

MINUTES
MEETING OF THE CENTRAL VALLEY FLOOD PROTECTION BOARD
October 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 October 28, 2010, beginning at 8:47 a.m. at the Bonderson Building, 901 P Street, Hearing Room, Sacramento, California. (It was reconvened on October 29, 2010 at 8:35 a.m. at the same location.)

The following Members of the Board were present:

Mr. Benjamin Carter, President
Ms. Teri Rie, Vice President
Mr. Butch Hodgkins, Secretary
Mr. John Brown
Ms. Emma Suarez

The following members of the Board staff were present:

Mr. Jay Punia, Executive Officer
Mr. Len Marino, Chief Engineer
Mr. David Williams, Senior Engineer
Mr. Gary Lemon, Staff Engineer
Ms. Nancy Moricz, Staff Engineer
Mr. James Herota, Staff Environmental Scientist
Ms. Amber Woertink, Office Technician
Ms. Jill Phinney, Support Staff
Ms. Deborah Smith, Legal Counsel

Department of Water Resources (DWR) staff present:

Mr. Gary Bardini, Chief, Flood Management Division
Ms. Alejandra Lopez
Mr. Bruce Shaffer, Water Resources Engineer
Mr. Ward Tabor, Assistant Chief Counsel
Mr. Jeffery Vangilder, Senior Engineering Geologist
Mr. Kip Young, Staff Environmental Scientist

Also Present:

Ms. Allison Boucher, Friends of the Tuolumne
Mr. Dave Boucher, Friends of the Tuolumne
Mr. Scott Morris, Kronick, Moskovitz, Tiedemann & Girard
Mr. Brandon Muncy, United States Army Corps of Engineers
Mr. John Munger, A&G Montna Properties
Mr. Chris Neudeck, Kjeldsen, Sinnock & Neudeck
Ms. Sara Rogers, Domenichelli & Associates

1. ROLL CALL

Executive Officer Punia reported that Board Member Butch Hodgkins was absent. The rest of the Board members were present, and Board Member Hodgkins joined the meeting shortly thereafter.

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

Upon motion by Board Member Brown, seconded by Vice President Rie, the Board unanimously approved the August 26, 2010 Board Meeting Minutes.

3. APPROVAL OF AGENDA

Executive Officer Punia gave the following staff recommendations.

- That Items 7C and 7I be moved to a hearing.
- That the description of Item number 7E be changed: the deletion of line #3, starting with “Drill 7 holes...” and the deletion of lines 4 and 5 up to “left east”.
- That Item 9B be postponed.

Upon motion by Board Member Brown, seconded by Vice President Rie, the Board unanimously approved the recommendations given above.

4. PUBLIC COMMENT

- Mr. Chris Neudeck, District Engineer for Reclamation District (RD) 17, commented that his client had requested him to speak today. They are currently involved in a rather sizeable Early Implementation Program (EIP) on RD 17's levees. One particular reach of the levee has come under some discussion with Board staff and DWR staff regarding technical construction issues. Mr. Neudeck and the client wanted to assure the Board that they are cooperating at every level.
- Mr. Scott Morris, an attorney with Kronick, Moskovitz, Tiedemann & Girard, spoke on the Schneider Historic Mine and Hardesty Sand and Gravel. He explained the history of the Hardesty mine, and noted that a new competitor has established itself on the adjoining property. Mr. Morris also noted that some misinformation may have been given out during a meeting of the Sacramento County Board of Supervisors, and explained those points. Mr. Morris closed by stating that the Hardesty group very much wanted to work with the Board.

The Board proceeded to discuss whether the staff engineer in question had received approval to appear at the hearing. President Carter stated that it would be best to table the whole matter until both parties could prepare and present their sides of the story.

