduced the meeting by pointing out that the Board is in a new venue, in response to comments received from the Legislature, the Governor's Office, Board stakeholders and the community at large that wanted to make the public more aware of what the Board does and its important role in reducing the risk of flooding for people and property in the California Central Valley.

The Board will make use of the more advanced technologies available in the new venue. For example, today's meeting is being live-streamed and is available through link-up to the Board website. It will also be subsequently posted and accessible on the website.

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

2. APPROVAL OF MINUTES – January 25, 2013

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

3. APPROVAL OF AGENDA

Executive Officer Punia reviewed the day's Agenda and gave the staff recommendation that Items 6J and 7B be postponed.

Upon motion by Secretary Dolan, seconded by Board Member Macdonald, the Board unanimously approved the staff recommendation (see paragraph above).

4. PUBLIC COMMENTS

Ms. Melinda Terry, California Central Valley Flood Control Association Executive Director, discussed two issues: 1. the definition of encroachment as outlined in Title 23, specifically regarding removal of vegetation; and 2. her concern that recent comments regarding six Reclamation Districts – all members of the Association -- have been deemed to have delivered substandard performance; in fact, these six have been very actively involved in levee improvement projects.

5. U.S. ARMY CORPS OF ENGINEERS (the Corps) BRIEFING

The Corps' Levee Inspection Results for:

- **RD 0784/817 -- Best Slough and Dry Creek**
- **RD 0784 -- Plumas Lakes Basin**
- **Middle Creek Systems (Lake County and Sutter Maintenance Yard)**
- **Lower San Joaquin Levee District Systems**

Ms. Meegan Nagy, the Corps' Sacramento District, provided the Briefing.

The Board deliberated on how best to follow up with the districts that do not pass Corps inspection.

6. CONSENT CALENDAR

- A. Permit No. 9856-1, City of Red Bluff**
- B. Permit No. 17933-1, Carter Family Trust of 1996**
- C. Permit No. 18763, Reclamation District 2035 (RD2035)**
- D. Permit No. 18804, Cindy Lashbrook**
- E. Permit No. 18809, CA Department of Transportation (Caltrans)**
- F. Permit No. 18810, CA Department of Transportation (Caltrans)**
- G. Permit No. 18813, Pacific Gas and Electric Company (PG&E) (Steve Dawson)**
- H. Permit No. 18814, Pacific Gas and Electric Company (PG&E)**
- I. Permit No. 18815, City of Bakersfield**
- J. Permit No. 18816, Powerhouse Science Center-*Postponed***
- K. Lower Cache Creek Feasibility Study**

Upon motion by Secretary Dolan, seconded by Board Member Countryman, the Board unanimously approved Consent Calendar Items 6A through 6I, and 6K.

7. REQUESTED ACTIONS

- A. Reclamation District 1001 (RD1001) Letter of Intent (LOI)**

Consider approval for transmittal of a LOI for a System-Wide Improvement Framework (SWIF), from RD 1001 to the Corps.

Mr. Martin Janolo, Board Staff Engineer, gave the presentation and concluded with the staff recommendation that the Board authorize the Executive Officer to finalize a letter of transmittal and forward it with a signed LOI to the Corps.

Mr. Andrew Stresser, Manager of Reclamation District 1001, stated the district's strong desire to remain PL 84-99 eligible and assured the Board that they are going to continue to work with DWR and the Board to address the remaining issues identified in the draft periodic inspection.

Mr. Tom Engler, MBK Engineers, further clarified elements of the LOI.

DWR Senior Engineer Eric McGrath, Flood Maintenance Office, added that DWR is not involved in this particular LOI as DWR has no maintenance interest in this area.

Ms. Meegan Nagy, the Corps, remarked that Corps staff has reviewed the LOI and their concerns were incorporated into the current document.

Upon motion by Board Member Countryman, seconded by Secretary Dolan, the Board unanimously approved transmittal of the LOI to the Corps.

