

MINUTES
MEETING OF THE CENTRAL VALLEY FLOOD PROTECTION BOARD
May 28, 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 May 28, 2010, beginning at 8:37 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, Vice President
Ms. 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. Dan Fua, Supervising Engineer
Mr. Curt Taras, Supervising Engineer
Ms. Lorraine Pendlebury, Staff Analyst
Mr. Ali Porbaha, Senior Engineer
Mr. David Williams, Senior Engineer
Mr. Gary Lemon, Staff Engineer
Mr. John Tice, Staff Engineer
Mr. Joo Chai Wong, Staff Engineer
Ms. Amber Woertink, Office Technician
Ms. Deborah M. Smith, Legal Counsel

Department of Water Resources (DWR) staff present:

Mr. Ajala Ali
Mr. Jeremy Arrich, Chief, Central Valley Flood Planning Office
Mr. Gary Bardini, Chief, Division of Flood Management
Ms. Erin Brehmer, Environmental Scientist
Mr. Chris Brown, Senior Engineer

Mr. Efrain Escutia
Ms. Nancy Finch, Senior Staff Counsel
Mr. Michael Inamine
Mr. Noel Lerner, Chief, Flood Projects Office
Ms. Alejandra Lopez
Mr. Bob Scarborough, Senior Engineer
Mr. Ward Tabor, Assistant Chief Counsel
Mr. Dave Wheeldon, Senior Engineer
Mr. Christopher Williams, Staff Engineer

Also Present:

Mr. Curt Aikens, Yuba County Water Agency
Mr. Michael Babitzke, Law Offices of Michael Babitzke
Mr. Lewis Bair, Reclamation District 108
Ms. Shirley Bills
Mr. Chris Bowles, CBEC
Mr. Mark Connelly, San Joaquin County
Mr. Mark Ellis, United States Army Corps of Engineers
Mr. Brian Ellrott, Nation Marine Fisheries Service
Mr. Eric Ginney, Philip Williams & Associates
Ms. Sharon Guidice
Mr. Mark Heintz, Wildlands
Ms. Mary Moody
Mr. Roosevelt Ross
Mr. Jim Scheublein
Ms. Sara Schultz, United States Army Corps of Engineers
Ms. Cheryl Shafer
Mr. Scott Shapiro, Downey Brand
Mr. Don Trieu, MBK Engineers
Ms. Mary Webb
Ms. Michelle Williams, United States Army Corps of Engineers

Sacramento Area Flood Control Association (SAFCA)
Three Rivers Levee Improvement Authority (TRLIA)

1. ROLL CALL

Executive Officer Punia reported that except for Board Member Teri Rie, the rest of the Board members were present.

2. APPROVAL OF MINUTES – March 26, 2010 Board Meeting

Upon motion by Board Member Brown, seconded by Secretary Doherty, the Board unanimously approved the March 26, 2010 Board Meeting Minutes.

3. APPROVAL OF AGENDA

Executive Officer Punia gave the following staff recommendations.

- That Item 8B be postponed.
- The presenter for Item 9D will be Mr. Chris Brown instead of Ms. Erin Brehmer.
- That Item 9E be postponed.
- The presenter for Item 10 will be Mr. Brian Ellrott instead of Mr. Howard Brown.

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

4. PUBLIC COMMENT

Mr. Lewis Bair, General Manager of Reclamation District 108 northwest of Sacramento, described a problem that has developed with one of his pumping plants. Last year there was a critical erosion site immediately upstream of a pumping plant. During construction of the project, the Army Corps of Engineers (Corps) brought up rock from the river, and Mr. Bair observed that this created a dead spot at the pumping plant location.

Mr. Bair contacted the Corps to request a meeting. The Corps met without him at the site and determined that impact velocity at the plant was very little. The District then monitored the location over the winter. After winter flows went down, a site survey showed about 10 feet of sediment over the top of the intake pumps.

The Corps repeated the response that their intake model did not show the problem. However, they also stated that Term 4 of Mr. Bair's encroachment permit required him to relocate the pumping plant if there were a project that conflicted with the operation of the system.