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

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

- At the administrative level:
 - There are a number of activities in progress under the Strategic Growth Initiative. DWR is taking information and accomplishments of the Division of Flood Management and the FloodSAFE Initiative and providing it to the Governor to update the Strategic Growth Initiative.
 - DWR is preparing an annual accomplishment report. It is also compiling a list of current issues for the new state government administration change.
 - Mr. Stein Buer has been hired into the Division of Flood Management. In the past he spent ten years as Chief of that division, and has 36 years of experience in the field.
 - DWR and other agencies have been coordinating with the Delta Stewardship Council in preparation for 2012, when they will adopt the plan.
 - The Bureau of State Audits is currently looking at the books on a lot of DWR programs: 1E bond funds, Prop 84 funds, Prop 13 funds, Prop 50 funds, and a number of programs to work through DWR expenditures. Right now the Bureau is interested in the flood areas that have been on the EIP programs.
- A La Niña weather pattern is in effect, which typically means we'll have higher intensity storms this winter. Right now our precipitation is above average and our storage is running about 105%.
- For preparedness activities, DWR did a full functional exercise on its coordinated reservoir operation system, which is the decision support system that's done with the National Weather Service, the U.S. Army Corps of Engineers (Corps), DWR, the Yuba County Water Agency, and the State Water Project. It was done utilizing a system developed over five years, that allows better coordination between reservoir operators and common control points in the flood control system.
- On the emergency response front, DWR is designing the Golden Guardian exercise. It will deploy all the resources coordinated at the federal, state, and local level.
- For Operations & Maintenance, DWR has had a number of successes this year:
 - Much of the sediment removal at Sycamore Creek has been completed.
 - At Willow Slough, DWR is almost ready to demobe after grouting the culvert.
 - DWR is basically 100% complete on mowing and burning on the state-maintained portions of the system.
 - For levee repairs, DWR has a notice to proceed for river mile 42-7, which was issued in October. That part of the program is almost complete.

- For flood projects, DWR is progressing as best it can with a lot of capacity constraints that most agencies are dealing with.
 - A joint meeting of the Woodland Lower Cache Creed Feasibility Study was held with Congressman Herger and Colonel Leady in attendance.
 - For the American Common Features, the construction of the site at Jacob Lane Reach B is substantially completed and cleaned up.
 - The Folsom Mods are progressing. They awarded a structural contract for about \$125 million, while the estimate had been \$220 million – a sign of the struggling economy.
- Risk evaluation work is being targeted now to providing the flood system status report. There's also a lot of alignment in this towards risk assessments to go into the systemwide work under the Central Valley Flood Plan.
- The State Plan of Flood Control descriptive document on the Central Valley Flood Protection Plan is scheduled for release November 1.
- The Flood System Status Report will probably come out sometime in the spring. Phase 2 completion is moving ahead, looking to Phase 3.
- DWR sent out the Notice of Preparation for the programmatic EIR on October 27.
- This financial period has been very difficult for the state, particularly on cash flow issues. DWR is under a number of restrictions on hiring. It was able to get a few critical exemptions out of the freeze, but is still restricted on overtime usage.
- Mr. Bardini participated on the Civil Works Review Board as part of the implementation of the Natomas project and the interim General Re-evaluation Report (GRR) for approval at the Corps on September 22. The all-day review board was presided over by Major General Grisoli.

Mr. Brandon Muncy, Chief of the Civil Works Program, explained the purpose of the Civil Works Review Board. Its major purpose is to make sure that senior leadership at the headquarters level fully understands important projects and their ramifications. It's another level of making sure that all Corps policies and procedures are followed, that it is taking a non-political look at the report, and that senior leadership is buying in to the project. All the Civil Works Program's major projects will be going through the Review Board – anything that requires authorization by Congress (e.g., Yuba and Orestimba).

Mr. Ward Tabor, DWR Assistant Chief Counsel, updated the Board on advocacy activities in Washington D.C. He passed out an information package for the Board and explained that the three goals for the trip were: to work on appropriation issues for the Board's projects for fiscal year '11; to advance specifically the state's proposal for crediting legislation; and to discuss the Corps' vegetation policy and variance policy.

