

MINUTES
MEETING OF THE CENTRAL VALLEY FLOOD PROTECTION BOARD
December 17, 2009

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 December 17, 2009, beginning at 8:37 a.m. at The Bonderson Building, 901 P Street, First Floor Hearing Room, Sacramento, California.

The following Members of the Board were present:

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

The following members of the Board staff were present:

Mr. Jay Punia, Executive Officer
Mr. Len Marino, Chief Engineer
Mr. Eric Butler, Senior Engineer
Ms. Angeles Caliso, Staff Engineer
Mr. Dan Fua, Supervising Engineer
Ms. Lorraine Pendlebury, Staff Analyst
Ms. Deborah M. Smith, Legal Counsel
Mr. Curt Taras, Senior Engineer
Mr. Dave Williams, Senior Engineer

Department of Water Resources (DWR) staff present:

Mr. Jeremy Arrich, Chief, Flood Project Inspection & Integrity Branch
Mr. Gary Bardini, Chief, Division of Flood Management
Mr. Robert Chesner, Senior Land Surveyor
Mr. John Ericson, Chief, Hydrology Branch
Mr. Gary Hester, Portfolio Manager, Central Valley Flood Management Plan Program
Mr. Art Hinojosa, Chief, Hydrology and Flood Operations Office
Mr. Noel Lerner, Chief, Maintenance Support Branch
Mr. Ward Tabor, Assistant Chief Counsel

Also Present:

Mr. Joe Countryman, MBK Engineers
Mr. Jeff Crowder
Ms. Diane Fales, Reclamation District 1001
Ms. Frances Hofman, Hofman Ranch
Mr. Ryan Larson, United States Army Corps of Engineers (Corps)
Mr. Robert Pyke, Arcadia
Mr. Scott Shapiro, Reclamation District 2126, Three Rivers Levee Improvement Authority (TRLIA)

1. ROLL CALL

Executive Officer Punia called the roll.

2. APPROVAL OF MINUTES – October 23, 2009 Board Meeting

*Upon **motion** by Member Brown, seconded by Secretary Doherty, the Board unanimously approved the October 23, 2009 Board Meeting.*

3. APPROVAL OF AGENDA

Executive Officer Punia stated the staff recommendation that Item 10 be postponed.

*Upon **motion** by Member Brown, seconded by Secretary Doherty, the Board unanimously approved the staff recommendation (see sentence above).*

(Vice President Hodgkins joined the meeting.)

4. PUBLIC COMMENT - NONE

5. REPORT OF ACTIVITIES OF THE DEPARTMENT OF WATER RESOURCES

Mr. Gary Bardini, DWR Division of Flood Management Chief, reported the following:

- Water conditions: precipitation is 75 percent of average; runoff is 70 percent; water storage is 75 percent; unimpaired runoff in Sacramento is 66 percent. The long-range forecast is for above-average rainfall.
- Emergency response and inspections: nine pre-season coordination meetings throughout the state have been completed and approximately 1,100 people have been trained to flood fight.
- The FOCIS system has been moved and upgraded.

- A utility cross-survey program has been launched on the inspection website.
- Operations and Maintenance (O&M): the potential conveyance deficiencies of 25 segments have been identified. Also, a Sutter Bypass vegetation management plan has been drafted.
- Flood facility O&M: routine maintenance and pre-season operation preparedness are completed.
- Levee Repairs: Sacramento River bank protection has seven repair sites ongoing. Rockpiles are completed at three San Joaquin River Stockton sites. PL 84-99 rehabilitation and water work is complete.
- Flood risk management: all of the Fiscal Year 2009 NFIP work is completed.
- Strategic Plan: the community rating system has been implemented.
- The Statewide Flood Risk Planning Users Guide is scheduled to be released in January.
- The Alluvial Floodplain Task Force Findings and Recommendations Report will be presented to the task force in January.
- The RD 17 NFIP proposal has been approved by the Director.
- All authorized construction on RD 2103 is completed.
- TRLIA: Segment 1 - the request for \$11 million has been submitted for 2007-08 work. Segments 2 and 3 construction is completed.
- The Sutter County Feasibility Study Grant Agreement was awarded in December.
- The Yuba Feather Flood Protection Program was awarded \$7 million in 2010.
- The Yuba County Coordinated Forecast Operation interim agreement was awarded.
- Urban levee evaluations are 70 percent complete; non-urban evaluations are about 15 percent complete.
- The Regional Conditions Summary of the Central Valley Flood Protection Management Plan is about 90 percent complete. Also, The Central Valley Protection Plan is about 10 percent complete; the State Plan of Flood Control descriptive document is about 80 percent complete; and the Flood Control System

Status Report is about 40 percent complete. These efforts have culminated in shaping the regional conditions throughout the Central Valley and will now lead to the next steps, particularly on how to start grouping management actions.

