

**MINUTES**  
**MEETING OF THE CENTRAL VALLEY FLOOD PROTECTION BOARD**  
**December 2, 2011**

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 December 2, 2011 at 8:30 a.m. in the Auditorium of the Resources Building, 1416 Ninth Street, Sacramento, California.

**The following members of the Board were present:**

Mr. Benjamin Carter, President  
Mr. John Brown  
Mr. John Moffatt  
Ms. Emma Suarez  
Mr. Mike Villines

Ms. Teri Rie, Vice President, and Mr. Butch Hodgkins, Secretary, arrived shortly thereafter.

**The following members of the Board staff were present:**

Mr. Jay Punia, Executive Officer  
Mr. Len Marino, Chief Engineer  
Mr. Eric Butler, Supervising Engineer  
Mr. Curt Taras, Supervising Engineer  
Mr. David Williams, Senior Engineer  
Ms. Angeles Caliso, Staff Engineer  
Ms. Amber Woertink, Office Technician  
Mr. Jim Andrews, Legal Counsel  
Ms. Deborah Smith, Legal Counsel

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

Mr. Jeremy Arrich, Chief, Central Valley Flood Planning Office  
Ms. Robin Brewer, Staff Counsel  
Mr. Jeremy Goldberg, Staff Counsel  
Mr. Arthur Hinojosa, Chief, Hydrology & Flood Operations  
Mr. Paul Marshall, Assistant Chief, Flood Management Division  
Mr. Ward Tabor, Assistant Chief Counsel  
Mr. Dan Wheeldon, Chief, Floodplain Evaluation Branch

Mr. Christopher Williams, Staff Engineer  
Mr. Kent Zenobia, Chief, Project Delivery Branch

**Also present:**

Mr. Lee Bass, United States Army Corps of Engineers  
Mr. Paul Brunner, Three Rivers Levee Improvement Authority  
Mr. Keith Coolidge, Delta Stewardship Council  
Mr. Steve Fordice, Reclamation District 784  
Mr. Kevin Heeney, CTA Engineers & Surveying  
Mr. Michael King, Property Owner  
Ms. Susan LaGrand, Property Owner  
Mr. Derek Larsen, MBK Engineers  
Ms. Carol Miller, Property Owner  
Mr. Brandon Muncy, United States Army Corps of Engineers  
Ms. Meegan Nagy, United States Army Corps of Engineers  
Mr. Scott Shapiro, Downey Brand  
Mr. Dave Shpak, City of West Sacramento  
Mr. Max Steinheimer, Downey Brand

**1. ROLL CALL**

President Carter welcomed everyone to the meeting. He requested Executive Officer Punia to call the roll. All Board members were present except Secretary Hodgkins and Vice President Rie, who arrived shortly.

**2. APPROVAL OF MINUTES – September 23, 2011; August 12, 2011 SJRRP Site Visit**

*Upon motion by Board Member Brown, seconded by Board Member Villines, the Board unanimously approved the Minutes for September 23, 2011 and the August 12, 2011 SJRRP Site Visit.*

**3. APPROVAL OF AGENDA**

Executive Officer Punia gave the staff recommendations that Item 8G be pulled from consent to a hearing, that Item 10E be postponed, and that Item 10F be cancelled. President Carter stated that the Closed Session would be held during the lunch hour.

*Upon motion by Board Member Brown, seconded by Board Member Villines, the Board unanimously approved the staff recommendations given above.*

**4. PUBLIC COMMENT**

There was no public comment.

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

Mr. Paul Marshall, Assistant Division Chief for the Division of Flood Management, reported that on the Operations and Maintenance (O&M) side, many of the bank protection projects are ready for the flood season.

### **Central Valley Flood Protection Plan (CVFPP) Status Update – Public Draft and Board Adoption Process**

Mr. Jeremy Arrich, Chief of the Central Valley Flood Planning Office, gave a presentation on the status of the CVFPP, summarized below.