Mr. Tabor noted that they had a good discussion with the Office of Management and Budget (OMB), which appreciated that the Corps had genuine needs. They had some very fruitful meetings with both Corps Headquarters staff and Senator Boxer's staff on proposed crediting language. The Corps is getting very close to having text ready to be

introduced once there's a Water Resources Development Act (WRDA) platform ready to accept language.

The Corps brought the state's concerns to both Congress and the President's office regarding the Corps' vegetation policy. Everyone was receptive.

The Corps also acted on the Department's Freedom of Information Act (FOIA) requests. It has posted the nationwide comments it received on its vegetation policy.

6. REPORT OF THE ACTIVITIES OF THE EXECUTIVE OFFICER

Executive Officer Punia reported on the following items.

- The money component of the Sutter Bypass hydraulic model is in place and staff is moving ahead to issue the task order. Cost of development is being shared with DWR and the U.S. Fish and Wildlife Service.
- Progress is continuing on the updated regulations based upon Tier 1B language. December is the targeted completion date.
- Staff is making progress on developing a recommendation for addressing the Road 9 issue. The Division of Engineering has been issued a task order. Mr. Len Marino, Staff Chief Engineer, stated that the modeling results are complete; enlarging the box culvert is the best alternative.
- Along with DWR staff, Board staff completed a walk-through as a final inspection of Segment 2B of the Feather River project. They came up with some punch lists that need to be addressed, and will continue to work with the Three Rivers Levee Improvement Authority.
- Chief Engineer Marino is working with RD 17 to take care of some difference of opinion regarding construction and inspection. RD 17 is complying.
- Staff attended the West Sacramento Board of Consultants meeting.
- The City of Colusa wants to add stairways on the levee and has submitted drawings.
- After the successful completion on the Garden Highway Enforcement Action on October 29, staff will shift focus back onto Bear Creek.
- Staff will also continue to focus on the Calaveras enforcement actions on the unauthorized encroachment on the Calaveras River.
- .
- Staff met with the U.S. Bureau of Reclamation (USBR), regarding the State Water Resources Control Board (WRCB) water rights order. There are three issues raised in the staff letter to WRCB:
 1. The USBR needs to have an agreement with the local levee maintaining agency for compensation. The Lower San Joaquin Levee District is reconsidering its position with the new language in the agreement.

2. The USBR needs to acquire its own easement, rather than use the easements acquired by the Board. The issue is still pending.
 3. Ponding of water is occurring due to the restoration flows. USBR is considering that they will address this issue in the long term, but not the interim.
- Several bridges are in the permitting pipeline. Staff met with the District 3 Director to highlight the need to coordinate with them early on, in order to expedite the permitting process.
 - Board staff attended a media briefing with Secretary Butch Hodgkins at the Folsom Dam Spillway construction site with Colonel Leadly.
 - Staff participated in a meeting, called by the Corps, of various stakeholders to get feedback on how they can improve their periodic inspections.
 - Staff toured the Liberty Island Conservation Project. The grading is almost 80% done.
 - The Sacramento Area Flood Control Agency (SAFCA), DWR, and staff are working to educate the Garden Highway neighborhood on the actions they must take to avoid an unauthorized encroachment.
 - Staff is recommending that the Board combine the November and December meetings.

Chief Engineer Marino reported on the permit backlog:

- Staff continues to make good progress and has several on consent this month. No Corps letters have been received.
- 93 permits are in staff evaluation.
- At this time of year, time variance requests are pouring in: between 5 and 15 a day.

7. CONSENT CALENDAR

A. Permit No. 18414, City of Chico

Consider approval of Permit No. 18414 to construct two pre-manufactured steel truss pedestrian bridges each supported between two abutments, one on the east of and one on the west of State Route 99 across the channel of Little Chico Creek in Chico at State Route 99 and Humboldt Avenue. (Butte County)

B. Permit No. 18588, River Garden Farms

Consider approval of Permit No. 18588 to install a self-cleaning retractable fish screen system on an existing agricultural pump station on the right (west) bank of the Sacramento River. (Colusa County)

