

**MINUTES**  
**MEETING OF THE CENTRAL VALLEY FLOOD PROTECTION BOARD**  
**March 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 March 8, 2013, beginning at 9:04 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

**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. Alison Tang, Staff Engineer  
Ms. Amber Woertink, Staff Assistant  
Mr. Michael Wright, Senior Engineer

**Department of Water Resources (DWR) staff present:**

Mr. Noel Lerner, Chief, Flood Maintenance Office  
Mr. Paul Marshall, Assistant Chief, Division of Flood Management  
Mr. David Pesavento, Chief, Flood Project Inspection Section  
Mr. George Qualley

**Also Present:**

Mr. Paul Devereux, Reclamation District (RD) 1000  
Mr. Steve Fordice, Reclamation District (RD) 784

**Also Present (continued):**

Mr. Justin Fredrickson, California Farm Bureau Federation  
Mr. Wilbur Huang, United States Army Corps of Engineers (the Corps)  
Mr. Tim Kerr, American River Flood Control District  
Mr. Brandon Muncy, the Corps  
Ms. Meegan Nagy, the Corps  
Mr. Rick Poepelman, the Corps  
Mr. Scott Shapiro, California Central Valley Flood Control Association (CCVFCA)  
Ms. Melinda Terry, CCVFCA  
Mr. David Thomas, the Corps

**1. ROLL CALL**

Executive Officer Punia called the roll and a quorum was achieved.

**2. APPROVAL OF AGENDA**

Executive Officer Punia reviewed the day's Agenda and gave the staff recommendation that the agenda remain as posted.

*Upon motion by Secretary Dolan, seconded by Board Member Macdonald, the Board unanimously approved the agenda as posted.*

**3. PUBLIC COMMENTS**

Ms. Melinda Terry, California Central Valley Flood Control Association (CCVFCA) Executive Director, discussed three items:

1. She stated that in 2009, when the Delta Reform Act was passed, a statute in the Water Code, Section 85309, stated that DWR, in consultation with the Corps and the Flood Board, shall prepared a proposal to coordinate flood and water operations of the State Water Project and the Central Valley Project and submit the proposal to the Delta Stewardship Council for consideration for incorporation into the Delta Plan. Further, in drafting the plan DWR shall consider all related actions that are set forth in the strategic plan. She asked if this had been done.
2. The Bureau of Reclamation released a Notice of Intent (NOI) regarding their project called Conservation Measure 2 in the Bay Delta Conservation Plan (BDGP). The NOI states the Bureau's intent to lower the Fremont Weir and to do other projects within the Yolo Bypass. Public scoping hearings on the NOI are scheduled for next week. She encouraged Board staff to meet with the Bureau, as they will eventually need permits from the Board to complete their work.

3. She met with DWR staff regarding biological opinions that are moving forward on some of the habitat projects. DWR hopes to have an NOI out on the Project Island habitat project sometime in June. There are several levees there that DWR would like to breach. She encouraged Board staff to meet with DWR staff regarding this project.

#### 4. **U.S. ARMY CORPS OF ENGINEERS (the Corps) BRIEFING**

##### **The Corps' Levee Safety Program and Risk Characterization for Levees**

Mr. Rick Poeppelman, Chief of the Sacramento District Division of Engineering, the Corps, gave the briefing. He focused on the Corps' National Levee Safety Program, its' risk-informed decision making, how the national portfolio is managed and how inspections are conducted. He also discussed the levee screening tools that help quantify and calculate risk.

Mr. Poeppelman and Ms. Meegan Nagy, also with the Corps' Sacramento District, answered Board Member questions.

#### 5. **REPORT OF ACTIVITIES OF THE DEPARTMENT OF WATER RESOURCES (DWR)**

##### **Quarterly progress report pursuant to Board Resolution No. 2012-25; on schedules and progress for DWR deliverables and processes as set forth in Item II (a) through (x) related to implementation of the Central Valley Flood Protection Plan (CVFPP).**

Mr. Paul Marshall, DWR Division of Flood Management (DFM) Assistant Chief, introduced the first Quarterly Progress Report on DWR's activities related to the CVFPP to Board Members. After some discussion it was decided to postpone detailed discussion of the Update until the April 26 regular Board Meeting.

Mr. Marshall continued his report in other areas. Some highlights:

- The last of the commitment letters for the regional flood management planning has been signed and sent. Funding agreements are being reviewed at different levels.
- The snowpack is very low for the April 1 averages—about 50-60 percent throughout the Sierras, with the water supply levels a little higher, in the 70 percent range.
- The SB 1278 mapping is moving forward. DFM is launching a public outreach program to the ten different urban areas that will be mapped through the program.

Drafts of the maps will probably be ready in early to mid-June and DFM will meet with the affected parties again at that time.

- Sequestration has had some effect, primarily with FEMA-funded programs. They are still trying to assess how much the overall effect will be.
- DFM continues to develop grant guidelines for funding implementation of the CVFPP. Emergency response funding is moving forward; next will be the critical levee repairs and other programs.

## 6. INFORMATIONAL BRIEFINGS

### A. DWR and the Corps Presentation on Folsom Dam Modification Project Update

Mr. Wilbur Huang, Section Chief of the Corps and Board Projects, introduced the project update. He noted that the EIR/EIS and CEQA resolution will be available for Board review and approval at the next meeting.

Mr. David Thomas, the Corps, Director of the Folsom Dam Project, gave the presentation and answered Board Member questions.