- The FloodSAFE Initiative process is beginning.

Central Valley Flood Management Planning Program Monthly Update

Mr. Gary Hester, Central Valley Flood Management Plan (Plan) Program Manager, updated the Board:

- The topic work groups related to climate change, environmental stewardship, operations and maintenance, and levee performance have completed their work. Scope definition reports generated by those work groups are being incorporated into the larger regional conditions reports. Also, the agricultural stewardship subcommittee is nearing completion of its work.
- The levee performance topic work group is reviewing the latest version of the interim levee design criteria.
- The regional conditions work groups have wrapped up meeting number seven and are in the process of reviewing draft objectives for the Plan.
- The various groups are still in the initial stages of trying to define what needs to be accomplished and by when; that remains a work in progress.
- One final meeting, starting the week of January 21st, will complete the work of the regional conditions work groups.
- The Regional Conditions Report, a 500-plus page document that discusses existing conditions, future challenges, and the problems, goals, principles and objectives of the Plan, will be ready for public review by early to mid-January. A “cliff notes” version of the document will be available for Board review in January, leading up to a review as part of a valley-wide forum.

(Board Member Rie joined the Meeting at 9:00 a.m.)

6. REPORT OF ACTIVITIES OF THE EXECUTIVE OFFICER

Executive Officer Punia reported on the following items:

- On the three phases of the Board’s efforts at updating its regulations: Phase One has been accomplished for the administrative portion of the 2007 legislation, the Office of Administrative Law (OAL) has approved it, and those regulations will become effective starting January 1, 2010; Phase Two, development and revision

of the regulations for implementing Assembly Bill (AB) 1165, continues; and staff continues work on a long-term additional policy update on various policy-type issues such as Section 408.

- Based on the hearings that took place in Stockton, the Board has rescinded the old permits and issued new ones for the eight Bear Creek properties. Staff is not moving into enforcement right away; instead, we are giving time for the property owners and the local levee maintaining agency to take action to bring the encroachments into compliance with the newly-issued permits.
- Board budget expenditures are on track and, based upon our projections for the end of the fiscal year, we will stay well within our allotted funding.
- The Flood Board staff move is scheduled for either March or April.
- DWR has asked for some clarification on the Board's role in deciding whether a permit is needed for the Bay Delta Habitat Conservation and Delta Habitat Conservation and Conveyance Program. A preliminary meeting has been held with Board counsel on the subject and a closed session is planned for the January Board Meeting so staff can seek guidance from the Board.
- Board staff and DWR coordinated to provide feedback to the U.S. Bureau of Reclamation on the San Joaquin Restoration Program's Administrative Draft Programmatic EIR/EIS.
- DWR will provide a briefing at the January Board Meeting on how the Board and DWR can integrate and coordinate efforts to encourage DWR to put a higher priority on the Sutter Bypass modeling efforts.
- Staff is evaluating a request from Reclamation District 150 for emergency repair work.
- The Corps has issued a draft policy guidance letter on how the states can request a variance from the vegetation standards for levees. The draft is extremely stringent, and Board and DWR staff are concerned that, based upon that guidance, it will be extremely difficult to obtain a variance from the standards. Those concerns will be conveyed to Corps management at their division, district and headquarters level, in hopes of more flexibility in the policy.
- The Board has received an invitation for annual membership in the National Association of Flood and Stormwater Management Agencies, which includes a \$9,000 fee. This will be discussed with the Board's executive committee and with DWR before fee payment is made.

Board Chief Engineer Len Marino updated the Board on the status of the permits currently in the system and answered Board Member questions. He expressed confidence that staff is making good progress; they are talking with the Corps on an almost-daily basis to ensure everyone is working “on the same page.” Mr. Ryan Larson, the Corps, confirmed the level of ongoing communication and progress.

7. CONSENT CALENDAR

A. Permit No. 18295, Demetrius Barmettler

Consider approval of Permit No. 18295 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.