Mr. Dave Wheeldon, Department of Water Resources (DWR) Senior Engineer, stated that a site visit was scheduled for the next week to verify the condition and determine the extent of the problem. President Carter requested Mr. Wheeldon to accommodate the irrigation district, to move the investigation quickly, and to keep the Board informed. Vice President Hodgkins asked counsel to advise the Board on whether the project had adversely impacted an existing encroachment; was there a legal basis to fall back on the condition of the permit?

(Board Member Teri Rie joined the meeting at 8:44.)

5. REPORT OF ACTIVITIES OF THE DEPARTMENT OF WATER RESOURCES

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

- Water conditions: while precipitation is well above average in many areas, runoff is still below average because of the previous three dry years. Storage is at 95 per cent.
- Water deliveries to agricultural communities south of the Delta and to southern California are well below average: 45 per cent currently for the State Water Project.
- The AB 156 Report on local maintenance areas has been finalized and provided to the Board.
- The DWR team with the National Weather Service has added snow level radar to improve forecasting ability.
- The Sycamore Creek Sediment Removal Project plan and specifications for construction are scheduled for June 1.
- Bidding on the Willow Slough fish ladder project replacements opens on May 6.
- As part of work with FEMA, a number of flood management workshops by oceanside officials have been done in southern California.
- Work progresses on the American River Common Features Project, with a post-authorization change report coming out in August.
- Work continues on resolving the vegetarian variance process issues with the Corps at the District, Division, and Headquarters levels.
- Feasibility studies continue on West Sacramento and other Central Valley areas.
- Progress continues on the Delta levees and subventions, where 42 of 62 final claims received for '08-'09 are being processed. For '09-'10, 59 of 68 agreements have been completed. The final deadline for receiving agreements is set for June 30.
- The final report of the State Plan of Flood Control Descriptive Document is due June 10, and is progressing.
- June 3 is scheduled as the valley-wide forum of the Central Valley Flood Protection Plan. A number of workgroup meetings have been held to close out Phase 1. Phase 2, involving management action solutions sets, is beginning.
- Staff published the first FloodSAFE newsletter.
- Staff has submitted WRDA requests to Senators Feinstein and Boxer.

- Mr. Rod Mayer is in Washington D.C., giving testimony relating to levee safety. The intent is to offer leadership at a national level based on levee safety and other issues.

Mr. Jeremy Arrich, Central Valley Flood Planning Office Chief, gave a presentation on the valley-wide forum to be held on June 3, as well as the Phase 2 engagement process.

The forum was really the final part of the Phase 1 process. The idea was to bring the different regions – with their specific problems, opportunities, and objectives – together in one forum to hear from each other. The forum will consist of a Phase 1 overview, two panel discussions, and a presentation given by Mr. Arrich on the Phase 2 launch and participation.

Mr. Arrich reflected that for Phase 1, feedback showed that there were no major issues of controversy. Staff will take the feedback into Phase 2. This phase entails compiling and developing management actions to help solve problems identified in Phase 1, that are consistent with the goals of the plan development. Staff will also be looking at developing evaluation methods and screening criteria.

Phase 2 will have about three meetings each for the regional work groups of Upper Sac, Lower Sac, Upper San Joaquin, Lower San Joaquin, and Delta. Phase 2 will also have two rounds of workshops, as well as topic work groups that will be ongoing throughout the process.

Two key milestones are the Draft Management Actions Report and the Interim Progress Summary #2. Another valley-wide forum will be held in December to show regional perspectives and share viewpoints.

6. REPORT OF ACTIVITIES OF THE EXECUTIVE OFFICER

Executive Officer Punia reported on the following items.

- Progress has been made on the two-dimensional hydraulic model for the Sutter Bypass: the scope has been developed and negotiated with the consulting firm. The cost will be around \$600,000, and staff needs a firm commitment from the DSR (its partner) and the National Wildlife Service before issuing the task order to the consulting firm.
- The Gomes Lake Joint Power Authority (JPA) is responsible for providing maintenance in that area. There was some disagreement among the JPA members about distribution of cost among the members. Mr. Len Marino, Staff Chief Engineer, and Mr. Keith Swanson, DWR Flood Maintenance Office Chief, briefed the JPA that if the State has to provide the maintenance, the cost will be much higher. The JPA is now working on a resolution internally.

