

MINUTES
MEETING OF THE CENTRAL VALLEY FLOOD PROTECTION BOARD
August 26, 2010

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 August 26, 2010 at 8:30 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. Butch Hodgkins, 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. Dan Fua, Supervising Engineer
Mr. Ali Porbaha, Supervising Engineer
Mr. Curt Taras, Supervising Engineer
Mr. Eric Butler, Senior Engineer
Mr. Gary Lemon, Staff Engineer
Mr. Joo Chai Wong, Staff Engineer
Mr. John Tice, Staff Engineer
Ms. Lorraine Pendlebury, Staff Analyst
Ms. Amber Woertink, Office Technician
Ms. Deborah Smith, Legal Counsel

Department of Water Resources (DWR) staff present:

Mr. Ajala Ali, Staff Engineer
Mr. Gary Bardini, Chief, Division of Flood Management
Mr. Stephen Bradley, Chief, Statewide Flood Planning Office
Ms. Nancy Finch, Senior Staff Counsel
Mr. John Langston, Flood Projects Office
Mr. David Martasian, Senior Environmental Scientist
Mr. Bob Scarborough

Mr. Ward Tabor, Assistant Chief Counsel

Also Present:

Mr. Randy Aeschliman
Mr. Omar Al-Hindi, City of Stockton
Mr. Mike Archer, MBK Engineers
Ms. Linda Boisa, Equestrian Trail Patrol
Mr. Gregory Brehm, OPDE U.S.
Mr. Chris Campbell, cbec, inc.
Mr. Roger Dickinson, Sacramento County Board of Supervisors
Ms. Barbara Eggleston, Equestrian Trail Patrol
Mr. Robert Fagerness, Central Valley Environmental
Mr. Jason Guignard, FISHBIO
Mr. Rick Johnson, Sacramento Area Flood Control Agency
Mr. Guy Kolling, Sacramento County
Mr. David McDaniel, United States Army Corps of Engineers
Ms. Charlea Moore
Ms. Jenni Moser, Dry Creek Parkway Advisory Committee
Ms. Meegan Nagy, United States Army Corps of Engineers
Ms. Tamara Rose
Mr. Tom Scheeler, City of West Sacramento
Mr. Scott Shapiro, Downey Brand
Ms. Marlene Vallee

1. ROLL CALL

Executive Officer Punia reported that Board Member Teri Rie was not yet present and that Board Member Maureen Doherty had resigned. The rest of the Board members were present. Board Member Rie arrived shortly thereafter.

2. APPROVAL OF MINUTES

Upon motion by Board Member Brown, seconded by Vice President Hodgkins, the Board unanimously approved the Minutes for June 24 and 25, 2010.

3. APPROVAL OF AGENDA

Executive Officer Punia gave the staff recommendation that Item 9A be postponed; that Items 9C and 9M be moved to hearings; and that Item 9T be corrected to read "Yolo County" rather than "Sutter County".

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

4. PUBLIC COMMENT – NONE

5. ELECTION OF BOARD OFFICER

President Carter stated that Board Member Maureen “Lady Bug” Doherty had resigned. She had served as Secretary for several years. Regulations state that the Board should elect a Secretary and have a Secretary serving.

Upon motion by Board Member Brown, seconded by Board Member Rie, Board Member Suarez was nominated to serve as Secretary. The nominee declined.

Vice President Hogkins suggested that he could resign as Vice President and serve as Secretary, and Board Member Suarez could be made Vice President. President Carter responded that this could be done with the election for Vice President being agendized for next month’s meeting.

Vice President Hodgkins resigned as Vice President and Board Member Rie nominated Hodgkins to serve as Secretary. Board Member Brown moved to close the nominations and to appoint Hodgkins as Secretary. The Board voted unanimously for the appointment.

6. CEREMONIAL MATTERS

President Carter introduced Resolution 10-38, from the State of California, Natural Resources Agency, Central Valley Flood Protection Board. The Resolution recognized Ms. Maureen “Lady Bug” Doherty’s service and accomplishments, not only within the CVFPB, but also within the secondary school system, at colleges, on various boards, and within California’s agricultural community. The Board extended to Ms. Doherty its highest commendation and most sincere appreciation for her services on behalf of the CVFPB, the property owners under its jurisdiction, and the citizens of the state of California.

Executive Officer Punia added that the staff also had respected her and enjoyed working with her, and wished her the best of luck.

