

MINUTES

MEETING OF THE RECLAMATION BOARD

October 20, 2006

A regular meeting of The Reclamation Board (Board) was held on October 20, 2006 beginning at 9:00 a.m. in the Resources Building Auditorium, 1416 Ninth Street, Sacramento, California.

The following members of the Board were present:

Benjamin Carter, President
Lady Bug Doherty, Secretary
Rose Marie Burroughs, Member
Butch Hodgkins, Member
Teri Rie, Member

The following members of the staff were present:

Jay Punia, General Manager
Dan Fua, Assistant General Manager
Stephen Bradley, Chief Engineer
Scott Morgan, Counsel
Nancy Finch, Counsel
Lori Buford, Staff Assistant
Jill Phinney, Staff Assistant

Department of Water Resources staff present:

Annalena Bronson
Tim Kerr
Noel Lerner
Rod Mayer
Ron Lee
Mike Mirmazaheri
Ricardo Pineda

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

Mr. Dan Boatwright, Castle Companies
Mr. Paul Brunner, Three Rivers Levee Improvement Authority (TRLIA)
Ms. Paula Landis, San Joaquin District
Mr. John Carlon, River Partners
Mr. Joe Countryman, MBK Engineers
Mr. Daniel Efseaff, River Partners
Mr. Tom Eres, Hofman Ranch
Mr. Pete Ghelfi, Sacramento River Flood Control Association (SAFCA)
Mr. Reggie Hill, Lower San Joaquin Levee District (LSJLD)
Ms. Cyndi Hillery, Assemblyman Doug La Malfa
Mr. Eric Larrabee, Levee District Three
Mr. James Morgan, Butterfield-Riviera East Community Association
Mr. Joe O'Connor, Butterfield-Riviera East Community Association

Mr. Ric Reinhardt, MBK Engineers
Mr. Lloyd Roduner, LSJLD
Mr. Scott Shapiro, TRLIA
Mr. Jeff Sutton, Family Water Alliance
Mr. Aaron Ward, Yuba County Office of Emergency Services
Mr. Tim Washburn, SAFCA

1. ROLL CALL

President Carter brought the meeting to order at 9:00 am. All Board members were in attendance except for Teri Rie who was expected later.

2. CLOSED SESSION – to discuss litigation (Natural Resources Defense Council v. Reclamation Board; Case No. 06CS01228) pursuant to Govt. Code § 11126 (e)(2)(A)

At this time the Board entered into Closed Session at approximately 9:11 to discuss litigation to the Natural Resources Defense Council vs. the Reclamation Board. The Board reconvened into Open Session at 9:48.

3.* APPROVAL OF MINUTES – June 16 & 26, July 21 and September 15, 2006

Upon motion by Ms. Doherty, seconded by Mr. Hodgkins, and unanimously carried, the Board approved the minutes for June 16 & 26, July 21 and September 15, 2006 with a correction to the June 26 minutes to reflect Member Rie as Secretary of the Board at that time.

4.* APPROVAL OF AGENDA

A motion was made by Ms. Doherty and seconded by Ms. Burroughs. The Board approved the agenda as presented with the removal of agenda item 14B; move item 16 to be heard before item 15; and change the language on item 10 to provide staff with any policy guidance on the project and EIR process.

At this time the Board heard comments from the public. Mr. Ric Reinhardt, MBK Engineers, expressed his concern to leave item 14B on the agenda. After considerable discussion between the Board regarding the removal of item 14B, the above motion failed.

Upon motion by Mr. Hodgkins, seconded by Ms. Burroughs, and unanimously carried, the Board approved the agenda as presented with the changes as follows: 1) change language on item 10 to provide staff with any policy guidance on the project and EIR process; and 2) move item 16 to be heard before item 15.

Let the minutes show that Board Member Teri Rie arrived at 10:00 am.

5. PUBLIC COMMENTS

Mr. Tom Eres, General Counsel for Hoffman Ranch, expressed his concern to track what's going on with respect to TRLIA, the improvements that they're making, the nature of the improvements that they're making, and the implication of the improvements that they're making as specifically related to

the new FEMA maps that are being circulated for discussion and at workshops in and around Yuba County. Mr. Ricardo Pineda, DWR, provided some comments on the floodplain mapping study in Yuba County. Mr. Ric Reinhardt, MBK Engineers, commented on the FEMA maps regarding improvements to TRLIA. (See Reclamation Board's Website at www.recbd.ca.gov for details.)