- B. Request to U.S. Army Corps of Engineers for a Section 905(b) Reconnaissance Study for Improvements to Cache Creek Settling Basin, Yolo County-Postponed; to be rescheduled for a future meeting.**

Consider approval of Resolution No. 2013-05 to:

- 1. Approve a letter to the Corps requesting initiation of a Reconnaissance Study for improvements to the Cache Creek Settling Basin, a State Plan of Flood Control facility located east of the City of Woodland, in Yolo County. Reconnaissance Studies performed by the Corps are authorized under Section 905(b) of the Water Resources Development Act of 1986.**
- 2. Delegate to the Central Valley Flood Protection Board Executive Officer the authority to sign the letter.**

- C. Folsom Dam Modification Project – Approach Channel, Final Supplemental EIS/EIR**

Consider approval of Resolution No. 2013-04 to:

- 1. Certify the Final Supplemental EIS/EIR, adopt the findings, adopt the Mitigation and Monitoring Plan for the Folsom Dam Modification Project Approach Channel, and delegate authority to the Executive Officer to execute the Notice of Determination; and**

2. Approve project refinements to the originally approved project.

Mr. Kent Zenobia, DWR Project Delivery Branch Chief, gave the presentation and concluded by asking the Board to consider approval of the Resolution to certify the Supplemental EIS/EIR, to adopt its findings, to adopt the Mitigation Monitoring Plan, to approve the design refinements, and to delegate authority to the Executive Officer to execute the Notice of Determination.

Mr. Brandon Muncy, Corps Deputy Director of the Joint Federal Project, Sacramento District; and Mr. Pete Ghelfi, SAFCA Director of Engineering; spoke in support of the project and answered Board Member questions.

Mr. Len Marino, Board Chief Engineer, stated that Board staff supports and endorses the EIR/EIS as presented and recommended that the Board adopt the findings, certify the environmental document, and approve the project.

Upon motion by Board Member Macdonald, seconded by Secretary Dolan, the Board unanimously approved Resolution 2013-04.

D. Methylmercury Control Study Workplan

Consider approval to delegate the Executive Officer authority to sign a letter to the Central Valley Regional Water Quality Control Board (RWQCB) expressing the Board's support of the Methylmercury Control Study Workplan. The Workplan was prepared by the Open Water Workgroup in order to meet requirements for Phase 1 of the RWQCB's Delta Mercury Control Program, as a result of the adopted Basin Plan Amendment No. R5-2010-0043.

Ms. Nancy Moricz, Board Senior Engineer, provided the presentation. She began by clarifying that this specific item does not encompass all of the mercury issues involved; and it is not directly related to the Cache Creek Settling Basin.

She concluded with the staff recommendation that the Board delegate authority to sign the letter to the Regional Water Quality Control Board expressing the Board's support of the Workplan, and answered Board Member questions.

Ms. Carol DiGiorgio, DWR Mercury Monitoring and Evaluation Section, stated that her Section has been working with Board staff throughout the entire process and DWR doesn't have any substantive changes to the current Workplan.

The Board discussed its role in the Workplan process. Ms. Moricz clarified that staff supports the concept of the Workplan, as a requirement outlined in the Basin Plan Amendment, although the Board itself was not involved in formulation of that Amendment. However, the Board could agree to move forward as a part of the Workgroup and remain involved in the overall process.

Upon motion by Secretary Dolan, seconded by Board Member Ramirez, the Board agreed to delegate to the Executive Officer the authority to sign a letter to the Central Valley Regional Water Quality Control Board (RWQCB) expressing the Board's support of the Methylmercury Control Study Workplan, and to continue Board participation in the Workgroup that is collecting information and creating models. However, it shall be re-emphasized that, if the upstream issues involved are not addressed, then there cannot be an overall resolution and the Board cannot accept responsibility for any final recommendation.

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

Consider approval of legislation 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 provided a general introduction and noted that, although much progress has been made thus far, there's still a lot of work to do.

Board Member Macdonald put the timing of the process into perspective: the latest draft has been taken to Senator Steinberg's office and their counsel. The bill can be amended for the first time on March 27 and would probably go to the Governor, assuming it is approved by the Legislature, in September. The Governor would probably sign it in October and it would be effective on January 1, 2014.

Legal Counsel Nicole Rinke provided explanations and current wording of the latest draft of the legislation. Following general questions from Board Members she went through the entire draft section by section and answered Board Member questions as she did so.