- The working draft plan and summary have been released. Some key attachments have also been released, in particular the conservation framework.
- DWR held two webinars and three workshops to discuss the draft documents that went out to the work group members as the target audience. Comments are coming in, and DWR is reviewing them in order to incorporate revisions as appropriate. It was clear that there was a lot of interest in the document.
- At the end of the year the Board will receive a complete package: summary, four main chapters, and several attachments.
- Some documents are being incorporated by reference such as the State Plan of Flood Control Descriptive Document, the Flood Control System Status Report, and other pieces related to the earth and levee design criteria and urban level of flood protection; they are related to the legislative requirements. All are or will be available on the website.
- The webinar had 61 people participating. The three workshops had a total of about 52 attendees, not including Department staff.
- 36 different entities and individuals actually commented, of which the environmental NGO side had about 19. There were about 674 total comments. Their content is summarized below.
  - Most of the comments began with favorable reactions to the Department's efforts and the content of the plan.
  - Many of the comments reflected the need for more details and the addition of more specifics on certain projects.
  - Future feasibility studies and other processes will enable refinement of the plan.
  - Some comments stated that there are too many commitments on environmental restoration, some that there are not enough.
  - The conflict over the levee vegetation policy and life cycle management strategies continues.
  - The local agency perspective was that there are disproportionate investments being made in the Sacramento Valley compared to the San Joaquin Valley. There were also comments on how the Department is treating non-State Plan

of Flood Control facilities in the State system-wide investment approach, in particular the urban areas.

- Cities and counties had concerns over the ability to meet the 200-year level of flood protection within the legislative prescribed schedule.
- People want to see more integration with other large-scale planning efforts. DWR will continue to make improvement and try to coordinate with other planning efforts; however, this is a huge task.
- From an environmental perspective, some people felt that there were too many commitments and others not enough.
- There were comments on climate change and the adaptation strategy. DWR will try to add some clarifications, but climate change research is still in progress.
- Locals are looking to the Department to provide certain information, such as 200-year floodplain maps and geotechnical data on the levees.
- From an agricultural perspective, there is concern about the impact of ecosystem restoration to existing farmland. Agricultural interests would like to preserve their land use.
- DWR is working hard to address the comments and produce a public draft that is reasonable, balanced, and responsible from a State perspective. The Board will have the public draft by December 30.
- DWR is continuing its parallel effort with the Corps to develop the Central Valley Integrated Flood Management Study.
- The primary goal of the CVFPP is to improve flood risk management. Supporting goals include restoring and improving upon the ecosystem, and promoting environmental restoration.
- The premise in the plan is that all of the proposed system-wide improvements must have a primary flood control benefit.
- DWR is trying to achieve a balance between flood control and the environment, as well as the land uses – taking into account the needs of people on all fronts: urban, agricultural, and environmental.

Board Member Suarez shared the current thinking on the rollout process timeline.

Board Member Brown requested a summary chart to be drawn up showing all the pieces of the process.

President Carter stated that his understanding and expectation were that the CVFPP would provide the context for all the multi-purpose efforts that are both improvement projects, ongoing maintenance projects, and planning projects.

Mr. Arrich explained the components of the whole program.

- The CVFPP includes by way of reference the State Plan of Flood Control Descriptive Document, which defines the facilities that were legislatively required for development of the plan. It is already published.
- The Flood Control System Status Report describes the conditions of those facilities. It is basically completed, and will be submitted along with the plan.
- The CVFPP is the plan to address the problems within the system. The deadline for completion is the end of the year.

Vice President Rie asked whether the impacts of the right-of-way requirements included in the urban levee design criteria are addressed in the California Environmental Quality Act (CEQA) document for the plan. Mr. Paul Marshall, Assistant Chief of DWR Division of Flood Management, responded that as levees are reconstructed, the project level impacts must address takings of land and so on. DWR is not going into the details of what kind of land is actually available for the levees at this point.

Vice President Rie then asked about the new vegetation requirements in the urban levee design criteria – whether there was a CEQA analysis for it in the EIR. Mr. Marshall replied that this topic takes up the bulk of the impacts analysis in the program EIR.