7. REPORT OF THE ACTIVITIES OF THE DEPARTMENT OF WATER RESOURCES

Mr. Gary Bardini, DWR Division Chief, gave an update of department activities.

- Water conditions: For the year as a whole, precipitation was slightly above average with runoff slightly below. Storage was about average.
- Real-time conditions and status: inspection programs for the spring have been completed. DWR is now working on the channel and structures inspections. The Army Corps of Engineers (Corps) also has been providing more significant oversight of inspections.
- Emergency Operations: In preparation for the heavy season, DWR is holding Standardized Emergency Management System (SEMS) training across the organization – organizing exercises and starting pre-season coordination meetings.
- Operation and Maintenance: DWR is progressing on a setback levee construction in West Sacramento, and working on reinitiating critical erosion repair programs.

- Flood risk management: the LiDAR information is close to completion. Activities continue in the development of the hydraulic models. In the early fall, DWR will send out the first set of risk notifications to the public based on legislation as required.
- Projects:
 - In September DWR staff will go to Washington to talk about the Folsom project and to work on the Post Authorization Change Report (PACR).
 - Also in September, DWR is hoping to hold the ceremony for the Marysville Ring Levee.
 - About 60-65% of agreements on the Delta projects are basically in the process of being executed. If DWR can get the cash flow, it will be able to execute the work in the Delta.
- Engineering and evaluations: The Flood System Status Report is progressing. It gives a comprehensive characterization of where problems lie.
- Legislation: DWR has been doing much work with the Senate Committee of Environmental Public Works. Rod Mayer of the FloodSAFE program has been representing the National Committee on Levee Safety.
- Funding: DWR has finally received its allocation of cash flow from bond sales of last fall and spring. The allocation should be sufficient to meet DWR's full needs.
- Roundtable meeting: The Corps had issued a Policy Guidance Letter detailing the variance process would be obtained for vegetation. Across the country, 450 entities had responded with concerns over the process; but the Corps had notified DWR that the comments would not be available to read.

DWR felt that the policy raises four concerns.

1. It brings difficulty into the implementation of both the State's flood improvement projects and repair programs.
2. Variance applications must be made for each protected area; there's no option for a regional variance.
3. The variance process is not transparent in that there are not technical criteria to guide an applicant in submitting relevant information and when a portion of an application is denied, there is no explanation of the reason. Furthermore, the variance process does not consider the difference between accredited urban levees and non-urban levees that are not accredited by FEMA but for these levees, the need for assistance through PL84-99 is critical.
4. The Corps has a view that CVFPB is supposed to enforce a "scorched earth" flood control system – involving stripping vegetation in a two or three-year period – rather than a lifecycle approach to dealing with vegetation management.

President Carter agreed that there was clearly a different interpretation of the intent of the framework from the Corps' perspective, and the majority, if not all, of the other Roundtable participants' perspectives. The framework on most of the Early Implementation Program (EIP) projects is not doing what it was intended to do, and not being interpreted the way it was intended.

Significant work lies ahead with the Corps. Mr. Bardini stated that DWR was going to have discussions on how to elevate its concerns as described by President Carter.

An Action Item came out of the Roundtable meeting for a small group, composed of members of CVFPB, DWR, the Corps, and resource agencies, to explore making the Roundtable a more effective body in addressing issues.

Board Member Suarez noted that the Center for Biological Diversity had sent a letter to the federal government giving them notice that they intend to sue under the Endangered Species Act over the vegetation management policy. She suggested for the Board to consider, if the lawsuit is filed, perhaps filing a Friend-of-the-court brief that articulates some of the issues the Board will face if it is forced into trying to administer a policy that seems to be in violation of federal and state environmental protections, and is also problematic for its partners at the local level.

Mr. Steve Bradley, Chief of the Statewide Flood Planning Office, gave an update on the Central Valley Flood Plan.

- Responses to stakeholder comments that were received in early January for the "Description of the State Plan of Flood Control" have been developed, and revisions are complete. Information in this report will be used in the rest of the planning process documents, the flood control system status report, and the major plan. The final report will be released in September, but it will be a living document, to be updated as the system changes.
- The flood control system status report is on schedule. The public review draft is scheduled to be released around late October, and staff is planning on bringing the report to the Board in November. The final report is intended for January.
- Four management action workshops are being conducted on the Central Valley Flood Protection Plan. A second round will start in September for five regional areas.
- Phase 2 is intended to be finished about the end of this year. Phase 3 will be commencing, and will again include a series of regional work groups and workshops.
- The progress report that is required by legislation will be presented to the Board in December.
- A second valley-wide forum is tentatively scheduled for December 9.

