

MINUTES

MEETING OF THE CENTRAL VALLEY FLOOD PROTECTION BOARD February 26, 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 February 26, 2009, beginning at 8:34 a.m. at The Bonderson Building Hearing Room, 901 P 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
Mr. John Brown, Member
Ms. Teri Rie, Member
Ms. Emma Suarez, 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
Mr. Dan Fua, Supervising Engineer
Mr. Gary Hester, Chief Engineer
Ms. Erin Mullin, Project Manager
Ms. Lorraine Pendlebury, Staff Analyst
Mr. James Herota, Environmental Specialist

Department of Water Resources (DWR) staff present:

Mr. Steve Dawson, Engineer, Floodway Protection Section
Mr. Paul Farris, Branch Chief, Real Estate
Ms. Nancy Finch, Legal Counsel
Mr. Mike Inamine, Chief, Levee Repairs and Floodplain Management Office
Mr. Rod Mayer, Chief, Flood Management
Mr. George Qualley, Chief, Division of Flood Management
Mr. Ward Tabor, Assistant Chief Counsel
Mr. Jon Yego, Chief, Floodway Protection Section

Also Present:

Mr. Michael Bessette, City of West Sacramento
Mr. Tom Eres, representing Hofman Ranch
Mr. Darren Mack, Sanders & Associates Geostuctural Engineering, Inc. (SAGE)
Ms. Erin Mullin, Project Manager,
Mr. Eric Nagy, PE, HDR Engineering
Mr. Jarvis Payne, Walker Macy
Mr. Ric Reinhardt, MBK Engineers
Mr. Jim Sander, U.S. Army Corps of Engineers
Mr. Scott Shapiro, Three Rivers Levee Improvement Authority; also as special counsel
for Sacramento Area Flood Control Agency; also as co-program manager of West
Sacramento Area Flood Control Agency Levee Improvement Project
Ms. Beth Tinchler, Senior Project Manager, City of Sacramento, Economic Development
Department

1. ROLL CALL

Executive Officer Punia called the roll.

2. APPROVAL OF MINUTES - DECEMBER 16, 2008 BOARD MEETING

Upon motion by Member Brown, seconded by Secretary Doherty, the Board unanimously approved the December 16, 2008 Meeting Minutes.

3. APPROVAL OF AGENDA

After discussion, it was decided to continue with the Agenda as published.

Upon motion by Secretary Doherty, seconded by Member Brown, the Board unanimously approved the Agenda as presented.

4. PUBLIC COMMENT - None

5. CEREMONIAL MATTERS

President Carter presented an Honorary Resolution to Mr. Jim Sander, U.S. Army Corps of Engineers, who is retiring after 31 years of service with honor and distinction.

6. REPORT OF ACTIVITIES OF THE DEPARTMENT OF WATER RESOURCES

Mr. George Qualley, DWR, reported the following:

- *Water Conditions: as of the end of January '09 the precipitation was about two-thirds of average to date, runoff about one-third of average, reservoir storage about two-thirds of average, and the snow pack at about 50 percent.*
- *Statewide Flood Planning Office: a draft flood control system status report will be available later this month. A set of workshops was held on January 13-14 among team members to discuss the strategy for communications among the entities that will be involved in the planning process, both from the integrated water management side and the Central Valley Flood Protection side. Stakeholder partner interviews are underway now. Meetings will be held in early February with the Sacramento Valley Flood Control Action Work Group. DWR will continue to coordinate with various regional groups and with the U.S. Army Corps of Engineers (the Corps).*
- *Floodplain Management Branch: the SB 5 Building Code Project has a couple of public meetings scheduled to discuss some of their draft material.*
- *Alluvial Fan Task Force: over the past year they have developed many good materials, studies and analysis; environmental resources; and risk factors and benefits associated with alluvial fans.*
- *Flood Project Inspection Section has released the results of the Fall 2008 levee maintenance inspections. The ratings markedly improved from 2007-08, which shows that the local maintaining agencies are making significant strides towards getting the system in better shape.*
- *Flood Operations Branch received word last year that a hole in the levee at Medford Island had formed, due to burrowing animals. That hole has now been repaired.*
- *Flood System Analysis Section continues to work on tools to bring together several different types of data that can be used to assess and rate the levee system and identify weak spots.*
- *The State Emergency Action Team has been summarizing a lot of key information on last summer's fires to serve as a reference looking forward, to help in determining potential impacts associated with future storms in the burned areas.*
- *The DWR web portal now has 136 users for their webcast on hydrology briefings.*
- *Early Implementation Program projects have been shut down for the winter season.*

