

MINUTES

MEETING OF THE RECLAMATION BOARD

December 19, 2005

A regular meeting of The Reclamation Board (Board) was held on December 19, 2005 beginning at 8 a.m. in the Joint Operations Center, 3310 El Camino Ave., Room LL50 (lower level), Sacramento, California 95821.

The following members of the Board were present:

Ben Carter, President
Cheryl Bly-Chester, Vice-President
Teri Rie, Secretary
Butch Hodgkins, Member
Emma Suarez, Member

The following members of the staff were present:

Peter Rabbon, General Manager
Stephen Bradley, Chief Engineer
Dan Fua, Supervising Engineer
Scott Morgan, Counsel
Lori Buford, Staff Assistant

Department of Water Resources staff present:

Steve Dawson
Tim KerrRod
Genevieve Schrader
Keith Swanson
Larry Lee
Dave Lane
Rod Mayer
Susan Williams
Annalena Bronson

Also present (according to sign-in sheet and cards):

Mr. Alex Hildebrand, So. Delta Water Agency
Mr. James Morgan, Butterfield Rivera East Community Assoc. (BRECA)
Mr. Joe Countryman, MBK Engineers
Mr. Joe O'Connor, Butterfield Rivera East Community Assoc. (BRECA)
Mr. Kent McClain, Three Rivers Levee Improvement Authority (TRLIA)
Mr. Mike Hardesty, CA Central Valley Flood Control Assn.
Mr. Ray Hart, Bookman-Edmonston
Mr. Ric Reinhardt, MBK Engineers
Mr. Seth Borzell, TRLIA Economic and Planning Systems
Mr. Tim Yoemans, TRLIA Economic and Planning Systems
Ms. Alicia Guerra, River Island's Project

Ms. Susan Dell'Osso, River Island's Project
Mr. Alex Hildebrand, EDWA
Mr. Bill Mitchell, Resident of Sacramento
Mr. Bob Baptiste, Resident of Sacramento
Mr. Dana Nichol, Pete Conaty & Assoc.
Mr. Glen Gebhardt, River Island's Project
Mr. Ramon Bautista, River Island's Project
Mr. Tom Eres, Hoffman Ranch
Mr. Tom Foley, Concerned Citizens for Responsible Growth
Dr. Dale Smith, Concerned Citizens for Responsible Growth
Mr. Doug Evans, Resident of Sacramento
Mr. Harold Kerster, Resident of Sacramento
Mr. Jason Belles, Dunmore Homes
Mr. Jeff Twitchell, Wood Rogers & Levee District 7
Mr. John Barnhart, KB Homes
Mr. John Weech, CA Farm Bureau
Mr. Ken Myers, HDR
Mr. Mike Farmer, Resident of Sacramento
Mr. Paul Harper, BIMID
Mr. Raymond Miller, Resident of Sacramento
Mr. Raymond Willis,
Mr. Richard Marshall, Central Valley Flood Control
Mr. Scott Shipiro, Three Rivers Levee Improvement Authority
Mr. Seth Merewitz, McDonough, Holland & Allen
Ms. Joan Bassett, SAFCA
Ms. Linda Fiack, Delta Protection Agency

1. ROLL CALL

President Carter brought the meeting to order at 8:00 am. All Board members were in attendance except for Teri Rie who is expected to arrive, and Lady Bug Doherty and Rose Marie Burroughs.

Immediately following roll call, President Carter requested that everyone in the audience (in addition to Board members and staff) introduce themselves.

2.* APPROVAL OF MINUTES – November 17 & 18, 2005

Upon motion by Ms. Bly-Chester, seconded by Mr. Hodgkins, and unanimously carried, the Board moved to continue approval of the November 17 & 18, 2005 minutes until the January 27, 2006 meeting. Additional information needs to be added to the minutes.

3.* APPROVAL OF AGENDA

Upon motion by Ms. Bly-Chester, seconded by Mr. Hodgkins, and unanimously carried, the Board approved the agenda with the following changes. Move Agenda Item's No. 11A and 11B (under Applications) to be heard after Item No. 7 and both to be presented by Steve Bradley and not Annalena Bronson.

