

MINUTES

MEETING OF THE CENTRAL VALLEY FLOOD PROTECTION BOARD October 17, 2008

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 (Open Session) of the Central Valley Flood Protection Board was held on October 17, 2008, beginning at 8:32 a.m., at The Resources Building Auditorium, 1416 Ninth Street, Sacramento, California.

The following members of the Board were present:

Mr. Benjamin Carter, President
Mr. Francis "Butch" Hodgkins, Vice President
Ms. Maureen "Lady Bug" Doherty, Secretary
Ms. Teri Rie, Member
Ms. Emma Suarez, Member
Mr. John Brown, Member

The following members of the Board staff were present:

Mr. Jay Punia, Executive Officer
Mr. Eric Butler, Senior Engineer
Ms. Virginia Cahill, Legal Counsel
Ms. Nancy Finch, Legal Counsel
Mr. Dan Fua, Supervising Engineer
Mr. Gary Hester, Chief Engineer
Ms. Lorraine Pendlebury, Staff Analyst
Mr. Geoff Shumway, Staff Analyst

Department of Water Resources staff present:

Mr. Joseph Chang, Flood Maintenance Office
Mr. Russ Eckman, Chief, Sacramento Maintenance Yard
Mr. Ken Kirby, Manager, FloodSAFE Planning Portfolio
Mr. Gary Lemon, Floodway Protection Section
Mr. Noel Lerner, Chief, Maintenance Support Branch
Mr. Rod Mayer, Assistant Deputy Director, FloodSAFE
Mr. Mike Mirmazaheri, Program Manager, Delta Levees Program

Department of Water Resources staff present (continued):

Mr. Ricardo Pineda, Chief, Floodplain Management Branch
Mr. George Qualley, Chief, Division of Flood Management
Mr. Keith Swanson, Flood Maintenance Office
Mr. Ward Tabor, Assistant Chief Counsel
Ms. Terri Wegener, Chief, Statewide Grants Branch
Mr. Jon Yego, Chief, Floodway Protection Section

Also Present:

Mr. Dave Aladjem, Downey Brand, for Reclamation District 800
Mr. Lewis Bair, Sacramento River West Side Levee District
Mr. Joe Countryman, MBK Engineers
Mr. Larry Dacus, MBK Engineers
Mr. Tom Ellis, Sacramento River West Side Levee District
Ms. Ashley Indrieri, Family Water Alliance
Mr. Donald Murphy
Mr. Dante John Nomellini, Central Delta Water Agency
Ms. Fran Peace, for United States Congressman Wally Herger
Mr. Scott Shapiro, Central Valley Flood Control Association
Ms. Sue Sutton
Mr. Tom Teesdale
Mr. Gregg Werner, The Nature Conservancy

1. ROLL CALL

Executive Officer Punia called the roll. Ms. Suarez and Ms. Rie were expected momentarily. All others were in attendance.

2. APPROVAL OF MINUTES - August 14-15, 2008

Secretary Doherty suggested a change to page 5, near the bottom, which now says "Legal Counsel Cahill" and should be "Legal Counsel Cahill supported the staff's recommendation."

Member Brown suggested a change to Item No. 15, second line, which now says "Lester Stahl," and should be "Lester Snow."

Upon motion by Secretary Doherty, seconded by Member Brown, the Board unanimously approved the August 14-15, 2008 Meeting Minutes with the changes suggested above.

3. APPROVAL OF AGENDA

President Carter recommended that the presentation of Items 11 and 12 be reversed, at the request of both parties.

Executive Director Punia recommended that Item 8E be postponed, as the CEQA compliance is not yet complete.

Upon motion by Vice President Hodgkins, seconded by Member Brown, the Board unanimously approved the Agenda, with the changes suggested above.

Ms. Suarez entered the meeting.

4. PUBLIC COMMENT - None

5. CEREMONIAL MATTERS - Presentation of Honorary Resolutions

Resolution No. 08-18 was presented to former Board Member Rose Marie Burroughs, who served on the Board for approximately three years and resigned due to changes in her personal situation. Members expressed their appreciation for her service.

Resolution No. 08-20 was presented to Sterling Sorenson, who retired after 28 years of service to the state of California.