8. REPORT OF ACTIVITIES OF THE EXECUTIVE OFFICER

Executive Officer Punia reported on the following items.

- Mr. Steve Dawson has returned to work. He is reviewing permits as staff completes them, to ensure consistency.
- Per President Carter's request, Mr. Len Marino has developed a checklist to ensure that before bringing the permits, staff knows that all the requirements are fulfilled.
- For the Sutter Bypass 2D hydraulic model, a cost-sharing agreement between the U.S. Fish and Wildlife Service, DWR, and the Board has been executed. The task order is now with the DWR contract office, to be executed once the state budget is in place.
- An inter-agency agreement is underway in which the Corps will utilize DWR staff to analyze permits.
- For Tier 1B, staff met with the Chief Counsel and DWR legal staff to review regulation update drafts.
- Staff is also working with DWR to update the technical aspects of the Tier 2B regulations.
- Member agencies are ready to execute the revised cost-sharing agreement for the Gomes Lake Joint Powers Agreement.
- The survey for Road 9 was completed in August. Based on the survey, staff will do a hydraulic analysis and an environmental study for the proposed solution.
- To reiterate Mr. Bardini's report on the Corps Policy Guidance Letter, the vegetation variance process will be finalized by the Corps by the end of October. Although the Corps is not planning to change the policy, Mr. James Dalton reported that they will listen to concerns and proposed solutions.
- Based upon the California Central Valley Flood System Improvement Framework, the second progress report was sent to the Corps on August 24.
- As they gear up to upgrade their levees, the Sutter Butte Flood Control Agency is proposing the Feather River West Levee Rehabilitation Project.
- Some progress has been made by the Bear Creek property owners on the enforcement action.
- Staff is anticipating that there may be 15 permit applications between Merced and Fresno regarding the California High Speed Rail project.
- Board members met with Lower San Joaquin Levee District board members regarding their concerns over the San Joaquin River Restoration Program.

Discussion ensued among Board and staff about how to work with the Corps to get permits processed.

Mr. Len Marino, Staff Chief Engineer, stated that he had discussed with Ms. Meegan Nagy the idea of sharing Board staff with the Corps forces. The Corps is doing very detailed technical analyses, especially hydraulic, and training Board staff engineers will be invaluable because they can use their knowledge back at CVFPB.

Mr. Marino then gave a synopsis of the status of the permit applications.

9. CONSENT CALENDAR

B. Permit No. 18423-A, Mary Poppie

Consider approval of Permit No. 18423-A to drill and install a groundwater monitoring well (addition to existing permit 18423) to approx 50' below ground on the crown shoulder of the left (east) bank levee of Clover Creek in Upper Lake south of State Route 20. (Lake County)

D. Permit No. 18555, Steve Mello

Consider approval of Permit No. 18555 to authorize an existing earthen pad for access to a recently built home on the landside slope of the left (east) bank levee of the Georgiana Slough on Tyler Island Road (Sacramento County)

E. Permit No. 18575, CA Department of Parks and Recreation

Consider approval of Permit No. 18575 to develop a day-use facility and habitat restoration of an existing orchard on a 41-acre parcel at River Mile 196 on the left (east) bank of the Sacramento River, in the Sacramento River Designated Floodway, at the Bidwell State Park in Chico. (Butte County)

F. Permit No. 18578, Sacramento County Parks and Recreation

Consider approval of Permit No. 18578 to place soil, sand and mulch to repair fields, picnic areas, golf course tees, putting greens, and fairways along the right (north) bank of the American River Designated Floodway in Carmichael along Tarshes Drive. (Sacramento County)

G. Permit No. 18580, Sutter Mutual Water Company

Consider approval of permit No. 18580 to install a self-cleaning, retractable fish screen system on an existing pumping plant on the left (east) bank of the Sacramento River. (Sutter County)

H. Permit No. 18582, City of Modesto

Consider approval of Permit No. 18582 to retrofit the existing Carpenter Road Bridge including widening, additional piles, abutment fill, riprap and mitigation plantings within the Tuolumne River Designated Floodway in Modesto along Carpenter Road. (Stanislaus County)