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

Mr. Rod Mayer, Chief of the Division of Flood Management, presented DWR's Report of Activities. (The report is attached hereto and made a part of these minutes.) The Board also heard a report/update from Mr. Ron Lee, Division of Engineering, who provided an update on 33 critical sites and the repair program under the Governor's Emergency Levee Erosion Repair Project.

7. STATE OF EMERGENCY – BOARD ACTIONS (Jay Punia)

Mr. Jay Punia, General Manager of the Reclamation Board reported that in order to keep the critical erosion site work moving forward, DWR staff is acquiring the lands and Board staff is certifying through the U.S. Army Corps of Engineers that we have acquired the necessary right of way so that the Corps can keep the construction going under Public Law 84-99. DWR and Board staff is working closely with the Corps to keep the certifications moving so that the work can continue on critical erosion sites. (The report is attached hereto and made a part of these minutes.)

8. THREE RIVERS LEVEE IMPROVEMENT AUTHORITY MONTHLY REPORT (Paul Brunner)

Mr. Paul Brunner, TRLIA's Authority Director, provided the monthly report to the Board. (The report is attached hereto and made a part of these minutes.) The Board also heard testimony from Mr. Aaron Ward, Yuba County Office of Emergency Services; Mr. Ric Reinhardt, MBK Engineers; and Mr. Scott Shapiro, Counsel for TRLIA. (See Reclamation Board's Website at www.recbd.ca.gov for details.)

CONSENT

9.* CONSENT CALENDAR

There were no consent calendar items.

REQUESTED ACTIONS

10.* PROJECT OR STUDY AGREEMENTS

American River Common Features Project, Mayhew Levee Raise, Sacramento County
(Annalena Bronson)

Consider selecting a Preferred Alternative to be carried forward in the Final Environmental Impact Report.

Ms. Annalena Bronson, DWR, provided an informational update on the Mayhew Levee Project. Board Counsel Scott Morgan explained and clarified what the Board is being requested to do, which is not to select a preferred alternative but to provide any guidance to the staff on policy issues related to this project that it feels are appropriate at this time. The Board heard testimony from Mr. Tim Kerr, DWR Project Manager for the American River Common Features Project. Mr. Kerr stated that the Corps is supporting Alternative 6, the full levee, because it meets the objective of the authorized project to perform levee improvements that can meet an emergency release from Folsom Dam of 160,000 cfs. It meets the Corps' mandatory engineering criteria regarding the design and construction of levees, and it also meets the FEMA requirements for levee construction and certification. The Board also heard testimony from Mr. Jim Morgan and Mr. Joe O' Connor with the Butterfield-Riviera East Community Association (BRECA) in support of moving forward with this project; Mr. Tim Washburn, Sacramento Area Flood Control Association (SAFCA), stated that SAFCA is prepared to move forward with the Corps' recommendation, as the local sponsor, contingent upon whatever variation on that recommendation the Board might decide is appropriate. Mr. Pete Ghelfi, Director of Engineering for SAFCA also spoke.

11.* PROPERTY MANAGEMENT

There were no property management items.

12.* ENFORCEMENTS

There were no enforcement items.

***At approximately 12:20 pm the Board recessed for lunch
and reconvened into open session at 1:20 pm.***

13.* APPLICATIONS

A. Application No. 18046, Castle Principles, LLC, Yolo County (Mike Mirmazaheri)

Consider approval of Application No. 18046 requesting an encroachment permit to install storm drain pipe through the levee, construct two access ramps, place fill along the landward toe of the levee, and place 2,000 linear feet of aggregate base on the crown of the Colusa Basin Drain levee. (Continued from July 21 and September 15, 2006 Board meeting)

Mr. Mike Mirmazaheri, DWR, stated this application was presented to the Board at their July 21 and September 15, 2006 Board meeting, and is being presented to request authorization from the Board for an encroachment permit. This application, if approved, will allow the applicant to proceed with his encroachment permit to install a drain pipe, place fill along the landward toe of the levee, construct

two access ramps and place 2,000 linear feet of aggregate base on the crown of the Colusa Basin Drain levee. The Board also heard testimony from Mr. Dan Boatwright, Castle Principles (applicant) and Mr. Noel Lerner, DWR.