Secretary Hodgkins asked about inspection standards for those levees that are no longer going to be part of PL 84-99. How does the vegetation criteria fit in with the plan with respect to the Corps? Mr. Marshall responded that for several years DWR has been working with the Corps, and hopes to come to agreement with them; but there are some sticking points.

Mr. Arrich elaborated that the Corps did participate in the webinars and workshops. There was a spinoff group from the Roundtable that was discussing vegetation on levees and the language within the plan. There was also a subcommittee meeting several weeks back during which the issue was discussed. The DWR team is working on addressing the comments received on vegetation and life cycle management.

He noted that the broad number of Levee Maintaining Agencies (LMAs) have not been officially removed from the PL 84-99 program. The Corps hasn't made the determination to remove their eligibility, primarily because DWR has the framework agreement in place.

President Carter added that the Corps has withdrawn from participation in the Roundtable due to litigation that involves State agencies with the Corps around vegetation.

Also, President Carter's understanding was that there have been LMAs removed from PL 84-99 or put on notice; but this was because of non-vegetation issues. There are over 80 inspection criteria that the Corps and State use in terms of evaluating the adequacy of levee maintenance by the maintaining agencies.

Board Member Moffatt asked about the plan to address the possibility that the Corps will decide not to do anything between now and the end of the year when the plan is done. Mr. Arrich replied that in the plan DWR is very clear on its vegetation and management strategy. It doesn't intend broadly to remove trees off of levees, and expects to transition into its longer term criteria, which is to thin and trim trees on the upper third of the

waterside slope of the levee and maintain the waterside vegetation below that point. On the landside there are similar requirements for maintaining visibility and access for inspections and flood fighting.

**Flood Season Preparedness Briefing – Flood Emergency Response activities and outlook for the 2011-12 flood season**

Mr. Marshall stated that he and DWR Deputy Director Gary Bardini had met with the Federal Emergency Management Agency (FEMA) Deputy Administrator and the Deputy Chief of the Office of Homeland Security for the Army Corps of Engineers, to brief them on FloodSAFE and flood history in California.

Mr. Art Hinojosa, DWR Hydrology & Flood Operations Chief, gave the preseason flood report.

- Reservoirs have very little extra space, although most are well within their flood control parameters.
- DWR has been working with the National Oceanic and Atmospheric Administration (NOAA) and Scripps on the hydrometeorological test bed. One outcome is the ability to better monitor atmospheric rivers – a confluence of storm systems with very intense moisture from across the Pacific, that usually combine to produce very intense storms.
- The Knights Landing Gate fall Rehabilitation Project should be completed next year.
- In addition to Hydrology & Flood Operations' own data gathering done through inspection, they have made a point of gathering all possible information from other DWR programs and the Corps to identify areas where there are specific problems that warrant further consideration.
- The Flood Operations section, working with the Maintenance section and others, has streamlined threat assessment. They will be briefing the LMAs so that they know what to look for, when to call DWR, what kind of words to use, and what kind of information to gather to make the DWR responses more appropriate and helpful.
- The Flood Operations Center held eight preseason meetings with local responders around the state.
- New staff have been gaining experience with small events and with Golden Guardian. Further training continues, for example with an ICT incident command team exercise the previous week. An exercise is scheduled with the resource agencies – Fish and Game, Fish & Wildlife Service, and NOAA Fisheries – later in the month.

President Carter asked about material staging for flood fighting materials. Mr. Hinojosa replied that everything deployed before has either been replaced or returned to the warehouses. Some of it is in large containers that they can move relatively quickly into trucks.

Secretary Hodgkins asked about the DWR card containing the updated phone numbers. Mr. Hinojosa responded that they are available and Mr. Punia will be distributing them.

Board Member Suarez asked about any concerns that are new for this year. Mr. Hinojosa said that from a broad perspective, there may be a sense of complacency from people not having seen the rivers rise quickly in the last several years.