I. Permit No. 18584, CalTrans Dist. 10; Duck Slough

Consider approval of Permit No. 18584 to construct three new bridges (one each for the north and southbound lanes of State Route 99 (760-foot-wide x 88-foot-long) each supported by fifteen 16-inch concrete piles, a frontage road bridge (40-foot-wide x 82-foot-long) supported by ten 16-inch concrete piles; and remove a portion of the existing State Route 99 bridge (82-foot-wide x 76-foot-long) across the channel of Duck Slough. (Merced County)

J. Permit No. 18589, Laton Community Services District

Consider approval of Permit No. 18589 to replace an existing barbed wire fence and install a new 4-foot, 6-inch high barbed wire fence along the overflow area of the right (north) bank of the Kings River in Laton. (Fresno County)

K. Permit No. 18593-A, City of Stockton

Consider approval of Permit No. 18593-A (addition to Permit No. 18593) to plant native vegetation within French Camp Slough near Sperry Road, as part of the Sperry Road Extension project. (San Joaquin County)

L. Permit No. 18594-A, CalTrans Dist. 10; French Camp Slough

Consider approval of Permit No. 18594-A (addition to Permit No. 18594) to plant native vegetation within French Camp Slough at the Interstate 5 crossing, as part of the I-5/ French Camp Slough Bridge widening project. (San Joaquin County)

N. Permit No. 18600, CalTrans Dist. 10; Mariposa Creek

Consider approval of Permit No. 18600 to remove a portion of the existing State Route 99 bridge (82-feet-wide by 76-feet-long); construct two new bridges for north and southbound lanes (60-feet-wide by 76-feet-long) supported by twelve 16-inch diameter concrete piles; and a frontage road bridge (40-feet-wide by 76-feet-long, supported by nine 16-inch diameter piles across the channel of Mariposa Creek. (Merced County)

O. Permit No. 18602, CalTrans Dist. 6; Kings River (Goshen)

Consider approval of Permit No. 18602 to remove the existing State Route 99 north and southbound bridges and construct a new 500-foot-wide bridge supported by 18 columns in three rows of six with 4-foot-diameter piers Kings River Designated Floodway across the Kings River between Goshen and Kingsburg. (Tulare County)

P. Permit No. 18615, Venetian Bridges Homeowners Association

Consider approval of Permit No. 18615 to replace an existing pipeline feeding a man-made lake with a new 14-inch-diameter steel pipe through the right bank levee of the Calaveras River in Stockton south of Brookside Road. (San Joaquin County)

Q. Property Management – US Department of Energy, Western Area Power Administration

Consider approving the conveyance of an easement from Sacramento and San Joaquin Drainage District (SSJDD) to the US Department of Energy, Western Area Power Administration (WAPA) for Parcel Nos. Tract No. 146 ET 38-A and 101-B for WAPA Permanent electrical transmission line and Tract No. 146ET 38-B and 101-C for WAPA Access easement and delegating to the Board president and secretary the authority to execute the Easement Deed. (Sutter County)

R. Property Management – Gill Ranch Natural Gas Storage Lease Agreement

Consider approving the Gill Ranch Natural Gas Storage Lease Agreement and delegating to the Board president and secretary the authority to execute the Lease Agreement for the Sacramento and San Joaquin Drainage District. (Fresno and Madera Counties)

S. Property Management – Venoco, Inc. Oil and Gas Lease Agreement

Consider approving the Venoco, Inc. Oil and Gas Lease Agreement and delegating to the Board president and secretary the authority to execute the Lease Agreement for the Sacramento and San Joaquin Drainage District. (Sutter County)

T. Lower Cache Creek Feasibility Study Letter of Intent, Yolo County

Consider approval of Resolution No. 10-36 to:

- 1. Approve a Letter of Intent to participate as a non-federal sponsor with the U.S. Army Corps of Engineers and the City of Woodland in the Lower Cache Creek, Yolo County, Woodland Area, General Investigation Feasibility Study.**
- 2. Delegate to the Executive Officer the authority to sign the Letter of Intent.**

Mr. Marino noted that staff had requested a total of 11 letters from the Corps, and had received seven. Items lacking letters were # 18423, 18580, 18589, and 18596. The latter item had been moved to a hearing.

