

MINUTES

MEETING OF THE CENTRAL VALLEY FLOOD PROTECTION BOARD May 15, 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 May 15, 2009, beginning at 8:34 a.m. at The Resources Building, 1416 Ninth Street Auditorium, Sacramento, California.

The following Members of the Board were present:

Mr. Benjamin Carter, President
Mr. Francis "Butch" Hodgkins, Vice President
Mr. John Brown, Member
Ms. Teri Rie, Members
Ms. Emma Suarez, Member

The following members of the Board staff were present:

Mr. Jay Punia, Executive Officer
Mr. Eric Butler, Senior Engineer
Mr. Matthew R. Campbell, Deputy Attorney General
Mr. Dan Fua, Supervising Engineer
Ms. Lorraine Pendlebury, Staff Analyst
Ms. Deborah M. Smith, Deputy Attorney General
Mr. Curt Taras, Senior Engineer
Mr. David Williams, Senior Engineer

Department of Water Resources (DWR) staff present:

Mr. Jeremy Arrich, Chief, Flood Project Inspection & Integrity Branch
Mr. Gary Bardini, Chief, Hydrology & Flood Operations
Mr. Paul Farris, Chief, Real Estate Branch
Ms. Nancy Finch, Senior Staff Counsel
Ms. Olivia Garcia, Real Estate Branch
Mr. Gary Hester, Portfolio Manager, Central Valley Flood Protection Plan
Mr. Gary Lemon, Engineer, Floodway Protection Section
Mr. Alejandro Lopez, Real Estate Branch

Department of Water Resources (DWR) staff present (continued):

Mr. George Qualley, Chief, Division of Flood Management
Mr. Keith Swanson, Chief, Flood Maintenance Office
Mr. Dave Wheeldon, Senior Water Resources Engineer
Mr. Kip Young, Staff Environmental Scientist

Also Present:

Mr. James Baker, United States Army Corps of Engineers (Corps)
Mr. John Bassett, Sacramento Area Flood Control Agency
Mr. Jesse Castellon, Sr.
Mr. Mark Connelly, San Joaquin County, San Joaquin County Flood Control & Water Conservation District
Mr. Larry Dacus, Three Rivers Levee Improvement Authority
Mr. Tom Eres, Hofman Ranch
Ms. Sharon Giudice
Ms. Megan Nagy, Army Corps of Engineers
Ms. Jan Vick, Mayor, City of Rio Vista
Mr. Mark Wuestehube, North State Resources

1. ROLL CALL

Executive Officer Punia called the roll.

CLOSED SESSION

Pursuant to the authority of Government Code section 11126, subdivisions (e)(1), (e)(2)(B)(i), and (e)(2)(C)(i), the Board will meet in Closed Session to consider potential litigation involving the Board.

President Carter noted that the Board met in Closed Session as agendaized to consider potential litigation involving the Board, and no decisions were made. The Board did receive legal advice from its counsel and has taken that under consideration.

2. APPROVAL OF MINUTES - March 27, 2009 BOARD MEETING

*Upon **motion** by Member Brown, seconded by Vice President Hodgkins, the Board unanimously approved the March 27, 2009 Meeting Minutes.*

3. APPROVAL OF AGENDA

Executive Director Punia stated the staff recommendation to postpone the decision on Tier I and have a brief description of the process for the Tier I Regulations; to change

Items 12 and 13 to Board-Sponsored Projects; and to remove Item 15I from the Consent Calendar and make it an informational briefing only for today's meeting.

*Upon **motion** by Member Brown, seconded by Vice President Hodgkins, the Board unanimously approved the staff recommendation listed above.*

4. PUBLIC COMMENT

Ms. Sharon Guidice, Stockton resident, asked if it were possible for Board members to schedule an on-site visit to 4203 Curlew Street prior to her hearing to better understand the special circumstances at that location. President Carter responded that they would take it under consideration.