B. Permit No. 18442, City of Chico – Capital Project Services

Consider approval of Permit No. 18442 to install a paved Class 1 bicycle path along the left (south) bank of the Sycamore Creek Diversion Channel. (Butte County)

C. Permit No. 18484, Department of Water Resources

Consider approval of Permit No. 18484 to install a bubbler gauge consisting of a telephone box mounted on a concrete foundation, on the right (north) bank levee of Bear Creek, with a PVC pipe, extending from the box, along the bridge deck and pillars to the channel. (Merced County)

D. Permit No. 18524, USDOE, Western Area Power Administration

Consider approval of Permit No. 18524 to place eighteen (18) high voltage transmission poles along the right (east) bank of the Pleasant Grove Creek Canal and to place one (1) high voltage transmission pole landside of the right (north) bank levee of the Natomas Cross Canal outside of the project right of way. (Sutter County)

E. Permit No. 18533, Department of Water Resources

Consider approval of Permit No. 18533 to construct a concrete and masonry block structure, attached to the north side of the existing pumping plant, and install a new pump control system and emergency backup power generator on the landside slope of the left (east) bank levee of the Sutter Bypass. (Sutter County)

F. Permit No. 18534, Department of Water Resources

Consider approval of Permit No. 18534 to construct a concrete and masonry block structure, attached to the north side of the existing pumping plant, and install a new pump control system and emergency backup power generator on the landside slope of the left (east) bank levee of the Sutter Bypass. (Sutter County)

G. Permit No. 18535, Department of Water Resources

Consider approval of Permit No. 18535 to construct a concrete and masonry block structure, attached to the north side of the existing pumping plant, and install a new pump control system and emergency backup power generator on the landside slope of the left (east) bank levee of the Sutter Bypass. (Sutter County)

*Upon **motion** by Member Rie, seconded by Member Brown, the Board unanimously approved the Consent Calendar.*

8. HEARING AND DECISIONS

Permit Application No. 18201, Jeff Crowder (Continued from the November 19, 2009 meeting)

Consider an appeal for a variance to waive Board standards to allow the construction of a residential dwelling within the floodway at the confluence of the Sacramento and Feather Rivers. Staff recommends denial through Resolution No. 09-40.

Board Staff Engineer Angeles Caliso provided a condensed presentation of the application and concluded with the staff recommendation for denial. She stated that flood control projects are designed to keep people out of harm's way and allowing homes to be built within the levee floodway, on one of the most flood-prone rivers in the state, is contrary to sound flood management and public safety missions.

Ms. Caliso, Board Legal Counsel Deborah Smith and others answered Board Member questions regarding specifics of the application.

Mr. Jeff Crowder, the Applicant, provided a brief presentation on the application and updated the Board on application information obtained since the last hearing.

Ms. Diane Fales, Manager of Reclamation District 1001, stated that the District endorsed the application conditionally, based upon the Board's approval/denial.

Mr. Larson, the Corps, stated that they had reviewed the Board staff report and agreed with the Board staff recommendation for denial.

The group deliberated about the potential liabilities and policy implications involved should a permit of this type be granted -- both now and for similar applications that may arise in the future.

*Upon **motion** by Member Suarez, seconded by Secretary Doherty, the Board approved the resolution as presented by staff and denied the Application. The vote was 4-2 (Brown, Rie).*

REQUESTED ACTIONS

9. ATLAS TRACT LEVEE ALTERATION PROJECT, RD 2126, OMRR&R AGREEMENT CHANGES

Consider proposed changes to the Operations, Maintenance, Repair, Replacement, and Rehabilitation Agreement between the Board and Reclamation District 2126, authorized on July 30, 2009 under Resolution 09-24.

Legal Counsel Smith summarized the proposed changes. Staff Senior Engineer Butler stated the staff recommendation that the amended Agreement be approved by the Board and President Carter be authorized to execute it.

Mr. Scott Shapiro, Special Counsel for Reclamation District 2126, offered additional information and noted that the changes further clarify the relationship between RD 2126 and the Board, and who is ultimately responsible for the levee.

Mr. Robert Pyke, Arcadia, stated that the language in the agreement does little or nothing to protect the State of California and the Board. He urged the Board to take a broader look at the issue of inverse condemnation and how the state might, on a long-term basis, come to grips with the problem.

President Carter summarized the proposed changes and stipulated that Board staff will follow up with San Joaquin County and clarify their responsibilities through whatever amendments to existing agreements need to be made.