## 6. INFORMATIONAL BRIEFINGS

### **Overview of the Delta Plan and schedule for release of future drafts and documents**

Mr. Keith Coolidge, Delta Stewardship Council, spoke to the Board about the Delta Plan: its background, what it does, and how it works with DWR and CVFPB.

Delta Plan background:

- The Delta is a hub of water systems upon which 27,000,000 Californians depend for at least part of their drinking water.
- Over 3,000,000 acres of agricultural land are irrigated by Delta water.
- For flood protection, we have straightened many of the Delta channels, and in the process, altered or destroyed much riparian habitat.
- As the Central Valley became an agricultural center and also home to numerous urban centers, pollutants and urban runoff have found their way to the Delta.
- Native fish populations are crashing, although they came up a little bit this year.
- There are systemic problems and ecosystem degradation. The flood risk remains very high in the Delta. There are a lot of quality problems, among them the pollutants and the fluctuating salinity.
- The stakes are high: there's a tremendous risk to California's economy, the environment, the agricultural environment, and Delta residents.

What the Delta Plan does:

- The Delta Stewardship Council and the legally enforceable Delta Plan were created to take a holistic view of the Delta's problems.
- The Delta Plan made some landmark changes to California water management, establishing coequal goals – putting the protection of the ecosystem on equal footing with water supplies.
- It requires reduced reliance on the Delta for future water supplies.
- It put in place a seven-member independent council with actual authority to achieve the coequal goals.
- The fifth draft of the Delta Plan, now out for environmental review, has 12 enforceable policies. It also makes 61 recommendations.
- It performs a synthesizing and coordinating role among the various agencies.

- The Delta Stewardship Council ensures that the best available science informs all processes and projects. It serves as an independent decision-making body to mediate the State's interests, rather than perpetuate California's water wars.
- The Delta Plan builds on much of the work that has gone on before. It lays the groundwork for near-term actions.
- The Bay-Delta Conservation Plan (BDCP) will be a part of the Delta Plan. It also takes into account the CVFPP and a host of other plans that are underway in various State and federal agencies.
- It will contain a set of integrated and legally enforceable regulatory policies that apply to certain proposed projects in what are known as "covered actions."
- The Delta Plan does ten things:
  1. It sets deadlines for completion of the BDCP and for the State Board to update the flow standards.
  2. It protects high priority restoration areas.
  3. It preserves and protects critical floodplains and encourages levee setbacks.
  4. It intends to reduce risk by requiring new development to have adequate flood protection and levees.
  5. It looks at increasing water supply reliability by requiring users of Delta water to implement local plans to increase reliability and reduce pressure on the Delta.
  6. It improves transparency by requiring that transfers of Delta water and contracts for Delta water be negotiated in an open process.
  7. It intends to reduce stressors with specific recommendations that will address the toxics, nutrients, and invasive species.
  8. It requires adaptive management for significant ecosystem and water management projects – which is difficult.
  9. It tries to ensure fairness by using financing principles of beneficiaries pay and stressors pay.
  10. It recognizes that all actions have to be done in a manner that protects and enhances the Delta as an evolving place.
- The Delta Plan has three policies for risk reduction:
  1. River channels and adjacent floodplains in the Delta must not be diminished.
  2. Land uses in the Delta must be consistent with the level of protection provided by surrounding levees.
  3. The Delta Stewardship Council will work with DWR to develop a framework and begin to prioritize the levee investments that are part of the subvention program.



- The fifth draft of the Delta Plan was released in August. It is the product of thousands of public comments, as well as the best available science and information.
- The Delta Plan is an intent to set a common-sense path forward, focusing on action.
- The Legislature requires that it be updated every five years at least.
- The EIR comments period is open now and lasts until February 2. The sixth draft will be out in March. The final Delta Plan will be adopted in late spring of 2012, with implementation probably by late summer of 2012.

In response to a question from Board Member Brown, Mr. Coolidge stated that since Decision 1641 there was also the passage of the federal Central Valley Project Improvement Act. A series of biological opinions have further restricted the ability to move water at times to try to stop some of the reverse flows on old and middle rivers for the benefit of fish. Some people really want a way to get back to the kinds of levels that they had negotiated in Decision 1641, if they could address some of the other problems and remove some of the other stressors that might be impacting water. This is the reason for the BDCP.