- *Sacramento River Bank Protection Project has 34 sites that are under design for this year and for construction next year. Right-of-way issues have been resolved on 13 sites for this year. The remainder, about 6,000 lineal feet, will be completed next calendar year.*
- *Urban Levee Evaluations Project canceled the full March Independent Consulting Board meeting because of the budget issues, although an informal meeting will be held to discuss design issues, especially related to the Natomas Levee Improvements Program.*
- *The Nonurban Levee Evaluations are just getting under way. A phased approach is being used because there are so many miles of them and limited amounts of money to use.*

(Vice President Hodgkins arrived during Mr. Qualley's briefing.)

7. THREE RIVERS LEVEE IMPROVEMENT AUTHORITY (TRLIA) MONTHLY REPORT

Mr. Scott Shapiro, TRLIA general counsel, reported on the following:

- *Because of the budget situation, TRLIA is still waiting on the status and timing of funding for the completion of the setback levee this year.*
- *They have applied for funding for work on the Yuba River between Simpson Lane and the Goldfields.*
- *They had committed long ago to bring a 218 assessment election to the population so they could raise the amount of O&M money available for spending in the basin. The TRLIA board met and held a workshop on the 218 election, reviewed a draft engineer's report, and obtained comments from the public. A follow-up meeting has been scheduled for next week, at which time they intend to adopt a resolution that starts the 218 process. The goal of the election is to raise an additional \$800,000 for assessment dollars so that TRLIA can make sure that O&M in the basin is done properly forever.*
- *Discussions continue with the State Mining and Geology Board regarding whether a mining permit is required for TRLIA's borrow activities. TRLIA has officially requested that the Board find them exempt.*
- *Communications continue with Hofman Ranch regarding TRLIA's potential purchase of portions of easement land along the Western Pacific Interceptor Canal levee that is currently owned by Ms. Hofman. A letter was sent to Ms. Hofman, dated February 11th, asking that she agree that RD 784 can do the*

maintenance on that land while the resolution of the easement land issues continues. TRLIA has not received a response to that letter as yet.

Mr. Tom Eres, representing Hofman Ranch, responded that there is some substantial dispute regarding TRLIA's ability, legally, to do maintenance on an ongoing basis with respect to their terms with the State Mining and Geology Board.

Mr. Eres also stated that Ms. Hofman made an offer to the Board almost a year ago to grant them, at no cost, a 50-foot easement pursuant to their current standards in order to maintain the 50 feet from the toe of the levee on the landward side. She has been ready, willing and able to work with the execution of the appropriate documents, which are currently in process.

8. CONSENT CALENDAR

*Upon **motion** by Vice President Hodgkins, seconded by Member Brown, the Board unanimously approved Consent Calendar Items 8B, 8C, and 8D and moved Item 8A to be heard by the Board.*

A. Permit No. 18344, Reclamation District No. 317

Consider approval of Permit No. 18344 to abandon and replace three existing drainage discharge pipes and one utility pipe through the left (east) bank levee of Seven Mile Slough.

DWR Floodway Protection Engineer Steve Dawson provided background information on the Item, which is located in RD 317, Brannan-Andrus Island, south of Rio Vista and south of Highway 12 along Seven Mile Slough. He concluded by stating staff's recommendation that the Board determine that the project is exempt from CEQA and approve the permit.

(Ms. Rie arrived at this time.)

*Upon **motion** by Vice President Hodgkins, seconded by Secretary Doherty, the Board approved the Permit by a vote of 5-0, with Member Rie abstaining.*

B. Permit No. 18401, Brent Cohn

Consider approval of Permit No. 18401 to construct a steel boat dock supported by steel or concrete pilings connected to a gangway and bridge supported by steel pilings attached to a concrete landing on the right (west) bank of the Sacramento River.

C. Permit No. 18411, Turlock Irrigation District

Consider approval of Permit No. 18411 to construct a pump station and install an underground pipeline on the left (south) bank designated floodway of the Tuolumne River.

D. Agricultural Lease No. 2009-02 – CVFPB, Sutter County

Consider approval of Lease No. 2009-02 - CVFPB, Schreiner Farms, Inc., for a period of three years, for agricultural purposes. Provide authority for the Board President and the Board Secretary to sign the lease, if approved.