6. REPORT OF ACTIVITIES OF THE DEPARTMENT OF WATER RESOURCES

Mr. Ken Kirby, DWR, gave a short briefing on the schedule for implementation of the Flood Control System Status Report to the Legislature. He provided a description of the State Plan of Flood Control, the status of the Plan, and what DWR will be doing with the system in the future. DWR will provide another update at the November 21st Board Meeting.

Mr. George Qualley, DWR, reported on the following:

- *September 30th was the end of the official water year. Precipitation was 80 percent of average; runoff, 60 percent of average; and reservoir storage, 70 percent of average.*
- *Maintenance Support Branch: on the Garmire Road Bridge replacement at Tisdale Weir - the superstructure has been completed on the new bridge and the old bridge is now gone.*
 - *The Maintenance Area 9 pipeline abandonment is scheduled to occur in mid-October.*
 - *The Colusa mitigation site contract was awarded at the end of September to River Partners for almost \$900,000. They are working on installing underground irrigation piping and plantings; that work should be completed in November. Next year they will be working on the irrigation pump station and a number of other installations. The contract is scheduled for termination in November 2011.*

- *The levee road repairs - when completed, the repairs will have resurfaced 44 miles of crown levee roads; completion is expected in mid-November.*
- *Flood Operations Branch continues modernization of various aspects of the operation. The web portal will be entirely new when it goes live.*
 - *Work continues in the Flood Operations Center in preparation for the upcoming season. DWR has been working on an in-kind services agreement with the Corps which will give access to some of the Corps mapping of Delta-specific areas.*
- *Floodplain Management Branch has had two Technical Advisory Committee meetings thus far; another is scheduled for mid-November, where an initial code package will be formulated.*
- *Statewide Grants Branch - in response to public comments, some fairly substantial revisions were suggested to the AB 1147 regulations, and DWR decided to reissue another 15-day public comment period, which ended on October 23rd.*
- *Flood Project Modifications and Permits Branch - DWR sent a letter to TRLIA that clarified some of the requirements of the funding agreement with respect to lease agreements; also, discussions are ongoing among DWR, TRLIA technical staff, the Corps of Engineers and others regarding the crack that developed on Segment 1.*
- *West Sacramento began work on a small portion of the levee near the I Street Bridge. RD 17 submitted a request for EIP funding that is being reviewed.*
- *Local Levee Urgent Repairs - DWR is in the process of surveying local agencies to see if there is sufficient interest for a second funding solicitation for the Local Levees Program.*
- *Levee Repairs Branch - after a slow start, dozens of sites have been repaired in a fairly short period of time.*
- *Regarding the PL 84-99 work - the work started on August 15th and 95 sites have been repaired since then.*
 - *The slurry wall construction in the Chowchilla Bypass is scheduled for completion by the end of October.*
- *Urban Levee Evaluations Branch - had their 10th independent consulting board (ICB) meeting in September; the 11th is scheduled for December '08. The ICB meetings have proven to be a real benefit for the evaluation program.*
- *The best available maps, which were completed on July 1, 2008, have received a number of questions from local entities, and public posting of the maps has been delayed to allow*

opportunity for comment and response to the maps. Subsequently, the maps were put on the website and a press release to that effect held on September 15th. As of October 1st, the website had 2,800 hits. This comment/response/update iteration will be an ongoing process. DWR will provide an update on the maps at the November Board meeting.

Ms. Rie entered the meeting.

- *Regarding local maintaining agency reports - 42 of the local agencies filed their reports with DWR by the deadline, 10 more were received after the deadline, and there are 44 still outstanding. DWR will update the Board on these reports at the November Board meeting.*

Floodplain Management Branch Chief Ricardo Pineda notified the Board that the building codes team, which is working on revising building code standards, will provide an update at the November Board meeting. The next Technical Advisory Committee meeting on building codes is scheduled for mid-November. The legislation calls for a package to be submitted to the Building Standards Commission by January 1, 2009. After the submittal, the Central Valley Plan Outreach Program will continue the communication on the proposed revised standards with communities and other stakeholder groups.

Mr. Pineda also reported on some of the lessons learned about flood control from the Midwest floods and Hurricane Gustav.