Secretary Hodgkins commented about the term “enforceable policy” – the Board has learned that they have to put it into regulations before they have anything that’s enforceable. Mr. Coolidge agreed. With adoption of the Delta Plan, the policies go to the Office of Administrative Law (OAL) for separate hearings. The OAL makes the recommendations for how the policies become enforceable.

Board Member Suarez expressed concern that input that CVFPB staff and Board Members were engaged in providing to the Delta Plan process seemed to be disregarded or misplaced. Mr. Coolidge stated that the Delta Plan has been undergoing a very condensed process to try to move through five drafts over the past nine months. As comments are coming in, staff is already starting to work on the next draft.

He explained that comments that the Board makes on Draft 1 probably don’t get reflected until Draft 3. Also, some comments are accepted, some are modified, and some conflict and are not necessarily incorporated.

In response to questions from Vice President Rie and Secretary Hodgkins about encroachments on the Yolo Bypass, Mr. Coolidge said that the issue requires further discussion before Draft 6 comes out. His response to the concern that the flood control function doesn’t get compromised in adding ecosystem function, was that it makes sense for ecosystem restoration to mesh with the natural hydrologic patterns, which include flood. Flood control is a compatible use for the bypass.

In response to a question from Board Member Brown about the authority of the Delta Stewardship Council’s recommendations, Mr. Coolidge informed him that this body was set up as an independent State agency. It has its own authority to go ahead for implementation purposes, however, it cannot set water standards.

President Carter noted that the Delta Plan addresses the Delta subventions investment priorities, but the CVFPB does that on a regular basis annually – a complete duplication. The two groups need to coordinate in this matter.

## 7. REPORT OF ACTIVITIES OF THE EXECUTIVE OFFICER

Mr. Punia, Executive Officer, gave a report. Below are highlights.

- The EIR comment period is open now and lasts until February 2. The sixth draft will be out in March. The final Delta Plan will be adopted in late spring of 2012, with implementation probably by late summer of 2012.
- Michael Wright has been hired from DWR to act as Chief of the Encroachment Control and Land Use Section. He will be a Senior Engineer.
- Recently the Natural Resources Agency has requested that all the departments, boards, and commissions under its jurisdiction look at their funding and their program to see if they can attain additional efficiency and reduce reliance upon the General Fund.
- Staff concluded that charging fees for encroachment permit applications would offset some amount of obligation on the General Fund. Staff has asked its counsel, Deborah Smith, to look into this. As this would be a major policy change, staff asked for input from the Board before submitting the proposal to the Resources Agency.
  - Board Member Moffatt suggested a fee on appeals to an enforcement order.
  - Board Members Brown and Villines felt that a thousand dollar fee was somewhat steep and would be prohibitive for some people.
  - Board Member Rie commented that if people were charged a fee, they would have a higher expectation for a quick turnaround.
  - Board Member Suarez commented that not all encroachment permits are the same in scale. Some are humongous projects while some are small homeowner projects.

Executive Officer Punia stated that he would report to the Resources Agency that the Board directed staff to look into the matter in more detail before coming up with any definite recommendation.

President Carter suggested for staff to look at the expense side in addition to the revenue side.

- On the Small Erosion Repair Program, there were some issues between the DWR proposal and Board staff. They were working together to resolve it.
- The environmental staff had reviewed the Central Valley Flood System Conservation Strategy Funding Guidelines and they had provided comments. They were also reviewing the Delta Plan Program EIR and the BDCP Fish Restoration Program Agreement Implementation Strategy.

- Recently the Central Valley Joint Venture had sent a letter to staff expressing major concerns about their process and the Corps' review of permit applications. Mr. Punia and Mr. Marino were trying to schedule a meeting with them involving the Corps.