- Staff met with CalTrans, which has been sending over a large number of permit applications due to stimulus money. Staff requested them to prioritize the applications.
- Corps periodic inspections are ongoing. Staff is attending their out-briefings for local levee districts and DWR. Most of CVFPB's project levees are not in conformance with Corps standards and many portions of the projects will not be eligible for PL 84-99. President Carter noted that the Corps has prioritized the periodic inspections at a high level, but put the permit encroachment process and resources allocated for that at a much lower priority. This adds to the backlog.
- In response to the Board's requests to decrease the backlog of encroachment permits, staff negotiated with DWR for help in conducting the geotechnical and hydraulic analysis on some of the more complex permits. Funding of \$500,000 has been reserved for these services.
- A California Roundtable meeting was scheduled for June 3. One of the main items was a briefing from the Corps on comments they have received on their policy guidance letter for vegetation variance. However, they have received 79 comment letters from 11 states, and need more time to develop a strategy for addressing those comments. Staff has postponed the meeting until late July or early August.
- The San Joaquin River Restoration Program, Lower San Joaquin Levee District has informed staff that they were working with the U.S. Bureau of Reclamation to execute the financial assistance agreement. But the Bureau is indicating that they cannot legally indemnify the district from lawsuits associated with the additional flows into the bypasses.
- Staff is developing the regulations to implement Assembly Bill 1165. Because of the heavy staff workload, this item will need to be an Agenda Item for the June Board meeting.

Mr. Marino updated the Board on the pending permit applications.

- 58 permits are before the Corps for review and prioritization.
- 8 are approved by the Board and awaiting letters of concurrence from the Corps.
- 10 are inactive and 13 recently received.
- 76 are in staff evaluation, with 63 of those tied up with the Calaveras River permits, or non-conforming, or awaiting information from applicants.
- The grand total is 165, down from 169 last month.

7. **CONSENT CALENDAR**

A. **Permit No. 4914-C, Chevron Oil Company**

Consider approval of Amendment to Permit No. 4914-C, for the relocation of the Chevron Gas Pipeline associated with the Sacramento River Bank Protection Project, Sacramento River Erosion Repair Site, River Mile 57.2R, West Sacramento, California. (Yolo County)

B. Permit No. 18506, City of Stockton

Consider approval of Permit No. 18506 to replace existing bridge with a three-span, cast-in-place/post tensioned concrete voided slab bridge supported by two piers each containing columns across the channel; to construct an asphalt concrete bike path on the right (north) bank levee of Bear Creek. (San Joaquin County)

C. Permit No. 18550, San Francisco Public Utilities Commission

Consider approval of Permit No. 18550 to install (trench) a drainage pipeline and energy dissipating structures within the designated floodway of the left (south) bank of the San Joaquin River. (Stanislaus County)

D. Permit No. 18558, City of Stockton Municipal Utilities District

Consider approval of Permit No. 18558 to install (micro-tunnel) a C300 raw water pipeline under and across Pixley Slough. (San Joaquin County)

E. Permit No. 18569, Bird Haven Ranch

Consider approval of Permit No. 18550 to remove two existing pole barns and a small shop and replace with one new 100- by 40-foot (4000 square foot) garage along County Road 67 east of Butte City in the Butte Basin. (Butte County)

F. Permit No. 18570, City of Yuba City

Consider approval of Permit No. 18570 to construct a 48 million gallons per day (mgd) water intake/fish screen structure to include an air-burst cleaning system; install an underground pipe from the new intake/fish screen structure to the existing low lift pump station structure; construct concrete stairs on the riverbank; place rock riprap; install drainage culverts under existing waterside access road; place geotextile fabric and compacted road base on top of existing waterside access road; plant cottonwood trees; remove existing intake structure; concrete and abandon, in place, two buried intake pipes on the right (west) bank of the Feather River. (Sutter County)