5. REPORT OF ACTIVITIES OF THE DEPARTMENT OF WATER RESOURCES

Mr. George Qualley, DWR, reported the following:

- A new Division of Flood Management Chief -- Gary Bardini -- has been selected.*
- Water conditions didn't change much from last month. Some of the reservoirs have filled, although the snow pack isn't as much as they would like.*
- Flood Operations Branch has initiated a statewide program to assist California communities with flood emergency response and recovery plans. Pilot projects are going to be underway in Marysville, Arcata and San Bernardino, which will be assisting the communities in developing comprehensive flood response and recovery plans, as well as to work with the local officials on flood emergency response.*
- Floodplain Management Branch - regarding the Building Standards Code, the Branch has had a number of meetings and decided to focus primarily on the occupancy groups in residential and institutional schools. They plan on making a submittal to the Building Standards Commission in mid-June.*
- The Community Rating System, in cooperation with FEMA, is underway. DWR and FEMA are working with California communities to try to have better floodplain management and save some money on flood insurance at the same time.*
- Levee Repairs Branch is working with the Corps on landscape designs. DWR has taken the lead on four sites and the Corps on 13 sites. After this phase is completed, they will almost be done with the total original authorization from the second phase of the Sacramento River Bank Protection Program.*

- *San Joaquin River Critical Erosion Repairs -- work will be completed in 2009 on the critical sites originally identified in 2006.*
- *Levee Stability Repairs has three draft proposals being considered under the CALFED/Corps Delta Levee Stability Program.*
- *PL 84-99 Rehab Assistance -- clearance has been received on Reclamation District 150, so 17 sites will be moving forward with maintenance activities.*
- *The Colusa State Recreation Area Mitigation Site project is still going.*
- *Flood Project Modifications & Permits Branch -- The EIP project has about \$30 million in payments in the pipeline, with \$14 million for SAFCA, a little over \$11 million for TRLIA, \$2.6 million for the Wheatland RD 2103 and LD 1, and about \$1.5 million for the Star Bend setback levee.*
- *Levee District 1 is still working on their plan to degrade the existing levee, prior to building the setback levee, because they need to use some of the fill from that levee. Depending on how long it takes until DRW can get the funding to them, a decision will have to be made on whether there is still enough time to get the work done this season or to continue over a couple of seasons.*
- *Status of New Project Applications:*
 - *DWR is trying to work out a funding agreement with RD 17 for the entire project.*
 - *RD 2062 withdrew their application for this round of funding.*
 - *TRLIA has proposed another project as part of their overall effort. The new project has many elements, with the main portion located in the south bank of the Yuba River.*
 - *They expect the funding agreement with West Sacramento to be signed in June.*

Flood Project Inspection and Integrity Branch Chief Jeremy Arrich gave a presentation on how they are integrating the Inspection Program and the Local Maintaining Agency Reporting Program through the AB 156 legislation.

Central Valley Flood Management Planning Program Monthly Update

Central Valley Flood Management Plan Program Manager Gary Hester provided the update, which focused on the overall regional engagement strategy. Highlights included:

- *Regional forums are planned from June 3 through June 10 to get feedback from local partners and interested parties.*

- *Other feedback was received earlier during interviews conducted in January and February of '09. Respondents strongly supported regional forums and workgroups for substantive participation. They asked that DWR listen to input and respond at regular intervals. They also requested an open process with no pre-determined outcomes that made use of existing meetings where possible.*
- *DWR will take the ideas and solutions that are recommended and go through a formal evaluation process. This will be a public process. DWR will continue to update the Board on a monthly basis and work with the Board subcommittee prior to Board meetings to make sure they have documented where they are in the process and what the next steps will be.*

Presentation of Honorary Resolution

President Carter presented Honorary Resolution No. 09-18, from the Board to Mr. George Qualley, DWR, who is retiring after 39 years of service with distinction to the state of California. Mr. Qualley responded that it has been a real pleasure to be involved for so long and he felt humbled by the Resolution. He thanked everyone for the kind thoughts.

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

Mr. Larry Dacus, TRLIA, reported on the following:

- *TRLIA has been moving forward with its assessment district for future maintenance. Balloting closed on May 12 and ballots are now being counted. They expect the results by June 2 and will subsequently report those to the Board.*
- *They have submitted an EIP application for the project on the upper Yuba. DWR is reviewing the application.*
- *TRLIA has been talking with State Mining and Geology Board and submitted a reclamation plan for the Platter borrow area. They also provided an interim financial assurance that was accepted by the Mining Board on May 14.*
- *They met one of their last Section 408 commitments with the Corps by receiving approval on the safety assurance review plan. That approval allowed them to initiate work on the tie-ins, and they have issued a notice to proceed to the contractor for the north tie-in. The south tie-in has some design modifications that are underway.*
- *They also received Section 104 credit from the Corp for the tie-ins and the levee degradation. The credit was for an estimated cost of \$85 million.*

Mr. Tom Eres, Hofman Ranch, urged the Board to go to the stretch of land that is roughly between Simpson Lane and the Yuba gold fields area and make a decision on how the Board sees it as a component, if at all, with respect to the plan of flood control.