Board Member Suarez commented that the issue of the CVFPB permitting process treating all projects the same is a real one that the Board has been talking about for several years. She hoped the Board would be able to address it in the Tier 3 updates of CVFPB regulations.

- The High Speed Rail Authority presented a pre-application bridge design that will cross the San Joaquin River next to Highway 99 in Fresno County, the first of many applications. Staff is working to expedite the permits.
- On the San Joaquin River Restoration Program, staff and Board members participated in a meeting with the National Marine Fisheries Service regarding introduction of spring-run Chinook salmon into the San Joaquin River under Section 10(j) of the U.S. Endangered Species Act.
- Staff has updated the CVFPB website using input from several Board members to make it more user-friendly. This will be an ongoing effort.

Mr. Taras reported on enforcement activities of the Branch for Enforcement and Permitting.

- Staff had voluntary compliance on a number of Notices of Violation (NOVs) identified by the Corps periodic inspections.
- Staff obtained compliance on 15 of 30 NOVs issued on the Feather River west bank levee between Star Bend and Thermalito Afterbay. Staff had held an all-hands meeting in May asking LMAs to work with landowners to obtain restoration of levees. They worked together to restore levee slopes, fix pipes, and remove blockages of the pipe passage.
- Staff obtained compliance action voluntarily from the City of West Sacramento. Staff worked with State Lands Commission to obtain concurrence from them to allow West Sacramento to remove a sinking dock that fronts the Ziggurat Building.
- Staff inspectors oversaw the completion of a critical levee repair under the Interstate 5 bridge that crosses the Calaveras River in Stockton. Mr. Taras showed photos of this effort.
- Staff received a compliance report from the Corps for the levee systems in RD 784, which protects the communities of Olivehurst, Linda, and Plumas Lakes. The system was found to have unacceptable violations; Ms. Meegan Nagy of the Corps stated that RD 784 was working with the Corps on repair. An enforcement hearing would be held that afternoon.

Secretary Hodgkins commented that DWR staff had mentioned to him that the NOVs are really making a difference.

Board Member Suarez mentioned that beginning in 2012, for six months, Board meetings would be partly consumed by the review of the flood plan, and for Mr. Taras and Mr. Punia to plan accordingly.

Mr. Butler gave an update on the permits, summarized below.

- The improved intake process is having a pronounced effect.
- The two new engineers, Martin Janolo and Ashley Cousin, have been successfully handling the intake process since the summer and have helped to refine it.
- Staff has been working with the applicants from the very beginning of the process, educating them to give more complete applications up front.
- Another reflection of the improved intake process is that the number of projects that the Corps had were sometimes in the high teens.
- David Williams and his staff are working with CalTrans, trying to improve their understanding of the permitting process so that they can move a high number of bridge applications through the system more cleanly.

**8. CONSENT CALENDAR**

**A. Permit No. 18313-2-1, West Sacramento Area Flood Control Agency (*Moved to Hearing*)**

**Consider approval of Permit No. 18313-2-1 to plant mitigation plantings for “The Rivers” and “Riverwalk” projects along the Sacramento River. (Yolo County)**

**B. Permit No. 18353-1, Caltrans District 6**

**Consider approval of Permit No. 18353-1, to install an irrigation system and plant trees to replace vegetation removed during construction of a State Route 198 widening project approved under Permit No. 18353 within the Cross Creek Designated Floodway. (Kings County)**

**C. Permit No. 18663, California Department of Transportation, District 10, North Fork Littlejohns Creek**

**Consider approval of Permit No. 18663 to widen existing bridge within the median to provide an additional lane and shoulder in each direction; replace concrete slope protection. (San Joaquin County)**

**D. Permit No. 18664, California Department of Transportation, District 10, South Fork Littlejohns Creek**

**Consider approval of Permit No. 18664 to widen existing bridge within the median to provide an additional lane and shoulder in each direction; place rock slope protection in the north abutment. (San Joaquin County)**

**E. Permit No. 18687, City of Madera Parks Department**

**Consider approval of Permit No. 18687 to construct a bike pathway along the south bank and a small portion within the river bed at bridges traversing**

from east to west, as part of the North School Fresno River Bridge undercrossings. (Madera County)