4. PUBLIC COMMENTS

There were no Public Comments.

5. REPORT OF ACTIVITIES OF THE DEPARTMENT OF WATER RESOURCES (Rod Mayer)

Mr. Rod Mayer, Acting Chief of the Division of Flood Management, presented the Department of Water Resources report activities. (The report is attached hereto and made a part of these minutes.)

6. THREE RIVERS LEVEE IMPROVEMENT AUTHORITY MONTHLY REPORT (Kent McClain)

Mr. Kent McClain, Executive Director along with Tim Yoemans, Economic and Planning Systems of Three Rivers Levee Improvement Authority (TRLIA), presented the monthly report. Mr. McClain additionally distributed a copy of a letter from MBK Engineers that explained TRLIA's current status of the project (including milestones accomplished and future milestones) and a brochure that explained the past year's construction highlights and year-end wrap-up. Mr. Yoemans provided a detailed report of their financing methodologies. Member Hodgkins confirmed the (fair share cost assignment) actual fee per unit for the program is \$5,000 as opposed to \$30,000. Member Bly-Chester wanted to know what considerations were given for maintaining the levees once construction has been completed – answer, RD 784. The Board also heard testimony from Mr. Tim Washburn of SAFCA and Ric Reinhardt of MBK Engineers.

7. U.S. ARMY CORPS OF ENGINEERS' SECTION 408 INFORMATION PRESENTATION (Teri Rie)

Member Rie provided a briefing to the Board on the Corps' "Section 408" process. Ms. Rie also reported that the Board (Task Force) would be writing a letter to the Corps to request clarification on 408 processes and provide information and justification on changing the regulations if they are going to be changed. President Carter wanted to know where that puts the Board in regards to projects that might be in the 408 process – answer, the Board has 180 days to act on a permit application. Member Bly-Chester reported that the Corps provides advise (act in advisory capacity) only on section 208 and 408 issues and not an approval process. However, the Corps also mentioned that if we (State) did not follow their advise, there will be repercussions that are not in the best interest of the State. Member Rie clarified that the applicant is requesting to remove an existing failing levee that doesn't provide any public safety and build brand new levees (set back) that are safe and meet

FEMA and Corps standards. Mr. Joe Countryman of MBK Engineers stated that the 408 processes should be delegated to the District Engineer in Sacramento for decisions instead of going to Washington. The Board also heard testimony from Alicia Guerra, Susan Dell'Oso and Scott Shipiro of the River Island's Project; Alex Hildebrand of the So. Delta Water Agency; Joe Countryman of MBK Engineers; and Jeff Twitchell of Wood Roger's Inc.

CONSENT

8.* CONSENT CALENDAR

None.

There were no Consent Calendar items.

REQUESTED ACTIONS

9.* PROJECT OR STUDY AGREEMENTS

American River Watershed, Folsom Dam Modification Project (*Annalena Bronson*)

Approve the construction of the Corps' resident office, access roads and staging area portion of the Folsom Dam Modification Project.

Ms. Annalena Bronson requested that the Board consider adopting Resolution 05-16 (adopting the mitigated negative declaration for the American River watershed, Folsom Dam Modifications, the construction of the Corps' resident office, access roads and staging area project); and to approve the project and the mitigation plan. Ms. Bronson explained that this was a "housekeeping issue" and she addressed questions from the Board.

Upon motion by Ms. Bly-Chester, seconded by Mr. Hodgkins, roll was called (Rie, yes; Bly-Chester, yes; Suarez, yes; Hodgkins, yes; and Carter, yes), the motion was unanimously carried, and the Board approved Resolution 05-016.

10.* PROPERTY MANAGEMENT

None.

There were no Property Management Items.