Executive Officer Punia responded that Board staff is working with the local folks to arrange a tour of the gold fields during one of the Board's executive committee meetings. It will hopefully be scheduled in the month of June.

7. HEARING AND DECISIONS

A. Permit No. 18159-3-1, Sacramento Area Flood Control Agency

Consider Resolution No. 09-12 to approve Permit No. 18159-3-1, approve the Supplement to the Environmental Impact Report, make CEQA findings, and approve any related agreements necessary to authorize SAFCA's Natomas Levee Improvement Program Phase II construction for the Sacramento River East Levee Reach 4B. (Sacramento)

Mr. Eric Butler, staff Senior Engineer, gave the staff presentation and answered Board member questions. During that presentation Mr. David Williams, also staff Senior Engineer, provided a summary of the technical review of staff plans and specifications.

Ms. Meegan Nagy, Corps Sacramento District, stated that the Corps has approved Reaches 1 through 4A for the project, and have completed the review and recommended approval for Reach 4B. The Letter of Permission has been drafted for senior leadership to sign.

Mr. Butler gave the staff recommendation that the Board adopt Resolution 09-12; that it make CEQA findings for SAFCA's supplement to the EIR on the Project Phase II related to Reach 4B for all construction; and that it conditionally approve Permit 18159-3-1, subject to review of 100 percent plans and specifications and receipt of final 408 permission from the Corps' Sacramento District Office.

Mr. John Bassett, SAFCA Director of Engineering, stated that he generally agreed with the staff findings, and also requested that the lengthy discussion held in March of '09 -- when the Board approved the prior 2 permits -- and all the modifications to the permits that were discussed at that time be reflected in the permit that is proposed for this approval.

After further discussion, the Board decided to continue the Hearing until June, given that the delay doesn't seem to represent any particular hardship to the applicant; to allow staff time to get the appropriate conditions outlined in the permit, and allow the Board a chance to review the revised resolution and permit.

B. Permit No. 18347, Jesse Castellon

Consider Resolution No. 09-13 for Permit No. 18347 on the left (south) bank levee of Bear Creek (San Joaquin County) to:

1. Authorize an existing boat dock supported by steel pilings and attached to a gangway, a willow tree on the waterside berm, a perpendicular wood fence on the landside slope, concrete steps on the landside slope, a concrete retaining wall at the landside toe, and a landside concrete patio.
2. Construct concrete steps on the waterside slope, a concrete patio with light pole and an outlet on the waterside berm, a parallel wrought iron fence near the landside crown, a waterfall on the landside slope, a sprinkler system on the landside and waterside, and landscaping vegetation on the landside and waterside slopes.
3. Authorize staff to initiate enforcement proceedings on items not authorized or approved.

Mr. Gary Lemon, DWR Water Resources Engineer, gave the presentation.

Mr. Butler read a summation of the Resolution.

The Board held a lengthy discussion and asked several questions regarding the easements, encroachments and other issues associated with this Permit. Ms. Suarez commented that the Board is trying to create a criteria, a set of factors and standards, to judge the 30-40 other permits of this type that will be coming before the Board in the near future.

*Upon **motion** by Member Suarez, seconded by Vice President Hodgkins, the Board approved the Resolution, with changes in the wording at the top of page 4, which begins "Whereas, under federal law, the Board may not have the discretion to approve the encroachments" The motion passed with 4 "Yes" votes and one abstention (Ms. Rie).*

C. Permit No. 18464, James Chavez

Consider Resolution No. 09-14 for Permit No. 18464 on the left (south) bank levee of Bear Creek (San Joaquin County) to:

1. Authorize an existing retaining wall at landside toe, two perpendicular wood fences on the landside slope, cinderblock stairs on the landside slope, a sprinkler system near the landside toe, and two ornamental trees near the landside toe.
2. Authorize staff to initiate enforcement proceedings on items not authorized.