Upon motion by Board Member Brown, seconded by Secretary Hodgkins, the Board voted unanimously to approve the items on the Consent Calendar.

10. HEARINGS AND DECISIONS

A. Sacramento County Regional Parks – Application No. 18557, Sacramento County

Consider the approval of permit no. 18557 to construct approximately 2.9 miles of multiuse asphalt concrete and parallel dirt equestrian trail and other features including a bicycle / pedestrian bridge along the right (north) bank of the Dry Creek Designated Floodway in Rio Linda between 24th Street and Dry Creek Road. (Continued from July 23, 2010 Board Meeting)

The item had been continued from the July meeting because the Board felt the public hadn't been given appropriate notice.

Mr. Eric Butler, Staff Senior Engineer, summarized the information from last month. He noted that staff had received four protest letters from concerned property owners regarding possible flood damage resulting from the proposed bridge. Mr. Butler described hydraulic impacts to the properties indicated by the applicant's model. He then explained two permit conditions added since the first draft in July.

Mr. Mike Archer, MBK Engineers, gave information on the hydraulic analysis. Members of the public then gave their comments.

Upon motion by Board Member Brown, seconded by Board Member Suarez, the Board unanimously voted to adopt Resolution 10-31.

B. Oakdale Irrigation District, Honolulu Bar Recreation Area – Application No. 18599, Stanislaus County

Consider the approval of permit no. 18599 to excavate approximately 10,800 cubic yards of sediment from the channel, relocate approximately 3,000 cubic yards of material within the channel, remove approximately 0.4 acres of vegetation, and place approximately 8,100 cubic yards of gravels into the channel upstream of a

mid-channel island within the Stanislaus River Designated Floodway east of Oakdale. (Continued from July 23, 2010 Board Meeting)

Mr. John Tice, Staff Engineer, reviewed the project background. The hearing had been continued from the July meeting at the request of the applicant, because they had not seen the staff report and recommendation in sufficient time for review.

Mr. Jason Guignard with FISHBIO, representing the Oakdale Irrigation District, provided information on the long-term mitigation and monitoring plan. Mr. Chris Campbell, Hydraulic Engineer with cbec, inc. provided information on the FEMA profile.

Upon motion by Board Member Rie, seconded by Board Member Suarez, the Board voted unanimously to approve the original Resolution 10-30 and include as a condition of the permit the provisions of the mitigation and monitoring plan.

C. Permit No. 18483, Aerojet-General Corporation

(Moved from Consent Calendar)

Consider approval of Permit No. 18483 to construct a groundwater extraction and treatment facility and an irrigation pump room; trench and install a sewer pipe discharging into an HDPE pipe; and construct an outfall structure with rock slope protection on the right (north) bank of the American River Designated Floodway in Carmichael. (Sacramento County)

Mr. Tice specified that the change to the item was the recommendation to add the clause, "...Upon receipt of a favorable comment letter from the Army Corps of Engineers..."

Mr. Robert Fagerness, Central Valley Environmental, explained that the groundwater treatment facility was primarily removing NDMA, a chemical associated with past rocket manufacturing at Aerojet.

Upon motion by Board Member Brown, seconded by Secretary Hodgkins, the Board voted unanimously to approve Permit number 18483 with the addition of Condition 35.

M. Permit No. 18596, Port of West Sacramento

(Moved from Consent Calendar)

Consider approval of Permit No. 18596 to borrow existing material and place it on four sites (previously used as spoil sites under Board permit) each approximately 500-feet by 3000-feet by 15-feet deep; and install approximately 486 solar tracking assemblies 44-feet wide by 15-feet tall (each holding up to 56 solar panels) on the right (west) bank overflow area of the Sacramento Deep Water Channel in West Sacramento. (Yolo County)

With input from Mr. Tom Scheeler, Port Engineer for the Port of West Sacramento, the Board and staff agreed to modify Condition 18 to provide for relocation, if necessary, or incorporating design in order to accommodate the plans of the Central Valley Flood Protection Plan moving forward, or some language to that effect.

Board Member Suarez commented that all permits were effectively subject to the proposed condition and that inserting it in this item diluted that fact for permits where such condition was not incorporated.. Secretary Hodgkins stated that as long as the record reflected that the applicant had been notified that the proposed permittee might be

required to remove the permitted encroachment because of future modification to the flood system that he was prepared to move approval without changes.