*Upon **motion** by Member Brown, seconded by Vice President Hodgkins, the Board approved the proposed changes, as summarized by President Carter. The vote was 4-1 (Doherty) with one abstention (Rie). Further, staff will come back to the Board with an amendment and/or explanation of what needs to be done, if anything, on the Stockton County agreement.*

10. BOARD SPONSORED PROJECTS AND STUDY AGREEMENTS

Folsom Dam Joint Federal Project (JFP) Agreement Amendment – POSTPONED

To consider and approve an amendment (#2) to the existing Folsom Dam Modifications Project Cooperation Agreement (PCA) with the U.S. Army Corps of Engineers and the Sacramento Area Flood Control Agency (SAFCA) to allow SAFCA to use existing credits to partially meet their financial obligations under the project.

INFORMATIONAL BRIEFINGS

11. DEPARTMENT OF WATER RESOURCES FLOOD PREPAREDNESS AND READINESS BRIEFING

Mr. Art Hinojosa, newly-appointed Chief of Hydrology and Flood Operations, introduced the Briefing.

Mr. John Ericson, newly-appointed Hydrology Branch Chief, presented the hydrology portion of the briefing.

Mr. Noel Lerner, Maintenance Support Branch Chief, updated the Board on where maintenance stands for the upcoming flood season.

Mr. Jeremy Arrich, Flood Project Inspection and Integrity Branch Chief, discussed the levee inspection program.

Mr. Bill Croyle, Flood Operations Branch Chief, briefed the Board on preparedness and readiness.

12. LOCAL CITIZEN'S CONCERNS ABOUT THE IMPACT OF SLURRY WALLS ON GROUNDWATER RECHARGE (HOFMAN AND JOHNSON RANCH IN YUBA COUNTY)

Ms. Frances Hofman, Hofman Ranch, stated that she was at the Meeting on behalf of herself and her home ranch, the Johnson Ranch, and Mr. Gene Ginochio, who has a large ranch on Erle Road. She expressed her concerns that various activities being conducted by TRLIA could affect the groundwater on her ranch.

In addition, Ms. Hofman stated that she didn't believe in the studies that were conducted in association with those activities and, if they are wrong, she wants the landowners in southern Yuba County water basin to be compensated without a fight. She also answered Board Member questions.

BOARD REPORTS

13. BOARD COMMENTS AND TASK LEADER REPORTS

The Board discussed the delegation of authority to the Executive Officer for issuing permits pursuant to the recently passed legislation (AB 1165); as well as methods to further streamline the permitting process.

Vice President Hodgkins reported that he continues to work with the cost-sharing committee on some guidelines that will be coming out after the first of the new year (2010).

Board Member Brown reported that the Central Valley Flood Management Plan Committee that he and Vice President Hodgkins are on has canceled two consecutive meetings, which has caused some consternation. They are not sure where the Committee is headed.

Board Member Brown attended the recent California Strategies Open House. Some of the other attendees asked if he would come down and give a briefing on some of the issues that the Board is experiencing, as well as some water issues. A luncheon will be scheduled for this purpose.

He also recently went to the Stockton East Water District and met with Kevin Kauffman on a couple of issues – watershed management and flood control issues as a whole, as a water district. He received a brief update on what might be happening with the Bear Creek. While there he also met with Oakdale Irrigation District on similar issues.

Secretary Doherty reported that the Sacramento Conservation Area Forum is going to start up again in January 2010.

President Carter reported that the California Levees Roundtable Meeting scheduled for early December was cancelled. The next one is scheduled for February 25th.

At the last DWR/Board Executive Committee Meeting the issue of DWR/Board relationships was discussed. It was decided that DWR will come to a future Board meeting and brief the Board on how it is organized to support the Board in Board projects, as well as for its' own and others' projects.

President Carter has initiated a discussion designed to rethink the way the Board has organized itself with regard to legal counsel advice to the Board and the staff.

He also expressed concern regarding the hydraulic analysis discussed earlier today and how the Board can get its arms around really understanding the dynamics of the system in place – because the Board currently doesn't understand it.

14. FUTURE AGENDA

Twelve permit applications are scheduled for the January 2010 meeting. The application for Abbott Lakes from River Partners is not currently included; efforts will be made to include it, the final decision to be made just prior to publishing the January Agenda.

Today's postponed Item 10, on the Folsom Dam Joint Federal Project Agreement Amendment, will be added back for the January Meeting.

15. CLOSED SESSION

To discuss litigation (Cortopassi Partners and Reclamation District 2086 v. State of California; San Joaquin Superior Court Case No. CV034843) pursuant to Govt. Code section 11126(e)(1).

16. ADJOURN

President Carter adjourned the Open Session at 4:52 p.m.

Dated: FEB 26, 2010

The foregoing Minutes were approved:


Maureen Doherty
Secretary


Benjamin F. Carter
President