D. Permit No. 18625, Dry Creek Bridge

Consider approval of Permit No. 18625 to replace the existing Cook-Riolo Road Bridge with a three span, cast-in-place, pre-stressed concrete box girder bridge,

supported by three 4-foot diameter columns over Dry Creek in the Dry Creek Designated Floodway. (Placer County)

E. Permit No. 18627, City of Sacramento

Consider approval of Permit No. 18627 to excavate existing asphalt roadway to regrade and widen Jibbom Street; remove existing guardrail and replace with concrete barrier; drill seven holes for Cast-In-Drilled-Hole (CIDH) piling supporting traffic signals and street lights (for intersection of Jibboom Street and Railroad Avenue); install water line; install a storm drain; along and within the crown and landside slope of the left (east) bank levee of the Sacramento River. (Sacramento County)

F. Permit No. 18632, City of Chico

Consider approval of Permit No. 18632 to widen the existing Highway 32 Bridge with a four-span reinforced concrete flat-slab structure supported by 2 abutments and 3 piers across Dead Horse Slough. (Butte County)

G. Yuba River Basin Project Section 103 Cost-Share Deferral Extension

Consider approval of a letter to the U.S. Army Corps of Engineers (USACE) requesting that the Assistant Secretary of the Army (ASA) grant an approval to extend the current Section 103 cost-share deferral approval to December 2013.

H. Property Management – Gill Ranch Storage, Inc. Consent to Collateral Assignment of the Gill Ranch Natural Gas Storage Lease No. 2010-01-CVFPB

Consider approval of assignment and authorize signatures for the Consent to Collateral Assignment from Gill Ranch Storage, Inc., for the Gill Ranch Natural Gas Storage Lease No. 2010-01-CVFPB (Fresno and Madera Counties)

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

8. HEARINGS AND DECISIONS

A. Friends of the Tuolumne, Bobcat Flat – Application No. 18601, Stanislaus County

Consider the approval of Permit No. 18601 to (1) place approximately 16,000 cubic yards of course sediment along approximately 1,800 linear feet of channel, and excavate approximately 41,000 cubic yards of material within the Tuolumne River Designated Floodway approximately 10 miles east of Waterford, and (2) place approximately 2,500 cubic yards of course sediment along approximately 1,500 linear feet of Duck Slough. This project will restore the floodway's morphologic function and provide new habitat for target species.

Staff Engineer Nancy Moricz gave a presentation on the project. She explained the location, earth work and activities, proposed plantings, and background. She noted that after many years of gold mining, this reach of the river has not been able to recover natural channel and floodplain features and habitats, including spawning and rearing habitat for Chinook salmon and steelhead.

Staff Engineer Moricz listed the documents reviewed, and gave measurements, geotechnical analysis, and project benefits.

Ms. Sara Rogers, a civil engineer with Domenichelli & Associates, spoke to the Board to request removal of a few conditions in the permit.

Mr. and Mrs. Dave and Allison Boucher of Friends of the Tuolumne spoke in support of the project.

The group discussed the removal of the conditions and the absence of a maintenance plan for the project. They decided to eliminate Conditions 28 and 31, and to modify the language in Condition 30 as follows: "Cleared trees, brush, and prunings therefrom shall be completely burned or removed from the floodway and downed trees or dead trees or brush will be removed and shall not remain in the floodway season from November 1 through July 15."

Upon motion by Board Member Brown, seconded by Secretary Hodgkins, the Board voted to adopt Resolution 10-47 with respect to the Board's findings and decisions on Permit No. 18601 with the changes noted above. The motion carried 4 to 1.

I. Property Management - Sutter Bypass – A. & G. Montna Properties, L. P. Road Easement

(moved from Consent Calendar)

Consider approving the conveyance and authorize signatures for a nonexclusive easement from Sacramento and San Joaquin Drainage District to the A. & G. Montna Properties, L.P., for Parcel Nos. 3-A, 849-G, 849-H, 873-E, 873-F for ingress and egress and delegating to the Board President and Secretary the authority to execute the Easement Deed and delegating the Executive Officer the authority to execute an Agreement for the Repair and Maintenance of Easement Road. (Sutter County)

President Carter pointed out that an additional sentence was proposed for the deed, as follows:

"This easement runs with the land for the benefit of grantee's property, described in Exhibit B attached to the foregoing agreement for the repair and maintenance of easement road between grantor and grantee."