Secretary Hodgkins motioned to approve Permit 18596 with the modified condition, seconded by Board Member Brown. Motion withdrawn.

*Upon **motion** by Secretary Hodgkins, seconded by Board Member Brown, the Board voted unanimously to approve Permit number 18596 as recommended by staff in the staff report.*

11. POLICY DISCUSSION

A. Review of the Board's Encroachment Enforcement Hearing Processes

President Carter had asked Mr. Dan Fua, Staff Supervising Engineer, and Ms. Deborah Smith, Staff Legal Counsel, to compile general guidelines to help clarify the enforcement hearing process. The intent was to try to avoid confusion in the future during hearings.

Legal Counsel Smith and Mr. Fua gave a presentation on the 3-page document they had developed. Legal Counsel Smith pointed out that it is a summary of the current Board regulations pursuant to Title 23 dealing with enforcement, found in Sections 20-23. The presentation included information on the following.

- Initiation of an Enforcement Action under the regulations.
- The respondent's course of action.
- The actual hearing process.
- The decision of the Board.

President Carter highlighted two points.

1. The implementation and execution of the notification process must be complete and consistent throughout all the parties involved and all the Enforcement Actions that the Board carries out.
2. He asked for Legal Counsel Smith's advisement on whether the Board can, after hearing the Enforcement Action, make a decision on the same day. She responded that it is theoretically possible but difficult in practicality, because the decision must be given in writing.

Discussion ensued among the Board members, with Legal Counsel Smith, as well as DWR Assistant Chief Counsel Tabor, providing additional information and clarification. The group discussed the following.

- Timetables for rendering decisions.
- Staff preparation of findings.
- Staff recommendations and involvement.
- The reconsideration process.
- Bifurcating the staff.
- Designating hearing officers.

Ms. Meegan Nagy of the Corps stated that the Corps was very concerned about unauthorized encroachments within the flood protection system. She was hopeful that today's review will help bring many of the pending Enforcement Actions to a conclusion.

Upon motion by Board Member Brown, seconded by Board Member Suarez, the Board unanimously voted to direct staff to investigate whether the state has any responsibility for removing specific permitted encroachments; and if it does, the possibilities for funding such actions.

12. REQUESTED ACTIONS

A. Consideration of Comments to be Submitted by the Central Valley Flood Protection Board in Connection With Future State Water Resources Control Board Actions on the San Joaquin River Restoration Program.

Board Member Brown stated that he and Secretary Hodgkins had attended meetings with the Lower San Joaquin Levee District and DWR. They drafted a letter outlining the issues that the State Water Resources Control Board might be interested in when considering the issuance of their permit to the Bureau of Reclamation for the 200,000 acre feet/year that they are anticipating flowing into the bypass. Board Member Brown and Secretary Hodgkins then met with the State Board president and Executive Officer.

Secretary Hodgkins summarized the issues stated in the letter. The Bureau and the Lower San Joaquin Levee Maintenance District have had trouble coming to an agreement on reimbursing the maintenance district for the additional costs that they will incur as a result of the interim flows, which are now running down the Eastside Bypass. Communication is at an impasse, because the Bureau will not provide indemnification for the Levee District who believes there will be legal challenges to the Bureau's actions and that the Levee District will be also named in these actions and incur significant cost in defending itself.

The purpose of the letter is to put the State Board on notice about the Levee District's concerns, which concerns are shared by Board Member Brown and Secretary Hodgkins. This is an opportunity for this Board and the State Board to work together with DWR staff to try to make sure that the flood control issues get addressed, as this Board proceeds forward with what is an important restoration project.

Board Member Brown described two main issues that He and Secretary Hodgkins had zeroed in on with the Water Board:

- The maintenance cost which the maintenance district anticipates will be rising.
- The liability for the easements which belong to growers along the Eastside Bypass whose usage may be changing, from flood control to wildlife habitat.

Upon motion by Board Member Rie, seconded by Board Member Suarez, the Board voted unanimously to approve the letter, and to authorize Secretary Hodgkins to compose suggestions to Mr. Tom Howard regarding the two main issues (described above).

13. BOARD SPONSORED PROJECTS AND STUDY AGREEMENTS

A. Folsom Dam Safety & Flood Management Reduction – Supplemental EIR

Consider approval of resolution number 10-32 to certify the Supplemental EA/EIR for the Control Structure, Chute, and Stilling Basin Work, adopt the findings, and approve project refinements to the originally approved project.