7. THREE RIVERS LEVEE IMPROVEMENT AUTHORITY MONTHLY REPORT

Mr. Larry Dacus, TRLIA design manager, reported on the status of the Segment 1 crack. The crack developed over about 550 feet on the landside of the levee. Operations were immediately ceased in the area and a series of monitoring devices were utilized to analyze the situation. They are now taking the information learned, thinking about what could possibly occur during a high water event or during the winter, and coming up with means to take care of those possibilities. Board Members queried Mr. Dacus about various aspects of the crack and the subsequent analysis.

8. CONSENT CALENDAR

A. Permit No. 16591-A, Mike Kostas

Consider approval to construct an addition to existing residence (Permit No. 16591) on the right (north) bank overflow area (Area C) of the Yuba River in Yuba County.

B. Permit No. 18295, Demetrius Barmettler

Consider approval to construct a floating boat dock, attached to a gangway, attached to a concrete deadman on the left (east) bank levee of the Sacramento River in Sacramento County.

C. Permit No. 18382, City of Bakersfield

Consider approval to construct a cast-in-place reinforced concrete slab bridge across the Kern River. The bridge will be 715 feet long and about 99 feet wide and will be supported by 208 pre-cast concrete piles. Utility realignments and improvements include the relocation of a 6-inch gas line and the extension of a 16-inch water line under the Kern River Channel in Kern County.

D. Permit No. 18386, City of Sacramento

Consider approval to install a fire hydrant on the landside levee crown hinge point and connect to a ductile iron or PVC pipe to be installed (trenched) on the landside slope (perpendicular) of the left (east) bank levee of the Sacramento River in Sacramento County.

E. Permit No. 18404, DWR - *Postponed*

Consider approval to cut existing intake pipes and install new pipe extensions and fish screens supported by steel pilings for ten DWR-owned intake siphons located on the left (east) bank levee of the Sacramento River, the right (north) bank levee of the San Joaquin River, and the left (north) bank levee of Mayberry Slough in Sacramento County.

F. Permit No. 18409, John Brimmer

Consider approval to install (trench) PVC electrical conduits within and perpendicular to the landside slope of the left (east) bank levee of Miner Slough in Solano County.

As mentioned previously, Item E was postponed.

Upon motion by Member Brown, seconded by Secretary Doherty, Items A, B, C, D and F were unanimously approved, subject to receipt of the Corps recommendation letter.

9. HEARINGS AND DECISIONS

A. Permit No. 18374, Robert Ginno

Consider approval to plant native trees, shrubs, and grasses within the designated floodway on the right (west) bank of the Sacramento River in Tehama County.

Mr. Gary Lemon, DWR, and Mr. Gregg Werner, The Nature Conservancy, presented detailed technical information about the permit, then answered Member questions.

President Carter, noting that there was no public testimony about the Permit, closed that portion of the Hearing.

Members then discussed how best to handle the situation regarding receipt of a letter from the U.S. Army Corps of Engineers approving the permit application. The letter was requested on May 1st, 2008 but has not yet been received.

Upon motion by Member Brown, seconded by Secretary Doherty, the Board unanimously adopted the Permit, with the change of deleting Condition 30 on page 3 of the Permit, which states that a letter from the Department of the Army dated October is attached as Exhibit A.

B. Application No. 18413, Donald Murphy

Consider approval to install chain link fence and gate at upstream and downstream boundary of property across the landside slope, crown and the waterside slope of the left (east) bank levee of the Sacramento River in Yolo County.

Mr. Jon Yego, DWR, presented detailed technical information on the Application, then answered Member questions.

Mr. Donald Murphy, the Applicant, first discussed his experience during the application process, and then asked for direction from the Board and its staff on how best to arrive at a solution for everyone involved. He then responded to Member questions.

Senior Engineer Butler asked the Board to consider that any time the Board allows a cross fence to go up across the levee system it adds to the delay and inconvenience of the various flood fight agencies who patrol those levees. He asked the Board to strongly consider denial of this application, as well as any other applications for cross fences that may occur in the future.

Executive Officer Punia stated that this type of fence will definitely have an impact on the capability for operation and maintenance, as well as the capability of a flood fight.

Mr. Keith Swanson, DWR, noted that every time a fence (and thus a gate) is added, it increases the difficulty of DWR's maintenance obligation. During a flood emergency gates need to be kept open. Thus, these types of encroachments will continue to be a huge issue in the future.

President Carter stated that he is sure the fence will add significantly to the maintaining agency's time, inconvenience, and cost; thus, it is not in the public interest in terms of public safety.