(As mentioned previously, Items 8B, 8C and 8D were unanimously approved by the Board.)

9. HEARING AND DECISIONS

Permit No. 18405, Sacramento Redevelopment Agency, Sacramento County

Consider approval of Permit No. 18405 to install pavement with a pedestrian overlook; remove existing rail line and install new tracks; and construct a new park which will include clearing and grubbing, grading, compacted fill, concrete walls and landscaping on the left (east) bank levee of the Sacramento River.

Mr. Dawson described the project and asked for Board approval.

Senior Engineer Eric Butler read a summary of the CEQA findings. He also noted that the various documents associated with the finding may be viewed and downloaded from either the Board's or the City of Sacramento's websites. He concluded with the staff's recommendation that the Board adopt the CEQA findings, approve the permit, and direct staff to file a Notice of Determination with the State Clearinghouse.

Ms. Beth Tinch, City of Sacramento Economic Development Department, remarked that this specific plan would accommodate a mixed-use redevelopment project, including commercial, housing, office, and a central park. The City is preparing the final EIR on this specific plan now and intends to bring it to their City Council and Planning Commission in June-July of this year.

Mr. Jarvis Payne, Walker Macy, provided a brief graphical overview of the project's current status and expected typical conditions upon completion.

Board Members asked the presenters various questions about project specifics.

*Upon **motion** by Member Rie, seconded by Member Brown, the Board unanimously adopted the CEQA findings, approved the permit, and directed staff to file a Notice of Determination with the State Clearinghouse.*

REQUESTED ACTIONS

10. APPROVE MEMORANDUM OF UNDERSTANDING WITH U.S. ARMY CORPS OF ENGINEERS FOR NATOMAS CREDIT AND RELATED AGREEMENT WITH SAFCA

Consider delegation to the Executive Officer to approve a Memorandum of Understanding (MOU) with the Sacramento District, U.S. Army Corps of Engineers, which would provide credit under Section 2003 of WRDA 2007 (in conjunction with Section 130 of the Omnibus Appropriations Act of 2008) for State and local funds expended on the federal flood control project levees along the south (left) bank of the Natomas Cross Canal and the east (left) bank of the Sacramento River. Consider delegation to the Executive Officer to approve an agreement with SAFCA, either as an additional party to the MOU, or in a separate agreement. SAFCA may make an informational presentation on the project.

Ms. Erin Mullin, DWR, project manager for the American River Common Features General Reevaluation Report, clarified that when this Item was first placed on the agenda it was assumed that the Board would need to approve an MOU with the Corps. Subsequently, after numerous discussions, it was concluded that the MOU should be between the Board and SAFCA.

Mr. Scott Shapiro, acting as special counsel for SAFCA, clarified the reasons for the conclusion.

Deputy Attorney General Cahill stated there will probably be a project partnership agreement between the Board, SAFCA and the Corps in the future. Between now and then a two-party agreement between SAFCA and the Corps makes a lot of sense. She stated staff's recommendation that action not be taken today by the Board, to allow the Corps and SAFCA to enter into a two-party MOU.

Ric Reinhardt, program manager for the Natomas Levee Improvement Program, provided an overview that described the construction program phasing schedule and cost estimates, the construction segments, and environmental constraints.

Seeing no objections, President Carter stated that the Board would follow the staff recommendation and take no action at this time.

11. ACQUISITION OF FLOOD PROTECTION EASEMENTS IN THE CITY OF WEST SACRAMENTO'S "TRIANGLE" AREA

Consider approval of Resolution 09-02 requesting the DWR Real Estate Branch to acquire flood control easement rights in the City of West Sacramento "Triangle" area from underlying owners and to transfer those rights to the Sacramento-San Joaquin Drainage District.

Senior Engineer Butler gave the presentation, which concluded with the staff recommendation that the Board approve the resolution, find it exempt from CEQA, and request that the DWR Real Estate Branch acquire all necessary real property rights to clear title for the project by acquiring all necessary easements through dedication or for nominal compensation.

DWR Real Estate Branch Chief Paul Farris also expressed approval of the recommendation.