Mr. Lemon gave the presentation. He stated that Permit 18464 requests authorization of all existing encroachments previously authorized by Permit 16933A, which were the waterside and landside steps, and Permit 16944, which did not address waterside steps. Further, all the encroachments in Permits 16933A and 16944 are considered unauthorized by the Corps, since they did not review them, and must be removed or properly permitted.

Mr. Butler presented the evidence in the staff report and concluded with the staff recommendation that the Resolution be adopted.

After discussion, it was decided that further clarifying information was needed and President Carter exercised the Chair's authority to continue the Hearing until next month.

REQUESTED ACTION

8. MAINTENANCE AREA BUDGETS

Consider approval of Department of Water Resource's proposed fiscal year 2009-2010 maintenance area budgets, pursuant to Water Code § 12878.

Mr. Keith Swanson, DWR, Flood Maintenance Office Chief, presented the budget and concluded by requesting that the Board approve it as detailed in the Board package. The overall budget amount is \$2,410,400.

*Upon **motion** by Vice President Hodgkins, seconded by Member Rie, the Board unanimously approved the maintenance area budgets as submitted.*

9. TIER I REGULATIONS - Postponed

Consider adopting amendments to Title 23 of the California Code of Regulations regarding changes related to AB 5 and technical changes; direct staff to submit the adopted amendments and supporting materials to the Office of Administrative Law for its review.

10. CITY OF RIO VISTA REQUEST TO REMOVE DEED RESTRICTIONS FOR LAND PREVIOUSLY PURCHASED FROM THE BOARD

Consider directing Board staff to work with the City of Rio Vista to remove a deed restriction on property previously sold to the City by the Board.

Ms. Alejandra Lopez, DWR, Real Estate Branch, provided some background and concluded by requesting that the Board consider directing Board staff to research and prepare a recommendation to the Board regarding the City of Rio Vista's request that the Board remove the deed restrictions.

City of Rio Vista Mayor Jan Vick provided additional background information.

*Upon **motion** by Vice President Hodgkins, seconded by Member Brown, the Board unanimously approved removal of the deed restrictions -- provided there is no objection to that as a result of staff's review, from either a flood control or a legal standpoint; and that the legal work be done by the DWR attorneys and the cost be reimbursed by the City of Rio Vista.*

**11. JOINT POWERS AGENCY SUB-COMMITTEE POLICY
RESOLUTION - Postponed**

Consider approval of a resolution regarding maintenance assurances and indemnification to be furnished by a Joint Powers Agency and its member agencies acting as the local sponsor for improvements to the Federal/State flood control system.

12. BOARD SPONSORED PROJECTS AND STUDY AGREEMENTS

13. SACRAMENTO RIVER BANK PROTECTION PROJECT

Consider approval of Resolution 09-15 to:

A. Adopt Mitigation Negative Declaration, Findings, and Mitigation Measures for 5 Erosion Repairs Sites (2009-2010)

B. Adopt Mitigation Negative Declaration, Findings, and Mitigation Measures for 25 Erosion Repair Sites (2009-2010)

C. Approve construction in 2009 at 17 proposed eroding repair sites including 11 eroding sites along the Sacramento River (SAC) located at river mile (RM) 35.4L, 42.7R, 55.2L, 73.5L, 77.2L, 78.8L, 87.0L, 93.7L, 114.5R, 136.7R, and 136.9R; 2 eroding sites along the Lower American River located at RM 10.0L and RM 10.6L; 3 eroding sites along Feather River sites located at 5.5L, 7.0L, and 28.5R; and 1 eroding sites along the Sutter Bypass site located at levee mile 0.4 on the east bank.

Mr. Dave Wheeldon, DWR Senior Engineer, provided the background information.

Mr. Kip Young, DWR Environmental Scientist, discussed the CEQA process.

Upon motion by Member Rie, seconded by Member Brown, the Board unanimously adopted the CEQA findings and approved Resolution 09-15.

14. WEST SACRAMENTO PROJECT - SOUTH LEVEE REPAIR

Approve Resolution No. 09-16 to:

- A. Adopt the Mitigated Negative Declaration, and**
- B. Approve the West Sacramento South Levee Repair Project**

Ms. Annalena Bronson, DWR Division of Flood Management, provided some background and concluded by asking that the Board approve the Resolution.