G. Permit No. 18572, Chevron North America

Consider approval of Permit No. 18572 to authorize an existing perpendicular chain-link fence on the left (south) bank of the Kern River Designated Floodway. (Kern County)

H. Permit No. 18583, Sycamore Mutual Water Company

Consider approval of Permit No. 18583 to install one double-screen cylinder fish screen supported by steel pilings on an existing pumping plant on the right (west) bank of the Sacramento River. (Colusa County)

I. Property Management –Garmire Road Bridge Replacement Project – Parcel 119-A

Consider approving the conveyance of an easement from the Sacramento and San Joaquin Drainage District (SSJDD) to the California Department of Water Resources (DWR) for Parcel No. 119-A, and delegating to the Board president and secretary the authority to execute the Easement Deed as a result of the Garmire Road Bridge Replacement Project. (Sutter County)

J. Resolution No. 10-21, Interagency Agreement, State Lands Commission

Consider approval of Resolution No. 10-21 to renew an interagency agreement with the State Lands Commission for technical and consulting services on oil and gas matters and authorize the Executive Officer to execute the agreement.

(As mentioned previously, Items 7A, 7G and 7L were postponed to a future meeting.)

Upon motion by Secretary Doherty, seconded by Board Member Rie, the Board unanimously approved Consent Calendar Items 7A, 7B, 7D, 7F, 7H, 7I, and 7J, as recommended by staff in the reports; and to remove Items 7E and 7G from the consent to hearing. The motion carried unanimously.

9. BOARD SPONSORED PROJECTS AND STUDY AGREEMENTS

A. WEST SACRAMENTO PROJECT GENERAL REEVALUATION REPORT

Consider approval of Resolution No. 10-11 to approve:

1. Amendment 1 to the WSAFCA GRR Feasibility Cost Sharing Agreement between the U.S. Army Corps of Engineers and The West Sacramento Area Flood Control Agency to add the Central Valley Flood Protection Board as a non-federal sponsor.
2. A Local Feasibility Cost Sharing Agreement between The Central Valley Flood Protection Board and The West Sacramento Area Flood Control Agency for the General Reevaluation Report.

Mr. Chris Williams, DWR Staff Engineer, gave a presentation on the status of the General Reevaluation Report (GRR). West SAFCA has been proactive with flood protection projects in the past, and have several planned for the future. The projects will complete select levee improvements in advance of the GRR. 2013 is the expected completion date for authorization of the GRR.

Efforts of the GRR will lead to construction projects, which will implement the alternatives that have been identified in the GRR. Its current cost estimate is \$5.7 million, with a 50/50 cost share split between the federal government and the non-federal sponsors.

Mr. Williams asked that the Board adopt Resolution 10-11, which approves the Feasibility Cost Sharing Agreement Amendment #1; this adds the CVFPB as a non-federal sponsor to the existing agreement between the Corps and West SAFCA for the GRR. He also asked that the Board approve the local feasibility cost sharing agreement with West SAFCA for the West Sacramento GRR. Last, he also asked to delegate to Board President Carter the authority to execute these agreements.

Upon motion by Board Member Rie, seconded by Vice-President Hodgkins, the Board unanimously approved Resolution 10-11, provided that any subsequent working changes do not affect the overall cost sharing of the agreement.

B. WEST STANISLAUS FEASIBILITY STUDY

Consider the approval of resolution No. 10-12 to approve Amendment 1 to the West Stanislaus local feasibility cost share agreement between the Central Valley Flood Protection Board and the County of Stanislaus, and delegate to Board President the authority to execute the agreement.

Mr. Ajala Ali, DWR Staff Engineer, led the presentation. Ms. Sara Schultz, Corps Water Resources Planner, opened with the project background. The Corps had been involved with the project because of a continuing flood risk in the city of Newman and the surrounding agricultural area, along with flood damages that are incurred. The study objectives were to reduce the risk to public safety, and to reduce damages in the city and farmland. They found a “hybrid” solution: a Chevron levee could protect Newman, while modification to the channel and removal of some constrictions could protect the farmland.