Upon motion by Ms. Rie and seconded by Ms. Doherty, the Board agreed that the Board concurs with the Environmental Review Committee's determination as endorsed by its staff; that while the subdivision Initial Study and Mitigated Negative Declaration adopted by Yolo County is adequate and is in compliance with CEQA for the purposes of approving encroachment Permit No. 18046; that the Board finds that there are no significant environmental impacts identified in the Initial Study and Mitigated Negative Declaration within the Board's jurisdiction and responsibility that require changes or alterations to avoid or substantially lessen those effects; and that the Board has determined through its Environmental Review Committee that all other changes and alterations that are within Yolo County's responsibility and jurisdiction are not the responsibility of the Board and have been adopted by Yolo County. The Board recommended approval of Application No. 18046 with DWR's modifications to Special Conditions 15, 34, 35, 36, 43 and 48, and with the modifications to Condition 48 as recommended by Board Counsel. Motion passes 4 yes to 1 no vote by Ms. Burroughs.

B. Application No. 17659-A, River Partners, Glenn County (Dan Fua)

Consider Application No. 17659-A to plant mixed riparian forest, elderberry and woodland, valley oaks and savanna, and grassland on 136 acres within the Butte Basin.

Mr. Dan Fua, Assistant General Manager for the Board, presented Application No. 17659-A to the Board and requested Board approve Application No. 17659-A with two conditions. 1) resolving the concerns regarding the spread of elderberrys onto adjacent lands; and 2) developing and funding a financial plan to provide for long-term maintenance of the project site. The Board heard testimony from Mr. Dan Efsseaff and Mr. John Carlon, River Partners; Joe Countryman, MBK Engineers; Mr. Eric Larrabee, Levee District 3 and Landowner; Mr. Jeff Sutton, Family Water Alliance; and Ms. Cyndi Hillery, Legislative Director for Assemblyman La Malfa.

Upon motion by Mr. Hodgkins and seconded by Ms. Doherty, the Board moved to approve Application No. 17659-A with the following conditions: 1) grant a 15 foot easement at the toe of the levee; 2) clear the easement and burn the levee prior to transferring the property to a government agency; and 3) pay LD 3 \$15,000 upon the sale of transfer of the property to a government agency. Thereupon a roll call vote ensued...Ms. Burroughs-no, Ms. Doherty-yes, Mr. Hodgkins-yes, Ms. Rie-no, Mr. Carter, no; motion fails 3 to 2.

After discussion the Board agreed to leave it to staff to determine whether or not the applicant will have to submit a new application for this project or if they can re-submit the existing application. At this point, the item is tabled until the Board decides to bring it back on the agenda.

14.* PERMITS

A. Permit No. 17979-BD, Three Rivers Levee Improvement Authority (TRLIA), Bear River, Yuba County (Steve Bradley)

Consider if the agreement between the permittee (TRLIA) and the US Fish and Wildlife Service meets the flood conveyance maintenance requirement of Special Condition FOURTEEN, which would allow elderberry shrubs to be planted at the project site.

Mr. Steve Bradley, Chief Engineer for the Board, provided a brief summary of the above item, and Mr. Scott Morgan, Legal Counsel for the Board, clarified the legal issue regarding incidental take authorized in two biological opinions would extend to DWR as long as DWR and TRLIA implemental conservation measures in terms of conditions is described in the documents, and the USFWS agreed that it would not seek additional compensation for elderberry shrubs that were removed in order to maintain required flood conveyance parameters. The Board heard testimony from Mr. Scott Shapiro, TRLIA; Mr. Joe Countryman and Ric Reinhardt, MBK Engineers; and Mr. Tom Eres, Hofman Ranch.

Upon motion by Mr. Hodgkins and seconded by Ms. Doherty, the Board moved to approve Permit No. 17979-BD (agreement between TRLIA and USFWS meets the flood conveyance maintenance requirement of Special Condition 14). Thereupon a roll call vote ensued... Ms. Burroughs-abstain, Ms. Doherty-yes, Ms. Rie-yes, Mr. Hodgkins-yes, Mr. Carter, yes; motion passes 4 yes to 1 abstention.

B. Permit No. 18095-GM, Three Rivers Levee Improvement Authority, Yuba River, Yuba County (Steve Bradley)

Consider a request to approve a variance to Special Condition FIFTEEN to allow the levee crown elevation to be increased in height (raised) above the Corps of Engineers' project design elevation.

Mr. Steve Bradley, Chief Engineer for the Board, reported that there is no staff recommendation or staff report on this item, due to priority of working on a lawsuit, as directed by the Attorney General's Office.