Member Rie commented that the Board should perhaps consider allowing one gate, where the next gate is 1,800 feet away, as in the current case.

Member Suarez suggested that the Board not act on the permit application now, and give the parties a month's time to sit down and determine if there is a way to address the concerns presented. Mr. Murphy stated that he would be perfectly happy to proceed on that basis.

Upon motion by Member Suarez, seconded by Member Rie, the Board voted to continue the Hearing on the Application to allow Board staff and the parties involved to get together and reach a compromise. The motion failed.

Upon motion by Secretary Doherty, seconded by Vice President Hodgkins, the Board then voted to deny the application, under Title 23, Division 1, Chapter 1, Article 3. This motion also failed.

After further discussion, Member Brown motioned, seconded by Member Suarez, to grant the applicant the permission to put in the fence as long as the design, location, and so forth is acceptable to staff. If it is not, the application would then be brought back before the Board. This motion also failed.

Following more discussion, President Carter suggested that the Board return to the original motion made and direct the applicant and staff to continue their dialogue, as there is currently an impasse and new information is needed. His suggestion was unanimously approved.

REQUESTED ACTIONS

10. DELTA LEVEE MAINTENANCE SUBVENTIONS PROGRAM

Consider approval of the staff-recommended reimbursement amount under the Delta Levees Maintenance Subventions Program.

Mr. Mike Mirmazaheri, DWR, gave a presentation on the Program, first noting that its intent is to provide financial and technical assistance to the local agencies maintaining the levees in the Delta.

Mr. Scott Shapiro, speaking on behalf of the California Central Valley Flood Control Association, expressed his support for the recommended funding.

Mr. David Aladjem, on behalf of Reclamation District 800, echoed Mr. Shapiro's support for the recommended funding.

Mr. Dante John Nomellini, on behalf of the Central Delta Water Agency, also expressed his support for the recommended funding.

After Member questions and upon motion by Member Suarez, seconded by Member Brown, the Board unanimously approved the reimbursement amounts under Table 2, Table 3 and the revised guidelines.

11. SUTTER BYPASS

Consider making a request that the Department of Water Resources take appropriate actions to restore the carrying capacity of the Sutter Bypass.

Mr. Lewis Bair, Sacramento River West Side Levee District, gave a presentation on some of the history of the ongoing maintenance issues in the Bypass, and asked the Board to adopt an action plan to monitor and address unauthorized encroachments within the Sutter Bypass floodway. He then answered Member questions.

Ms. Fran Peace, speaking on behalf of Congressman Wally Herger, offered the Congressman's full support for the request.

Mr. Tom Teesdale, resident of Meridian, and Ms. Sue Sutton, Colusa County resident, provided some historical perspective on the Bypass and expressed their support for the request.

Mr. Tom Ellis, Sacramento River West Side Levee District, also provided some history and noted that people in the area are totally dependent on the proper functioning of the system for their safety and flood protection.

Member Suarez commented on the difficulty that the Board, as a state entity, faces in deliberating on this request, because in essence they are being asked to order or ask DWR to violate federal environmental laws. Important laws are in conflict, thus presenting a very difficult situation.

Member Brown commented on the need for some flexibility in the Endangered Species Act in response to human needs and economics.

Ms. Ashley Indrieri, Family Water Alliance, asked that the Board support the request. She also asked that the Board carry out the 2D modeling that needs to be done within the Sutter Bypass.

Legal Counsel Cahill offered that a logical first step might be for DWR and the Board to review the previous documents applicable to the area and try to come up with some legal conclusions, and possibly to negotiate with Fish and Wildlife Service.

President Carter stated that there are many unanswered questions and the Board probably should take some action today to begin to move the process forward in terms of trying to understand the technical aspects involved, as well as the legal aspects of jurisdictions and authorities.

After further discussion, President Carter suggested that the Board try to move forward on four areas: transitioning to the 2D model; working at a local level with the private property owners on the areas of concern; have both Board and DWR staff work on fully understanding the easements and authorities involved; and solicit comment on the Fish and Wildlife plan. Board staff would then be asked to draft a resolution formalizing these four areas and bring that resolution to the Board during the November meeting.