**F. Permit No. 18691, Fresno County Office of Education**

Consider approval of Permit No. 18691 to construct a plant nursery and garden area within a 40x23.33-foot wood-framed potting shed supported by twelve 4x4-inch #2 posts and draped within shade cloth as part of the Scout Island Outdoor Education Center within the San Joaquin River Designated Floodway. (Fresno County)

**G. Schedule for Central Valley Floodplain Evaluation and Delineation Program  
(Moved to Hearing)**

Pursuant to Senate Bill 5, consider approval of Resolution No. 11-29 to approve the current Schedule for the Central Valley Floodplain Evaluation and Delineation Program.

*Upon motion by Board Member Suarez, seconded by Vice President Rie, the Board voted unanimously to approve the items on the Consent Calendar.*

Executive Officer Punia acknowledged the efforts of the Corps and CVFPB staff to get the permits B, C, and D approved. It was critical for CalTrans to get the approvals, and their management is extremely pleased as they can now receive substantial grants which would have been lost with any time delay.

**9. BOARD SPONSORED PROJECTS AND STUDY AGREEMENTS**

**A. Central Valley Integrated Flood Management Study**

Consider approval of Resolution No. 11-28 to:

1. Approve Amendment No. 1 to the Central Valley Integrated Flood Management Study Feasibility Cost Sharing Agreement (FCSA) among the U.S. Army Corps of Engineers, the Department of Water Resources, and the Central Valley Flood Protection Board in substantially the form attached hereto.
2. Delegate to the Board President the authority to execute the amendment in substantially the form attached hereto.

Christopher Williams of the Central Valley Flood Planning Office gave a presentation. Below are highlights.

- This study is important to the overall CVFPP and FloodSAFE efforts, and the tie-in with the CVFPP release at the end of December.
- The Central Valley Integrated Flood Management Study (CVIFMS) is going to define the federal interest in components of the State system-wide investment approach. It is the primary vehicle for moving the approach as it appears in the plan to Congress for authorization and ultimate implementation of many improvements.

- Participating in the study with the Corps is a very important process to maximize federal participation and funding in the CVFPP.
- Mr. Williams provided a timeline of the study.
- As well as identifying the federal interest in the components of the State system-wide investment approach, Amendment 1 is the broad scope of improvements within the Central Valley from a federal perspective and interest.
- The type of work that they will be able to contribute as in-kind work for this study are hydrology, improvements to reservoir operations, the hydraulics of channel evaluations, system levee performance, floodplain hydraulics, economic damages, ecosystem functions, life safety and other benefits, preliminary designs and costs, and communication and engagement with the Corps.
- State/federal partnership benefits are information sharing to ensure consistency and coordination, interagency technical work groups, planning and strategy workgroups and coordinated public outreach, funding leverage, and efficiency in project implementation.

Secretary Hodgkins voiced concern with the assumption that everything the State contributes will be credible from in-kind service. Mr. Williams replied that it looks like they will have more than enough that they can claim for in-kind work, but if they had to use funds, it would probably come from bonds.

Board Member Brown requested to see a side-by-side diagram of the task items proposed to be completed by the Corps.

*Upon motion by Vice President Rie, seconded by Board Member Suarez, the Board voted to approve Resolution No. 11-28, and to delegate to the Board President the authority to execute the amendment in the staff report. The vote was six ayes; Board Member Villines was not present.*

**B. American River Watershed, Folsom Dam Modification – Joint Federal Project (JFP)**

**Consider approval of Resolution No. 11-30 to:**

- 1. Approve Amendment No. 3 to the Project Cooperation Agreement (PCA) authorizing the acceleration of funds to the U.S. Army Corps of Engineers (Corps) in an amount not to exceed the current estimate of the non-federal sponsors' required cash contribution for the JFP, less any funds previously contributed, for the immediate use by the Corps.**
- 2. Delegate to the Board President the authority to execute the amendment in substantially the form attached hereto.**

Kent Zenobia, DWR Project Delivery Branch Chief, gave a presentation. He described the project as one of five mega-projects – almost a billion dollars – that the Corps has nationwide.