*Upon **motion** by Member Brown, seconded by Vice President Hodgkins, the Board unanimously approved Resolution 09-02, with the amended language referenced during the discussion of the motion.*

12. CACHE CREEK CRITICAL EROSION SITE (LM 3.9L AND LM 4.2L) NORTH LEVEE SETBACK PROJECT EMINENT DOMAIN FOR EASEMENTS

Consider acquisition of property for these projects. The properties, located in Yolo County, are as follows:

<u>PROPERTY</u>	<u>OWNER</u>
Parcel 13688 APN 027-179-39-1 In Yolo County	Margrit Boyd, trustee of the Survivors Trust under The Steven and Margrit Boyd Family Revocable Trust, Dated August 23, 2000
Parcel 13699 APN 027-170-02-1 in Yolo County	Margrit Boyd, an unmarried woman
Parcel 13673 APN 027-160-06-1 in Yolo County	John C. Klein and Catherine L. Klein, Trustees under the John C. and Catherine L. Klein Revocable Trust, Dated July 24, 2003

[The Board went into Closed Session to discuss pending litigation -- eminent domain actions for the acquisition of the above-listed properties -- pursuant to Government Code Section 11126 (e) (1) and (e) (2) (C) (i), and also to confer with and give instructions to the Board's real estate negotiator pursuant to Government Code Section 11126 (c) (7) with regard to the same properties.]

Following Closed Session, President Carter stated that no action occurred, although the Board did get a briefing and consultation from their real estate negotiators, and the Board is satisfied with the process that they are pursuing.

Further, the resolutions that the Board approved in January '09 -- Resolutions of Necessity numbers 09-03, 09-04, and 09-05 -- are in effect, and the Board's negotiators and the Attorney General's office are authorized to proceed with the eminent domain process as outlined.

13. BOARD SPONSORED PROJECTS AND STUDY AGREEMENTS

WEST SACRAMENTO PROJECT

Consider Resolution 08-21 to approve:

- 1. A Feasibility Cost Share Agreement (FCSA) among the Department of the Army, the Central Valley Flood Protection Board (Board), and the West Sacramento Area Flood Control Agency (WSAFCA) for a General Reevaluation Report (Study), which includes a Project Management Plan report that outlines and defines major tasks, task management, schedule, and estimated costs for the Study.**
- 2. A Local Feasibility Cost Share Agreement (LFCSA) between the Board and the WSAFCA to carry out the non-Federal sponsors' responsibilities under the FCSA for the Study.**

Executive Officer Punia informed the Board that the budget letter, issued December 18, 2008, by the Department of Finance requesting that all agencies cease authorizing any new grants or obligations for bond projects, including new phases of existing projects, is still in effect. He then stated the staff request that the Board defer the project until the budget issue is resolved. Deputy Attorney General Cahill agreed with the staff request.

Mr. Michael Bessette, City of West Sacramento, stated that the City has closely coordinated with DWR staff and the Army Corps, and is prepared to move the GRR process forward by entering into a two-party FCSA with the Corps, with the understanding that the State will participate in the future once the economic climate has resolved itself.

President Carter remarked that this is not the course the Board would want to take. It is a result of the current financial status of the state, and their hands are tied in this particular matter at this time. He concluded by stating that he hoped that the conditions improve quickly.

INFORMATIONAL BRIEFINGS

14. URBAN AND NON-URBAN LEVEE EVALUATIONS

Mr. Mike Inamine, DWR Levee Repairs and Floodplain Management Chief, gave the briefing. He provided an overview of the Levee Evaluations Program and some background on FloodSAFE. He also presented, in the context of FloodSAFE, the overarching flood management activities that are taking place throughout California and the Central Valley in particular.

He stated that the urban program is targeted for completion in September 2010 and the non-urban program in August 2011.

15. BRIEFING ON THE REPORT OF THE NATIONAL COMMITTEE ON LEVEE SAFETY

DWR Flood Management Chief Rod Mayer briefed the Board on various aspects of the Committee, including the background of the WRDA National Levee Safety Act and the Committee's twenty recommendations. He also answered Board Member questions.

BOARD REPORTS

16. BOARD COMMENTS AND TASK LEADER REPORTS

Member Suarez reported that the task group working on the Tier II regulations had a conference call a couple of weeks ago. They hope to have their first workshop, to start the public dialogue regarding the Tier II regulations, by early summer at the latest. The Tier I process is moving along fine.

Member Suarez also remarked that the subcommittee met on the issue of liability as it relates to the Joint Powers Authority. A second meeting is scheduled for March 13, and it will probably start focusing on the different forms that policy might take regarding the issue.