Mr. John Langston, DWR Flood Project Office, introduced the item. The project is to design and construct the control structure, auxiliary spillway, and stilling basin at the Folsom Dam that meets federal, state, and local objectives for Folsom Dam.

Mr. David Martasian, DWR Senior Environmental Scientist, briefed the Board on ongoing California Environmental Quality Act (CEQA) actions.

Upon motion by Board Member Suarez, seconded by Secretary Hodgkins, the Board voted unanimously to adopt Resolution 10-32.

B. American River Common Features PACR Letter of Intent

Consider approval of Resolution 10-35 that would:

- 1. Approve a Letter of Intent from the Central Valley Flood Protection Board to the U.S. Army Corps of Engineers to serve as the non-federal sponsor for the improvements described in the Post Authorization Change Report and Interim General Reevaluation Report for the American River Watershed Common Features Project – Natomas Basin, Sacramento and Sutter Counties, California.**
- 2. Delegate to the Executive Officer the authority to execute the letter.**

Mr. Ajala Ali, DWR Staff Engineer, provided a summary of the Post Authorization Change Report (PACR). Mr. Rick Johnson, Deputy Executive Director for Sacramento Area Flood Control Agency (SAFCA) and Mr. David McDaniel of the Corps provided additional information on the cost estimates and finalization procedure of the report.

Upon motion by Board Member Brown, seconded by Secretary Hodgkins, the Board voted unanimously to approve Resolution 10-35 and a Letter of Intent from the Central Valley Flood Protection Board to the U.S. Army Corps of Engineers to serve as the non-federal sponsor as proposed, and to delegate to the Executive Officer the authority to sign the Letter of Intent.

14. INFORMATIONAL BRIEFINGS

- A. Briefing update on the Natomas Levee Improvement Program Phase 4a Project, Including Response to Central Valley Flood Protection Board’s Permit Number 18159-4, Special Condition Number 76. Permit Number 18159-4, Requires the Sacramento Area Flood Control Agency (SAFCA) to: “... report back to the Central Valley Flood Protection Board on the status of the land acquisition process and the legal access for all parcels affected by the land acquisition in this permit.”**

Mr. Johnson explained Phase 4a of the project.

15. BOARD COMMENTS AND TASK LEADER REPORTS

Board Member Brown mentioned the two meetings that he and Secretary Hodgkins had attended the previous week, explained in Item #12.

Secretary Hodgkins commented that he had also attended a Central Valley Flood Protection Planning Program workshop on environmental restoration.

Board Member Suarez reminded the Board that Mr. Fua and his team had provided an update on milestones of the Tier 2 regulations. The team has been working with the Corps so they can update the regulations in a manner that takes into consideration changes in the Corps' thinking on many issues, including vegetation management.

The Tier 1B team is trying to work quickly on the revisions after the passage of AB 1165, to have a proposed package ready in September.

Next week Board Member Suarez will be participating in the Delta and San Joaquin Conservancy meeting.

President Carter attended a meeting hosted by the San Joaquin County Flood Control and Water Conservation District – a briefing intended for General Rock Donahue, Commander of the South Pacific Division. President Carter represented the Board on a levee discussion panel.

He had attended the Roundtable meeting as discussed in Item #7. As part of the transition to the Roundtable's new structure, its facilitation needs and facilitator role will be reassessed. President Carter is part of a steering committee formed to help with the transition.

President Carter received a letter from Mr. Ken Kirby, requesting Board participation in a meeting to explain coordination of flood planning and the Delta Program.

President Carter will travel with DWR staff to Washington D.C. to lobby the Legislature on California flood programs. He will also work with Corps headquarters leadership on some of the issues and challenges that the Board has with the Corps.

He met with State Appointment Secretary Mr. John Cruz to discuss transitions. They talked about the Roundtable changes, regulation updates, the formation of an enforcement process, and Board membership now that Secretary Doherty has resigned.

16. FUTURE AGENDA

President Carter read portions of the draft agenda. Items of note were the continued policy discussion on the enforcement process; the Title 23 and Tier 1B revisions; a policy discussion about working with the Corps on permits; and the LD 1 issue.

17. ADJOURN


President Carter adjourned the meeting at 4:14 p.m.

Dated: 10-28-10

The foregoing Minutes were approved:



Butch Hodgkins
Secretary



Benjamin F. Carter
President