Board Members deliberated extensively on various aspects of the proposed bill.

Regarding the subject of fees and fee schedules, President Edgar remarked that the fee question is up in the air and they are not anywhere near a tentative decision regarding fee inclusion (or no fee inclusion) at this point in the process.

Ms. Melinda Terry, CCVFCA Executive Director, expressed her concerns about the wording in various portions of the bill and made comments aimed at providing additional clarity in the bill language, especially regarding the timing of enforcement actions and subsequent penalties.

Mr. Scott Shapiro, CCVFCA General Counsel; Mr. Justin Frederickson, California Farm Bureau Federation; and Mr. Keith Swanson, DWR Division of Flood Management Chief, all commented on various aspects of bill language and policy.

After further deliberation it became clear to Board Members that additional time was required to carefully address the multitude of issues involved in the creation of an appropriate bill.

It was decided to continue work on crafting of bill language and to schedule an additional drafting committee meeting after the next Coordination Committee Meeting (March 27) to focus once again on the topic; hopefully, a consensus will subsequently be reached at the next Regular Board Meeting (April 5).

F. Outreach Plan Re: Senate Bill 753

The Board's Executive Committee and the Board staff will present an Outreach Plan to ensure that the stakeholders and the public are informed of the specific provisions of Senate Bill 753 and are afforded the opportunity for early comment and input.

The Board decided to postpone Item 7F until April 5, to allow for refinements to the Outreach Plan to be included pending outcomes of upcoming discussions (see 7E above).

8. INFORMATIONAL BRIEFING

A. Final briefing to present the Sutter Bypass Two-Dimensional Hydrodynamic Model; including model development, initial results, and capabilities to support Central Valley Flood Protection Plan basin-wide and regional planning efforts.

Mr. Eric Butler, Board Supervising Engineer, provided the Briefing and answered Board Member questions. The model is capable of evaluating land-use changes, changes in vegetation type and footprint, sediment removal, levee and channel alignment, and location and size of physical structures. Board staff will deliver the model, the final report, the technical memo and a user guide to DWR, who will then manage the distribution of the materials. The documentation will also be available for download via the Board website.

Mr. Mark Glidden, CH2MHill, discussed some of the technical matters involved and answered Board Member questions.

Mr. Lewis Bair, Sacramento River West Side Levee District Manager, expressed his appreciation to the Board and former Board member Butch Hodgkins, who was instrumental in the initial effort to acquire funding to complete the model. He commented that it's now up to the Board, as owners of the project for the State, and the local entities to start working together on a solution to the issues revealed by the model; i.e., to not delay this work to the future. For example, how do we address the challenge that our levees failed from under-seepage and through-seepage, yet the current model design refers to something else as the cause?

Mr. Noel Lerner, DWR Flood Maintenance Office Chief, provided some specifics on ways DWR will use the model. He reiterated that DWR welcomes the model, it is a good tool that can help and they will take advantage of it.

Mr. George Basye, Flood Control Association lawyer, commented that the Board should pursue the vegetation problem, as it could become a legal issue. He encouraged the Board to not hesitate to enforce its authority in controlling the capacity of the bypass.

9. BOARD COMMENTS AND TASK LEADER REPORTS-*Postponed*

10. FUTURE AGENDA

Executive Officer Punia provided copies of the upcoming Agendas to Board Members and reminded them that the April 5 meeting will be held at the Bonderson Building before returning to City Hall for the April 26 meeting. The April 5 and 26 meetings will be revised to incorporate today's 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.

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 Government 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 Government Code Section 11126(e)(1).

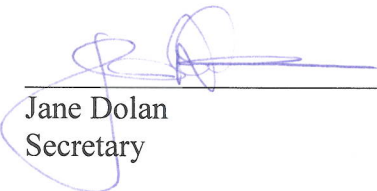
President Edgar stated that there is no reportable business to be conducted after conclusion of the day's Closed Session.

10. ADJOURN-REGULAR BOARD MEETING


The Board unanimously adjourned the Open Session at 5:32 p.m.

Dated: May 24, 2013

The foregoing Minutes were approved:



Jane Dolan
Secretary



William H. Edgar
President