Board Member Burroughs moved to table this item until the next meeting on November 17. Hearing no second, motion failed, discussion continues.

Mr. Ric Reinhardt, MBK Engineers, requested the Board to approve Permit No. 18095-GM based on the General Manager's review and approval of the hydraulic impact analysis. Mr. Reinhardt expressed concern that the decision is time critical. The Board heard testimony from Mr. Tom Eres, Hofman Ranch; and Mr. Pete Ghelfi, SAFCA.

Upon motion by Mr. Hodgkins, seconded by Ms. Doherty, the Board moved to continue this item until the Board has formulated a policy with regard to the issue of levee raises and flood protection standards. Thereupon a roll call vote ensued...Ms. Burroughs-abstain, Ms. Doherty-no, Ms. Rie-no, Mr. Hodgkins-yes, Mr. Carter, no; motion fails 3 no's, 1 yes and 1 abstention.

Board Member Rie moved that this item is continued until staff is prepared to provide a “staff report” and seconded by Ms. Burroughs. Thereupon a roll call vote ensued...

Ms. Burroughs-yes, Ms. Doherty-abstain, Ms. Rie-yes, Mr. Hodgkins-yes, Mr. Carter, yes; motion passes/carries 4 to 1 abstention.

INFORMATIONAL BRIEFINGS

15. ASSEMBLY BILL 142 – TENTATIVE EXPENDITURE PLAN AND FUTURE FLOOD CONTROL ACTIVITIES (Rod Mayer)

This item was removed from the agenda.

16. SAN JOAQUIN RIVER RESTORATION SETTLEMENT AGREEMENT (Paula Landis)

Ms. Paula Landis, DWR, provided background, information and an overview of the San Joaquin River Restoration Settlement Agreement. The Board also heard comments from Mr. Reggie Hill and Mr. Lloyd Roduner, Lower San Joaquin Levee District, stated that they (LSJLD) are opposed to the settlement.

BOARD REPORTS

17. BOARD COMMENTS AND TASK LEADER REPORTS

Board Member Burroughs reported that the San Joaquin River Restoration Settlement Agreement be brought back before the Board and requested staff look at the legal ramifications to the Board.

Secretary Doherty regarding “Global Warning”, after hearing a speaker on the subject, reported that there would be 70 to 80 percent less snow-pack, one to two foot rise in sea level, death will increase, agriculture will be impacted, along with electricity and wild fires.

18. REPORT OF ACTIVITIES OF THE GENERAL MANAGER

General Manager Punia reported that Board staff has been working extremely hard with the NRDC lawsuit and that is the reason why some of the staff reports were not prepared on time or they were not prepared at all. Board Member Rie will not be at the November 17 Board meeting. After discussion regarding re-scheduling the meeting to a different date, the Board agreed to hold the meeting on November 17 as previously scheduled. Staff has completed the SSA interviews (Staff Assistant), have three top candidates, and hope to make a decision the following week. Lori Buford’s going-away luncheon will be held in Room 133 at the November 17 Board meeting. Board members and staff, were invited to attend a meeting with Senator Dianne Feinstein and others regarding what they need to deliver in the way of federal match for the projects that the Board is trying to move forward. Vice-President Hodgkins represented the Board. As previously discussed, staff will continue to work with DWR and the Corps to develop a policy on levee raises, hydraulic mitigation and hydraulic impact analysis. Staff continues to work with DWR to hire a consultant to facilitate this process so that staff can bring a draft guideline or policy for the Board’s consideration as soon as possible. Staff has submitted a Budget Change Proposal (BCP) requesting an engineer and

administrative staff. However, in the meantime, staff continues to work with DWR to request additional staff. Staff received information from Ms. Lisa Kirk, representing landowners at Bethel Island, regarding the proposed Delta Coves Development. Staff investigated this issue and concluded that there are no potential impacts on the proposed federal flood control project.

19. FUTURE AGENDA

President Carter requested that Board members submit their suggestions for the November 17 agenda directly to Mr. Punia, who will compile and formulate the agenda for November 17.

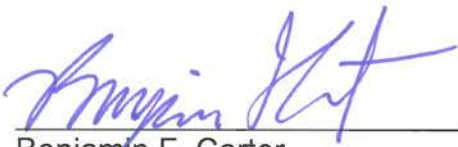
20. ADJOURN

The meeting was adjourned at 5:55 pm.

Dated: December 15, 2006


Maureen Doherty
Secretary

The foregoing minutes were approved:


Benjamin F. Carter
President