Vice President Hodgkins attended a meeting with Steve Dawson on the Central Valley Flood Protection Plan and the process there. Although there is discouragement surrounding the budget problems, the approach to developing the Plan is beginning to take shape.

Vice President Hodgkins continues to be involved in the Bay/Delta Conservation Plan as it relates to the Lower Bypass Planning Forum. He hopes a meeting can be scheduled to inform the Board of those portions of the plan that are going to affect the flood control system.

Vice President Hodgkins attended a Sacramento River Bank Protection scoping meeting. It appears they are moving forward.

Secretary Doherty also attended the Sacramento River Bank Protection meeting.

Member Brown also attended the Central Valley Flood Protection Plan meeting. He stated he was very impressed with the plan.

Member Brown will give a presentation this coming Thursday (3-5-09) at the East Sacramento Rotary Club on flood control measures, operations and so on.

Member Brown stated that Executive Officer Punia had informed him that the Meridian project received approved by the Corps.

President Carter received a phone call from Al Montna regarding his project in the Sutter Bypass. President Carter told Mr. Montna he really couldn't talk to him, as he has an application before the Board, and directed him to Executive Officer Punia.

President Carter attended the Corps flood protection scoping meeting for the Sacramento Bank Phase Two in Colusa. There were only ten non-agency people there. Although he was hoping for more participation from the local community, the presentation was good and the meeting went relatively smoothly.

President Carter reported that a California Levee Roundtable meeting is scheduled for tomorrow (2-27-09). A communication rollout plan for the framework will be discussed. The preliminary plan is to preview the framework with the local maintaining agencies and the environmental NGO's before it is announced publicly. They hope to announce it at the March Board meeting.

17. REPORT OF THE ACTIVITIES OF THE EXECUTIVE OFFICER

Executive Officer Punia reported on the following items:

- *Jon Yego's group hired Mr. James Herota as an Environmental Specialist.*
- *The next Board meeting will be March 27th in this same room. The rest of the 2009 meetings are now scheduled for the fourth Friday of the month, except November and December, which will be scheduled later.*

- *The Stockton, San Joaquin area feasibility study has signed a cost-share agreement with the Corps, and West Sacramento is planning to do the same, to keep the feasibility study GRRs going while the state budget issues are being worked out.*
- *Levee District 1 sent a letter to the Board asking it to work with DWR to remove vegetation and debris from the Feather River, from Oroville Dam at the confluence with the Sacramento River. After discussion with President Carter, staff responded back to them with a letter that basically stated that, if there is a concern that the system is not performing as designed, then it is incumbent upon the Board to address that. However, they must have appropriate scientific data before they respond; not just a gut feel.*
- *Matt Campbell and Debbie Smith will provide legal services to the Board after Ms. Cahill's retirement.*
- *President Carter, Vice President Hodgkins, and Mr. Punia attended Jim Sanders' retirement party.*
- *Staff met with Corps staff and went over the template to improve the applications submittal process to the Corps. Senior Engineer Butler stated that the template will be very similar to a cover sheet and hopefully be ready for use beginning next month.*
- *DWR invited Mr. Punia to brief their DWR middle management training class about the Board's role and responsibility and how the Board interacts with DWR.*
- *Mr. Steve Dawson received the DWR Director's Award for Outstanding Professional Accomplishment, and the Sustained Superior Accomplishment Award.*
- *There are five positions being advertised -- two senior engineers and three entry-level engineers. Interviews will be scheduled soon.*
- *Staff is working to hire Chief Engineer Hester's replacement. Mr. Hester will be the new portfolio manager over the Central Valley Flood Protection Plan.*
- *A meeting has been scheduled on March 19 to brief the local levee maintaining agencies and the NGOs regarding the Levee Roundtable framework.*
- *Chief Engineer Hester and others met with Mr. Sander of the Corps. It was confirmed that the '57 profile document is the controlling document for the Sutter Bypass. Also, conversations continue on the two-dimensional modeling effort for the Bypass.*

- *Mr. Punia has submitted paperwork to upgrade Lorraine Pendlebury's position from Staff Service Analyst to Associate Program Analyst.*

18. FUTURE AGENDA


President Carter read the proposed agenda.

19. ADJOURN

President Carter adjourned the meeting at 5:18 p.m.

Dated: April 17, 2009

The foregoing Minutes were approved:


Maureen Doherty
Secretary


Benjamin F. Carter
President