### B. **The Board President will brief the Board on the feasibility and desirability of moving the Flood Board Meetings from its current venue at the Resources Building to the Sacramento City Hall. The new venue would offer improvements in Wi-Fi capabilities, facilitate webcasting, and would generally add more transparency to the Board's activities.**

President Edgar briefed the Board about the potential move to the Sacramento City Hall venue and informed the Board that they intend to have the next Board Meeting (March 22) there as a way to test its' suitability for future meetings. After a trial period at the proposed new location Board Members and staff will assess further and make sure the new facility meets everyone's needs.

Executive Officer Punia gave a presentation highlighting details and potential financial elements involved with a move to the new facilities.

Secretary Dolan and Board Member Villines reported on their positive previous experiences attending meetings at the facility.

## 7. POLICY DISCUSSIONS

### A. **Staff will present information on the formation of State Maintenance Areas to address deficient levee systems maintained by non-performing or unresponsive Local Maintaining Agencies (LMAs).**

Mr. Michael Wright, Board Senior Engineer, briefed the Board on the locations and some of the specifics of the under-maintained levees, summarized the steps to forming a State Maintenance Area, which is covered in Water Code Sections 12878 through 12878.21, and answered Board Member questions.

Mr. David Pesavento, DWR Flood Project Inspection Section Chief, also answered questions and clarified elements of specific LMAs.

Mr. Steve Fordice, General Manager of Reclamation District (RD) 784, supported and amplified the testimony. He stated that RD 784, because of its inability to fund ongoing costs, will probably come before the Board and DWR before July 1 and ask that RD 784 go back to State control. He answered Board Member questions about RD 784's ongoing lack of funding.

Board Member Macdonald commented that the Board needs to start having some serious conversations about how it will operate in this environment of continually deficient levee systems. It is a big challenge that needs to be discussed with stakeholders and others.

President Edgar agreed, and remarked that the Board needs to figure out how to deal with the huge problem of maintaining the overall levee system. He echoed Secretary Dolan's suggestion to raise this issue at the next Coordinating Committee for discussion, and then refer it to the regional planning areas. He also directed Board staff to clarify circumstances of particular LMAs and reduce that information to a report to be made available to the various stakeholders involved. Executive Officer Punia responded that staff will discuss this further and come up with a staff recommendation on how best to proceed.

Board Member Ramirez added that maybe, in some cases, it might be a better thing not to maintain an LMA. Perhaps the area doesn't need maintaining anymore, and going through that determination process and recognizing those cases will be beneficial to the local area, the Board and the State as a whole.

## **8. REQUESTED ACTIONS**

### **A. Reclamation District (RD) 1000 Letter of Intent (LOI): to consider approval of transmittal of a LOI for a System-Wide Improvement Framework (SWIF) from RD 1000 to the Corps.**

Ms. Alison Tang, Board Staff Engineer, gave the presentation. She noted that RD 1000 is the LMA of the RD 1000 Natomas levee system. The purpose of the LOI for a SWIF is to request to the Corps that their levee system retain Rehabilitation and Inspection Program (RIP) eligibility for two years while the SWIF is developed. Also, RD 1000 is a unique system in that it has a Corps-approved vegetation variance. Ms. Tang concluded

with the staff recommendation that the Board authorize the Executive Officer to finalize a letter of transmittal to the Corps and forward it with the signed LOI to the Corps.

Mr. Paul Devereau, RD 1000 General Manager, spoke on behalf of LOI transmittal.

Ms. Meegan Nagy, the Corps, expressed her support for the LOI. She stated that the Corps has reviewed it and believes it meets the intent of the policy.

Mr. George Qualley, DWR, also endorsed transmittal of the LOI.

*Upon motion by Board Member Macdonald, seconded by Secretary Dolan, the Board unanimously approved the staff recommendation for transmittal of the LOI.*

**B. Senate Bill (SB) 753, An Act To Amend The Water Code Relating to Flood Protection. Consider approval of additional provisions to amend SB 753 in order 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 and Board Member Macdonald provided context for the discussion. They noted that Senator Steinberg introduced the proposed Bill on February 22, and it will now "sit" for 30 days. After 30 days it will be assigned to a particular Senate policy committee by the Senate Rules Committee, and then that policy committee will start to act. Thus, it is important that the Board continue to work rapidly to fine-tune the language of the Bill and prepare for its inclusion in the legislative process.

Legal Counsel Rinke explained the major framework of the proposed Bill. It sets up a three-step enforcement process, which would begin with the Notice of Violation, continue as needed with a Cease and Desist Order, and then, finally, an Enforcement Order if needed.

Board Members and staff deliberated extensively about the appropriate language of the Bill, the enforcement timeframes involved, the potential addition of a fee schedule, and future funding possibilities for enforcement actions. President Edgar then asked for public comment.

Mr. Justin Frederickson, California Farm Bureau Federation; Ms. Melinda Terry, CCVFCA Executive Director and Mr. Scott Shapiro, CCVFCA General Counsel; and Mr. Tim Kerr, American River Flood Control District General Manager, commented on various aspects of the proposed Bill.

President Edgar remarked that the next draft of the proposed Bill will need to be discussed at the March 22 Board Meeting, and that it is now time to start thinking about an appropriate outreach strategy to the other stakeholders.

Board Member Macdonald asked that staff provide a report on what a fee schedule might look like; President Edgar agreed and added that ballpark estimates on costs involved for enforcement should also be calculated.

**9. CLOSED SESSION**

**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).**

**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.**

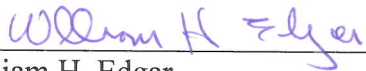
**10. ADJOURN**

*Upon motion by Secretary Dolan, seconded by Board Member Countryman, the Board unanimously adjourned the Open Session at 3:54 p.m.*

Dated: May 24, 2013

The foregoing Minutes were approved:

  
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Jane Dolan  
Secretary

  
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William H. Edgar  
President