11.* APPLICATIONS

A. Application No. 17979, Three Rivers Levee improvement Authority, Feather/Bear River System, Yuba County (Annalena Bronson)

Consider conceptual approval of proposed project to:

1. Permanently degrade existing levees of the Sacramento River Flood Control Project (3,700 lineal feet of the left (east) bank levee of the Feather River and 5,300 lineal feet of the right (north) bank levee of the Bear River) and use the degraded levee material in construction of the nonfederal backup levee authorized by permit No. 17782 BD; and
2. Remove 250 acres of walnut orchard and restore 526 acres of riparian habitat by planting native grasses, herbaceous understory plants, and approximately 70,000 woody riparian plants including blue elderberry shrubs.

As stated on Item No. 3 – Mr. Steve Bradley, Chief Engineer for the Board is presenting this item to the Board. Mr. Bradley started that his presentation by assuring the Board that neither he nor anyone in the Board staff has ever worked behind the scenes to stop the process on Application No. 17979 (River Island) or Application No. 17942 (TRLIA). Mr. Bradley provided background information on this application (a federal project), reported that the Corps has notified the staff that this application requires the Corps' Chief of Engineers approval under Title 33, U.S. Code Section 408, and that staff's recommendation is to deny Application No. 17979. Mr. Keith Swanson of DWR addressed the O&M Manual regarding this project. Mr. Swanson also stated for Mr. Les Harder of DWR that DWR is in favor of improved public safety and this issue is a technical one that could be worked out through the permit process, and get adequate assurances that the levee is degraded and the new levee is constructed in a timely fashion so DWR is not exposed to a public safety emergency.

Upon motion by Ms. Bly-Chester with three conditions; those being (1) that the applicant address comments from the Corps and all other involved agencies; (2) that the proposed project align with the U.S. Fish and Wildlife Service Elderberry Bush Restoration Project; and (3) that the applicant prove to the Board that at least one-third of the setback levee be built prior to degradation of the original levee; the motion was seconded by Ms. Rie. Ms. Suarez proposed a fourth condition; that if the State has to go to court to enforce any of the permit provisions the court costs will be paid by the applicant, to which Ms. Bly-Chester agreed. Secretary Rie then seconded the motion with the added condition. Board Member Hodgkins suggested that an additional condition be added to insure that the completed levee would meet PL 84-99 standards, to which Ms. Bly-Chester also agreed. Secretary Rie again seconded the modification to the motion. Board Member Hodgkins asked for an additional provision that the State be held harmless for any consequences of the project, which was discussed at length. Roll was called (Rie, yes; Bly-Chester, yes; Suarez, yes; Hodgkins, yes; and Carter, no) was taken to determine whether to add that condition and it was approved with one dissent. The motion was unanimously carried with one dissent.

B. Application No. 17942, Yuba County, Western Interceptor Canal, Bear River, Yuba County (Steve Bradley)

Consider conceptual approval of proposed project to:

1. Modify operation of an existing unit of the Sacramento River Flood Control Project (Unit No. 145-Part 1) by constructing a ring levee to deactivate the upper 0.75 mile of Clark Lateral (Levee Mile 5.6 to LM 6.34); and
2. Breach a 100-foot section of the Clark Lateral levee and construct a pump station and 25 acre detention basin with open water, emergent marsh, seasonal wetland, riparian grasses, upland grasses and a service road to address local drainage from the town of Olivehurst.

Chief Engineer Bradley explained the current function of this portion of the flood control system and the proposed changes to it. He explained that the proposed project would modify a federally authorized project for which the Board has provided assurances to the federal government that it would operate and maintain therefore it requires a federal determination which has not been received. The Corps has commented that only the detention basin portion of the project can be considered by the Board. Because the project would modify a federal levee and change it to a private levee and the State would not have the ability to inspect and regulate the new levee and because the project would cause additional risk to third parties, staff recommended denial of the permit. Mr Ric Reinhart of MBK Engineers gave his report regarding project impacts to adjacent properties explaining that the project would prevent water from backing up through the system and prevent flooding in the town of Olivehurst.