Vice President Hodgkins noted that a big issue with the 2D model is whether or not anyone will fund it. He also asked that the resolution include DWR and Board legal counsel's best opinion as to the specific criteria by which the Board will know that the maintenance is adequate. For example, what does "water run freely" mean in terms of maintaining a flood control system? Does it mean the maintenance must be to design capacity, or something else?

President Carter asked the Board and DWR to work with the Fish and Wildlife Service on understanding their conservation plan and the easements, as well as the other aspects mentioned above. The information gathered will then be presented to the Board at a future Meeting.

INFORMATIONAL BRIEFINGS

12. SUTTER BYPASS MAINTENANCE

Briefing by the Flood Maintenance Office of the Department of Water Resources' Division of Flood Management detailing maintenance achievements and challenges in and around the Sutter Bypass.

Mr. Noel Lerner, DWR, presented the informational briefing. The Board then moved to Item 11 (above).

Mr. Joe Countryman, MKB Engineers said it was quite evident from the 1 D modeling that two-dimensional modeling was needed.

Ms. Rie and Ms. Suarez departed.

13. INTERIM LEVEE DESIGN CRITERIA

Mr. Rod Mayer, DWR, gave a presentation on the draft interim levee design criteria for urban and urbanizing areas.

14. DRAFT SACRAMENTO-SAN JOAQUIN DRAINAGE DISTRICT MAP IN PREPARATION FOR THE CENTRAL VALLEY FLOOD PROTECTION BOARD'S COMPLIANCE WITH AB 162 - Postponed

15. REVISED AB 1147 REGULATIONS

Provide a briefing to the Board on the changes made to the AB 1147 regulations after the 45-day public comment period.

Ms. Terri Wegener, DWR, gave a short briefing to the Board on the changes to the regulations, which detail the state cost share for federally authorized flood control projects.

BOARD REPORTS

16. BOARD COMMENTS AND TASK LEADER REPORTS

Member Brown mentioned a September '08 meeting he had with the Auburn Dam Council on water supply issues and the status of Auburn Dam. No current Board business was discussed.

Vice President Hodgkins noted that he had been attending the Lower Bypass Plan Forum meetings and the agendas are up on a couple of websites -- the Delta Planning Commission site and YoloBypass.org.

17. REPORT OF THE ACTIVITIES OF THE EXECUTIVE OFFICER

Executive Officer Punia mentioned the following items:

- *The Memorandum of Understanding (MOU) between the Board and DWR, that was approved by the Board at the previous Meeting, included a minor change in the real estate delegation. This change was not acceptable to DWR. DWR and Board legal counsel are now working to reach a consensus on it, which may mean they have to bring the MOU back before the Board. President Carter stated that the issue should not be a problem and they are trying to reach agreement.*
- *Budget - \$1.8 million is in the General Fund for five new positions, and an additional \$1 million and up to five positions were received for Proposition 1E and AB 4. Board staff now has to find a space for the new hires and they will be moving aggressively on that.*
- *President Carter, Gary Hester and Mr. Punia met with Colonel Chapman and Corps staff on how best to expedite processing of the permits.*
- *Dave Gutierrez, DWR, has gone back to his permanent position as Chief of the Division of Safety of Dams and Mark Cowin is the new Deputy. The Division of Flood Management now reports to Mr. Cowin.*
- *DWR recommended that the Board nominate an additional member of the Board to the Delta Subcommittee to work with Mike Mirmazaheri and Dave Mraz on the Delta issue. Member Suarez has accepted this nomination.*

President Carter confirmed that he has made this appointment. He also noted that he had recommended that another subcommittee be formed to work with Steve Bradley and Ken Kirby to continue the Board's involvement in the development of the Central Valley Flood Protection Plan. He has nominated Vice President Hodgkins and Member Brown to be members of that subcommittee and they have agreed to the nomination.

Chief Engineer Hester then gave a brief presentation on where the Board is now regarding addressing the encroachments on the Bear Creek and the Calaveras River.


18. FUTURE AGENDA

President Carter asked the Members to review the draft future agenda included in Member packets today and inform him of any items they would like to change. The Board will endeavor to include the items discussed today that were either continued or postponed on that Agenda.

19. ADJOURN


President Carter adjourned the meeting at 5:52 p.m.

Dated: 19 DECEMBER 2008



Maureen Doherty
Secretary

The foregoing minutes were approved:



Benjamin F. Carter
President