Upon motion by Member Rie, seconded by Vice President Hodgkins, the Board unanimously approved Resolution 09-16.

15. CONSENT CALENDAR

A. Permit No. 18267 Ricky Pappan

Consider approval of Permit No. 18267 to a boat dock supported by steel pilings, attached to a float and a steel gangway, attached to concrete piers on the left (east) bank levee of the Sacramento River. (Sacramento County)

B. Permit No. 18327 Thomas D. Klauer Trust

Consider approval of Permit No. 18327 to authorize existing boat dock supported by steel pilings, attached to a steel gangway, attached to concrete stairs on the left (east) bank of levee of the Sacramento River. (Sacramento County)

C. Permit No. 18369 Reclamation District 537

Consider approval of Permit No. 18369 to grade existing access ramp and place six inches of aggregate base on the landside slope of the right (north) bank levee of the Sacramento Bypass. (Yolo County)

D. Permit No. 18397 Derek Minnema

Consider approval of Permit No. 18397 to install wooden stairs on the landside slope of the left (south) bank levee of the American River. (Sacramento County)

E. Permit No. 18403 Buzz Oates Development, L. P.

Consider approval of Permit No. 18403 to place approximately 350 linear feet of fill at the landside toe of the left (south) bank levee of Linda Creek. (Sacramento County)

F. Permit No. 18422, University of California, Davis

Consider approval of Permit No. 18422 to replace 38 existing informational signs along the crown of the left (north) bank levee (within the UC Davis Putah Creek Riparian Preserve) of Putah Creek. (Yolo County)

G. Permit No. 18426 Pacific Gas and Electric

Consider approval of Permit No. 18426 to replace existing power pole on landside toe, install new pole on waterside toe and install utility line across the right (west) bank levee of the Sacramento River. (Colusa County)

H. Permit No. 18427 San Joaquin County Department of Public Works

Consider approval of Permit No. 18427 to replace existing metal beam guard rail with concrete barrier type on both the east and west sides of bridge across North Littlejohns Creek. (San Joaquin County)

I. Permit No. 18461 Randy Valenzano - Postponed

Consider approval of Permit No. 18461 to abandon existing pipeline and install (trench) a steel irrigation pipeline and a electrical conduit through the right (west) bank levee of the Sacramento River. (Yolo County)

*Upon **motion** by Member Suarez, seconded by Member Brown, the Board unanimously approved Consent Calendar Items 15A through 15H.*

INFORMATIONAL BRIEFINGS

16. BUILDING STANDARDS CODE PROJECT UPDATE - Postponed

BOARD REPORTS

17. BOARD COMMENTS AND TASK LEADER REPORTS

Member Brown reported making two presentations to various groups on flood control issues.

President Carter also made two presentations; one was to the Sacramento River Watershed Program.

18. REPORT OF THE ACTIVITIES OF THE EXECUTIVE OFFICER

Executive Officer Punia reported on the following:

- *Dr. William Reckmeyer's contract was submitted to the Resources Agency and was signed off by Mike Chrisman. It next goes to Department of General Services.*
- *Staff is preparing a Budget Change Concept Paper for Fiscal Year 2010-2011.*
- *Mr. Punia, Board Member Suarez and Board Member Rie attended the Water Education tour.*
- *Mr. Punia and President Carter participated in the California Levee Roundtable Meeting.*
- *Mr. Punia and Mr. Dan Fua attended a meeting with the U.S. Bureau of Reclamation and DWR regarding the San Joaquin Restoration Program; details will be provided at the next Board meeting.*
- *Board staff will meet with LD1 to go through their concerns regarding the vegetation and debris in the Feather River. They will also tour the Gold River Area to familiarize themselves with Gold River flooding issues.*
- *Assembly Bill 1165 is moving along and hopefully will get passed.*

19. FUTURE AGENDA

President Carter reviewed the draft Agenda. Items postponed from today will flow into next month's Meeting.

The Board will schedule a half-day field trip to the San Joaquin area, and specifically to the Bear Creek encroachments, and publicly notice it.

20. ADJOURN

President Carter adjourned the meeting at 6:07 p.m.

Dated: JULY 30, 2009

The foregoing Minutes were approved:



Maureen Doherty
Secretary



Benjamin F. Carter
President