Upon motion by Ms. Bly-Chester, seconded by Ms. Rie, discussion ensued in which a condition was added that the applicant must meet Corps approval on the project and that the applicant must pay any legal fees if the State has to go to court to enforce the permit provisions. Roll was called (Rie, yes; Bly-Chester, yes; Suarez, yes; Hodgkins, yes; and Carter, yes) and the motion passed unanimously.

12.* ENFORCEMENTS

None.

There were no Enforcement Items.

INFORMATIONAL BRIEFINGS

13. HAMILTON CITY FLOOD CONTROL AND ECOSYSTEM RESTORATION PROJECT
(Larry Lee)

Mr. Larry Lee of the Project Development Branch gave a status report on the project and reminded President Carter that he forgot to date the PED agreement that he previously signed. It was agreed that no additional briefings are needed unless an issue arises.

14. PERMIT ACTION - RECLAMATION BOARD PERMIT NO. 17035 *(Pete Rabbon)*

Mr. Rabbon introduced Scott Morgan, the Board's legal counsel to address this permit. It is regarding a permit given to CalTrans that they are not in compliance with some of the provisions. The problem is that CalTrans guardrails are making it difficult for the RDs to do maintenance work on Delta levees. Mr. Morgan related that CalTrans' attorneys don't think they are subject to the Board's permitting process but are willing to meet with the Board and locals to work out the issues.

15. AMERICAN RIVER WATERSHED COMMON FEATURES - LOWER AMERICAN RIVER FEATURES - MAYHEW LEVEE, SACRAMENTO COUNTY, CA - DRAFT EIS/EIR *(Tim Kerr)*

Mr. Tim Kerr gave a briefing on the project background and alternatives for construction. He also discussed the environmental issues that are being worked out and the construction schedule for 2006. Annalena Bronson, Staff Environmental Scientist, Mr. Mike Farmer, a resident, Jim Morgan, of the Butterfield-East Community Association, Mr. Joe O'Connor of BRECA, John Basset of SAFCA, and Mr. Raymond Willis, a resident also spoke.

16. DELTA EMERGENCY RESPONSE PLAN *(Bill Burkhard)*

This was postponed until the January meeting.

17. DELTA LEVEE SUBVENTIONS PROPOSED LEGISLATION *(Pete Rabbon)*

Pete Rabbon discussed SB 264 which seeks to extend the Delta Levee Subventions Program for two more years and increase funding for the program as well. Mr. Mike Hardesty of the Central Valley Flood Control Association also spoke.

BOARD REPORTS

18. REPORT OF ACTIVITIES OF THE GENERAL MANAGER

Pete Rabbon gave handouts and reported that he will be setting up a meeting with Assemblyman Keene's office for an information briefing they requested. President Carter and Board Members Burroughs and Doherty will also attend.

19. BOARD COMMENTS AND TASK LEADER REPORTS

Comments were made on CALFED's reorganization and the Interagency Collaborative Forum meeting on December 14, 2005. Comments were also made on pending legislation and the possible resurrection of AB 1665. Board Member Bly-Chester discussed the permitting process and various meetings that were held and the progress made. Ms. Bly-Chester also mentioned a report from DWR staff that will give an overview of permits currently in process. Pete Rabbon passed out Board Member Doherty's written report on the San Joaquin Levee District board meeting that she attended and the Sacramento River Conservation Area Forum meeting that she also attended. Board Member Hodgkins discussed the Sacramento River Planning Forum and their intent to come before the Board at a future meeting. Secretary Rie talked about the Board's plan to get clarification from the Corps on the 408 process and the development of a strategic plan for the Board. Scott Morgan went over the rules for discussion of Board items outside of the public forum. Board members requested that the Board packets be mailed out earlier so they will have more time to prepare for the meeting. It was decided that the Board would prefer to have information on pending items mailed as it is available rather than all in one mailing just prior to the meeting. The next meeting and tour was briefly discussed.

20. ADJOURN


The meeting adjourned at 5:45 p.m.

Dated: March 17, 2006



Teri E. Rie
Secretary

The foregoing minutes were approved:



Benjamin F. Carter
President