Mr. Ali reported that the Corps estimated a total study cost of \$6.8 million. To date, Stanislaus had contributed \$2.9 million. Board Member Brown expressed concern over the lack of consideration the study gave to having off-stream storage for surplus water in the Delta, especially given the cost of the project.

Upon motion by Vice President Hodgkins, seconded by Secretary Doherty, the Board unanimously approved the resolution with the addition of the wording on

the final page: "...increasing the State's cost share up to a maximum of \$445,000."

Consent Calendar Item 7E

Consider approval Permit No. 18569 to remove two existing pole barns and a small shop and to replace them with a new 100' x 40' garage within Area E of Butte Basin.

President Carter noted that the Board was hearing this Item off the Consent Calendar because the project is in a designated floodway of the Butte Basin; under Agency comments and endorsements, a Corps letter had not been received. In a designated floodway, a Corps letter is not required because this particular area is not part of the State Plan of Flood Control or the federal project.

Upon motion by Board Member Rie, seconded by Vice-President Hodgkins, the Board unanimously approved Consent Calendar Item 7E with the deletion of Special Condition 28.

Consent Calendar Item 7G

Consider approval of Permit No. 18572 to authorize an existing perpendicular chain-link fence within the Kern River designated floodway on the left or south bank of the Kern River.

President Carter noted that this project was also in a designated floodway.

Upon motion by Board Member Rie, seconded by Vice-President Hodgkins, the Board unanimously approved Consent Calendar Item 7G with the deletion of Special Condition 21.

C. YUBA RIVER BASIN CALIFORNIA PROJECT

Consider approval of Resolution No. 10-17 to approve an amendment to the Yuba River Basin Project Design Cost Sharing Agreements.

Mr. Efrain Escutia, DWR, led a presentation. He stated that the issue at hand was that the design agreement was expiring June 13. The two separable elements of the project consist of the General Reevaluation Report and the Marysville Ring Levee. Mr. Escutia was requesting approval of Resolution 10-17 to remove the termination date, include separable elements, update the project costs, and extend the Yuba River Basin California Project's design agreement.

Mr. Curt Aikens, Yuba County Water Agency, noted that a decision needed to be made today or his agency would risk losing \$28 million in stimulus funding.

Mr. Noel Lerner, DWR Flood Projects Office Chief, distributed two items – the resolution itself and Amendment 1 – that had been revised at the Board’s request. He explained that the resolution covered the design agreement for the Yuba Basin River. Amendment 1 removed the termination clause from the design agreement, such that the project would still have access to stimulus funding. The 75/25 cost split between the federal government and the non-federal government sponsor was reflected in the Amendment’s numbers.

Upon motion by Secretary Doherty, seconded by Board Member Rie, the Board approved Resolution No. 10-17 for the Yuba River Basin California Project and its amendment. (Member Suarez was not present for this vote.)

D. AMERICAN RIVER COMMON FEATURES AS MODIFIED BY WRDA 96 PHASE 2A GUY WEST BRIDGE

The Board, as Lead CEQA Agency, will be asked to consider and approve Resolution No. 10-18 to:

- 1. Adopt the Mitigated Negative Declaration, the Mitigation and Monitoring Plan, and the Findings; and**
- 2. Approve the levee improvement project, which consists of the installation of slurry walls on both sides of the levee at the Guy West Bridge to be constructed simultaneously in July and August of 2010.**

Mr. Chris Brown, DWR Senior Engineer, gave a short presentation assisted by Ms. Erin Brehmer, DWR Environmental Scientist. They provided the Board with an update of what had changed in the Mitigated Negative Declaration since the Board received the draft version in March. Mr. Brown gave the physical details of the project, which was fairly simple from an engineering standpoint.

Upon motion by Board Member Brown, seconded by Secretary Doherty, the Board adopted the Mitigated Negative Declaration and the Mitigated Monitoring Plan, and approved the project, by a vote of five ayes and one abstain.