Ms. Alejandra Lopez of DWR, and Mr. Jon Munger of A&G Montna Properties, noted that the proposed grantee (Mr. Munger) had indeed requested the additional language.

Upon motion by Board Member Brown, seconded by Secretary Hodgkins, the Board voted unanimously to adopt the staff recommendation as presented above.

C. Permit No. 18621, Department of Water Resources

Consider approval of Permit No. 18621 to construct a cement bentonite slurry wall on the crown of the right (north) bank levee of the San Joaquin River at River Mile 42.3 in Stockton just south of State Route 4. (San Joaquin County)

(moved from Consent Calendar)

Staff Engineer Gary Lemon, speaking for Staff Engineer Steve Dawson, explained that late the previous afternoon, staff had received an email from the Corps listing several information items they needed. He went through the items for the Board.

Mr. Lemon went through the project analysis, which had concluded that the slurry wall would improve the reliability of the flood control system in that area.

Mr. Jeff Vangilder, DWR Senior Engineering Geologist, spoke about the Corps email. The items were geotechnical and engineering in nature. He noted that the final design package was no different from the 60% design package that they already had received.

A hardcopy of the email was provided to the Board. They had a series of questions for Mr. Lemon and Mr. Vangilder.

Upon motion by Board Member Brown, seconded by Vice President Rie, the Board voted unanimously to approve Permit No. 18621.

9. BOARD SPONSORED PROJECTS AND STUDY AGREEMENTS

A. Cache Creek Critical Erosion Repair Project, Yolo County

Consider sending a Section 408 project modification request to the Sacramento District, U.S. Army Corps of Engineers for proposed critical erosion repairs (setback levees) on the left bank of Cache Creek at Levee Miles 2.8, 3.4, 3.9, and 4.2 (maintained by the Department of Water Resources, Sacramento Maintenance Yard).

Mr. Bruce Shaffer, DWR Water Resources Engineer, gave a presentation. He spoke on the DWR Levee Repairs Program, the Section 408 application process, the perpetual erosion problems on Cache Creek, DWR's proposed repair of setback levee design, and its benefits, funding, and schedule.

The Board sought to clarify the CEQA and NEPA findings with Staff Environmental Scientist Mr. James Herota.

Upon motion by Secretary Hodgkins, seconded by Board Member Brown, the Board voted unanimously to authorize the Executive Officer to send Section 408 project modification request to the Sacramento District for the proposed critical erosion repair to the left bank of Cache Creek at levee miles 2.8, 3.4, 3.9, and 4.2.

B. San Joaquin Flood Control System Repairs – Postponed

10. Consider Approval of Letter to the Delta Stewardship Council in Response to its Letter Requesting Board Input to the Delta Plan Priorities for State Investments

Chief Engineer Marino introduced the item: a draft letter to respond to Mr. Joseph Grindstaff, Interim Executive Officer of the Delta Stewardship Council, who asked what specific types of investments they should make going forward with the Delta Plan. Staff was now seeking the Board's feedback on the draft letter.

Chief Engineer Marino had coordinated with Board subcommittee members Emma Suarez and Teri Rie. He was also seeking input from the California Central Valley Flood Control Association.

Board Member Suarez elaborated on the reasons for the response they gave. Vice President Rie explained the Delta Subventions Program issue.

Executive Officer Punia explained that they had identified three areas where they want future investment from a flood control perspective, as follows:

1. Special projects in the Delta Subventions Program to reduce the fragility of the levees.
2. Improvement in levee maintenance.
3. Improvement in Delta water conveyance, to keep water channels and conveyance capacity.

Secretary Hodgkins stated a concern with the Bay-Delta Conservation Plan, because there is the potential for that project to adversely impact flood protection upstream of the Delta.

President Carter suggested including additional documents such as the Yolo Bypass O&M Agreement and the regulations that govern the Board.

Chief Engineer Marino was going to continue collecting comments from the Board and the reclamation districts.

10. BOARD COMMENTS AND TASK LEADER REPORTS

Board Member Brown attended the Governor's conference on women and public service.

With Secretary Hodgkins, he attended the interagency task force that meets monthly. He was concerned about a conflict of interest potential, and left the meeting early.

He attended another follow-up meeting with Neil Schild with Montgomery Engineers, regarding various issues on some of the Board's policies.

Secretary Hodgkins mentioned the interagency task force, organized by DWR, with a focus on resolving conflicts that occur between the Resources Agency and DWR with respect to the flood control system. Topics included the Yolo Basin Wildlife Area, development of the multi-use corridor plan on the Feather River, and the Bay-Delta Habitat Conservation Plan.

He noted that DWR received a letter from National Marine Fisheries Service's enforcement arm raising the potential for an Enforcement Action in connection with fish entrapment at all of the weirs in the Sacramento River Flood Control System – an item for the Board to be aware of in the future.

He went to a meeting sponsored by the Bay-Delta Conservation Plan, as part of their request for public input.

He attended a meeting organized by the City of Woodland, where they are asking for assistance from the Corps and DWR in moving forward with a project to improve the flood protection for their city.

He attended a meeting of the National Levee Safety Committee, in which they received input from Californians about the report recommending a levee policy to the Federal Congress.

Board Member Suarez shared an item of note with the Board regarding excessive news coverage of the impact of the Corps vegetation policy. She had received many phone calls from local elected officials and community leaders – but the messages weren't consistent.

President Carter participated in three teleconference calls with respect to the transition of the Roundtable. Each call ended up focusing on the vegetation issue and policy.

He noted that Vice President Teri Rie and staff worked on a draft letter for his signature to General Van Antwerp, Chief of Engineers and Commander of the Corps. The letter requests that the Corps, on the basis of the framework, grant the Central Valley a regional variance until its Central Valley Flood Protection Plan is completed in 2012.

He attended the DWR Executive Committee meeting.

He disclosed a potential ex parte communication with a resident of the Twin Creeks subdivision, which is part of the Bear Creek enforcement hearings.

Vice President Rie attended a press conference held by the Bay Area Flood Control Agencies Association on the vegetation issue.

She and President Carter had met with Colonel Leady for an opportunity to explain what the Board does, its responsibilities, and its jurisdiction.

She attended the National Levee Safety Committee meeting. They were soliciting input on how to proceed with the Committee's recommendations.

She noted that Assistant Chief Counsel Tabor is working on a letter to the State Water Resources Control Board, regarding a policy they have released that would require the owner or landowner of particular areas in which there's a project, to start signing the Storm Water Permit Requirements (SWPPs) – which normally doesn't happen.

13. FUTURE AGENDA

President Carter remarked that aside from the boilerplate and the Consent, there were no hearings and decisions. There were potentially Tier 1B revisions and Board-sponsored project study agreements; possibly the Cache Creek Feasibility Study and local Feasibility Study Agreements.

Executive Officer Punia stated that based upon today's discussion, staff would bring the previously mentioned letter back to the Delta Stewardship Council.

Board Member Suarez noted that in mid-November the scoping sessions for the programmatic CEQA document for the Central Valley Flood Protection Plan are going to occur. She suggested that Mr. Bardini or someone else from DWR brief the Board on how the scoping sessions went, since the document is a joint document.

14. CLOSED SESSION

Pursuant to the authority of Government Code section 11126, subdivision (e), the Board met in Closed Session to discuss litigation involving the Board.

On completion of the Closed Session, President Carter stated that no decisions were made.

15. RECESS

The Board recessed at 3:36 p.m. to reconvene Friday, October 29, 2010 at 8:30 a.m.

Dated: 1-28-11

The foregoing Minutes were approved:



Benjamin F. Carter
President



Francis Hodgkins
Secretary