E. AMERICAN RIVER WATERSHED, COMMON FEATURES PROJECT – VEGETATION VARIANCE AGREEMENTS

Consider approval of Resolution No. 10-22 to:

- 1. Approve Local Vegetation Variance Agreement, Addressing the Vegetation Standards for American River Watershed, Common Features Project, Natomas Basin, Post-Authorization Change Report, with the Sacramento Area Flood Control Agency.**

2. Approve Vegetation Variance Agreement, Addressing the Vegetation Standards for American River Watershed, Common Features Project, Natomas Basin, Post-Authorization Change Report with the U.S. Army Corps of Engineers.

3. Delegate authority to the Executive Officer to execute the two agreements substantially in the form attached to the Resolution.

Executive Officer Punia reported that this Item was to be deleted from the calendar. Ms. Deborah Smith, Staff Legal Counsel, had consulted with Corps Headquarters staff and convinced them that executing this type of agreement was a little premature.

BOARD REPORTS

(13.) BOARD COMMENTS AND TASK LEADER REPORTS

Board Member Brown, along with Secretary Doherty and Board Member Brown, attended the Governor's reception. He also met with several groups:

- The Central Valley Flood Management Planning Committee.
- The Westlands Water District, where he noted their dire need of water storage.
- California Solutions, regarding several flood control and water issues.
- Yolo County landowners.
- The Contra Costa Water District on the pre-1914 water rights issue.
- Class 39, the California Agriculture Leadership on Delta issues, where he was a speaker.

Board Member Rie expressed concern about moving forward with an RD 17 task force meeting with the Corps, to explore how to get federal credits for some of the work that the EIP projects are funding.

She noted that at the Governor's reception, the Governor made clear that he wants to accomplish a lot of good work during his remaining year in office.

Vice President Hodgkins noted that at the upcoming meeting of the Sacramento River Watershed Program, panelists would discuss the challenges in developing a sustainable system, from both environmental and public safety standpoints.

He attended Corps exit briefings on two of their levee inspections. He reported on Corps efforts to grant PL 84-99 eligibility, as well as the possibility of developing written standards for some items that come up regularly.

Secretary Doherty attended meetings of the Colusa Basin Drainage District, and discussed their activities. She also attended a FEMA meeting in Yuba City.

President Carter discussed his participation in the Round Table meetings, and its efforts to assist in its State Plan of Flood Control commitments, as well as to integrate state and federal planning efforts.

(8.) HEARINGS AND DECISIONS

A. ENCROACHMENT REMOVAL ENFORCEMENT HEARING FOR ROOSEVELT ROSS, 4237 CURLEW STREET, STOCKTON, CALIFORNIA

Conduct a hearing regarding the Encroachment Removal Enforcement Notice No. 2009-31, dated March 24, 2010, that was sent to Mr. Roosevelt Ross, property owner of 4327 Curlew St. Stockton, CA to consider ordering removal of encroachments from the left (south) bank levee of the Bear Creek flood control project.

The Board heard testimony from staff, the respondent, and the public during this contentious hearing. Many issues were brought up: the legal role of the hearing officer; the bifurcation of staff; violation of the Board's flood control standards; property rights; vested rights; the communication record between staff and Mr. Ross; and so on.

Mr. Joo Chai Wong, Staff Engineer, gave a background description of the project, then explained the eight Items of encroachment. The Board enquired about specific Items, and Mr. Wong and Mr. Curt Taras, Supervising Engineer, responded.

Mr. Michael Babitzke, Law Offices of Michael Babitzke, addressed the Board for the respondent. He explained that the previous homeowner had been issued a permit by DWR for the encroachments. President Carter noted that Resolution 09-32, which the Board adopted last fall after the hearings in September, revoked the original permit. Mr. Babitzke felt that additional efforts should be made between the respondent and Board staff to reach a resolution, to avoid possible lawsuits from Mr. Ross and seven other homeowners.

During public testimony, other homeowners from the area expressed concerns with losing PL 84-89 eligibility per the Corps; having financial responsibility for flood damages placed on private homeowners; and risks to human life.

*Upon **motion** by Board Member Suarez, seconded by Board Member Rie, the Board voted to table the matter and allow an opportunity for staff and applicants to meet and work on solutions short of an Enforcement Action. The motion hung by a tie of three ayes and three nos.*

Board Member Rie withdrew calling the question, so discussion could continue. The Board, Mr. Babitzke, and Mr. Ward Tabor, DWR Assistant Chief Counsel, spoke.

*The Board voted again on the **motion** by Board Member Suarez, seconded by Board Member Rie. The motion failed by a vote of four to two.*

The hearing continued with testimonies and rebuttals.

Ultimately the Board decided to proceed with an Enforcement Action. During the next 30 days, Mr. Ross, his counsel, and his technical advisors were to make efforts with Board staff to do modifications bringing the encroachments into compliance with standards. They could negotiate some sort of agreement that would bring the encroachments into compliance to both parties' satisfaction. They would come back to the Board, who would hear the proposed decision.

B. PERMIT NO. 18531, MODIFICATION OF PLANTING PLAN FOR FEATHER RIVER WILDLIFE AREA, ABBOTT LAKE UNIT, CALIFORNIA DEPARTMENT OF FISH AND GAME - Postponed

Consider approval of a request from applicant to modify previously approved Permit No. 18531 with revised planting plan for native riparian plants on the right (west) bank overflow area of the Feather River.

INFORMATIONAL BRIEFINGS

10. OVERVIEW OF THE CENTRAL VALLEY SALMON AND STEELHEAD DRAFT RECOVERY PLAN

Mr. Brian Ellrott, National Marine Fisheries Service, gave a presentation. He first discussed the background and context of endangered salmon and steelhead recovery planning; he gave an overview of the species covered in the plan; he touched briefly on some foundational principles; and he showed a series of slides.

Mr. Ellrott stated that the goal of the recovery plan was to remove the species from the federally listed endangered and threatened wildlife list. Executive Officer Punia said that Chief Engineer Len Marino would be his primary contact.

11. LIBERTY ISLAND CONSERVATION BANK AND PRESERVE (186 ACRE RESTORATION PROJECT IN THE YOLO BYPASS) AND FREMONT LANDING CONSERVATION BANK (100 ACRE RESTORATION PROJECT ON THE LOWER SACRAMENTO RIVER)

Mr. Mark Heintz, General Counsel and Chief Operating Officer for Wildlands, led the presentation. He gave an overview of the Liberty Island project, and noted that it's a key opportunity: it restores habitat, provides mitigation, and provides flood benefits to the system.

Mr. Don Trieu, MBK Engineers, had assessed the flood hydraulic impacts to the state federal flood control system, and concluded that there were none. He explained those

findings. Mr. Chris Bowles, President of cbec, inc., explained how he had used a hydrodynamic model whereby he could look at the rising and falling limit of the hydrograph.

Mr. Heintz then described the Fremont Landing project. The objective was to reconnect borrow pits formed during floods back to the Sacramento River, so that Butte Creek Salmon would no longer be trapped when the water receded.

Mr. Eric Ginney, PWA Environmental Hydrology, provided hydraulic model results showing the hydrodynamics of the flood control system, as well as benefits the project provides to the system.

**12. MEMORANDUM OF UNDERSTANDING BETWEEN FEDERAL EMERGENCY MANAGEMENT AGENCY AND CALIFORNIA EMERGENCY MANAGEMENT AGENCY FOR THE DELTA --
*Postponed***

(Board Member Rie left the meeting.)

14. FUTURE AGENDA

The staff discussed the proposed agenda for next month. Mr. Scott Shapiro, Downey Brand, gave a heads up on a possible item: the Upper Yuba Levee Improvement Project.

(Board Member Suarez left the meeting.)

15. CLOSED SESSION

Pursuant to the authority of Government Code section 11126, subdivision (e), the Board met in Closed Session to discuss litigation. President Carter stated that the Board gave direction to its legal counsel and Board president for addressing the issue.

16. ADJOURN

President Carter adjourned the meeting at 6:43 p.m.

Dated: July 23, 2010

The foregoing Minutes were approved:



Maureen Doherty
Secretary



Benjamin F. Carter
President