The project is for the design and construction of the JFP to meet the local objectives of Folsom Dam. It will improve and manage large flood events by lowering the spillway

approximately 50 feet, that will allow release of more water earlier and not waste it if a storm does not materialize.

The current intent was to look to accelerate the amount of State funds they could provide to the Federal Government because of the federal budget shortfall. The amount would not exceed the current estimate of \$833 million.

Brandon Muncy of the Corps gave a review of the process to date.

Members of the Board expressed several concerns. Secretary Hodgkins pointed out the potential for this process to affect the appropriation process in Washington. He suggested for DWR to acknowledge a willingness to get the Board's approval when they wanted to make an advance of additional funds to the Corps.

Vice President Rie asked about SAFCA not participating in the advance of funds. Mr. Zenobia explained that presently they have a cash-flow situation.

Vice President Rie also asked about the difference of about \$4 million between the President's budget and the Congress' budget.

Board Member Moffatt pointed out that in the language of the amendment, there was no time limit. He also established with Jeremy Goldberg, DWR Staff Counsel, that SAFCA did not want to be included in the component of being able to advance or accelerate money. An amendment would have to be made in the future to allow SAFCA to do that.

Board Member Villines inquired about what would happen if the Congressional budget went to zero; what would the lost opportunity cost be? Lee Bass of the Corps answered that if the project were to shut down, the cost would be millions. The federal government doesn't want that to happen either; they have some discretionary funds to try to use for keeping the project going.

Board Member Suarez proposed changing the resolution authorizing the signing of the agreement to reflect some limitation as to how many times we can go through this process. Secretary Hodgkins suggested adding a provision in the resolution that DWR would need to come back annually and obtain the Board's approval of whatever amount the advance would be for that year.

Secretary Hodgkins moved to approve the resolution with an amendment that reflects that DWR would come back annually, at least, and get the Board's approval before advancing money in excess of \$9 million.

President Carter instructed staff to work on a new resolution having correct wording that the Board could address and approve cleanly after the lunch break.

**(13.) CLOSED SESSION**

The Board recessed into Closed Session at 12:45 p.m., reconvening into Open Session at 1:50 p.m.

**10. HEARINGS**

**A. Enforcement Hearing for Susan LaGrand (Enforcement Action 2011-287)**

**Enforcement hearing regarding the Notice of Violation sent to Ms. Susan LaGrand for the removal of existing encroachments including a portion of a permanent structure located on State of California, Sacramento and San Joaquin Drainage District property and right-of-way, on the landside of the Feather River east levee in West Linda, CA. (Yuba County)**

**B. Proposed Enforcement Order 2011-268 for Mr. Michael King ordering the removal of unauthorized encroachments on State property**

**Consider approval of Enforcement Order 2011-268 for removal of existing encroachments located on State of California, Sacramento and San Joaquin Drainage District property and right-of-way, on the landside of the Feather River east levee in West Linda, CA. A Notice of Violation was issued to Mr. Michael King on August 5, 2011 however, he did not request a hearing in response to the issued Notice of Violation. (Yuba County)**

**C. Enforcement Hearing for Carol Miller (Enforcement Action 2011-272)**

**Enforcement hearing regarding the Notice of Violation sent to Ms. Carol Miller for the removal of an existing fence located on State of California, Sacramento and San Joaquin Drainage District property and right-of-way, on the landside of the Feather River east levee in West Linda, CA. (Yuba County)**

**D. Proposed Enforcement Order for 48 Notices of Violation issued for the removal of unauthorized encroachments and fences on State property**

**Consider enforcement order authorizing the removal of existing encroachments located on State of California, Sacramento and San Joaquin Drainage District property and right-of-way, on the landside of the Feather River east levee in West Linda, CA, for 48 respondents who did not timely request a hearing in response to the Notices of Violation sent to them. (Yuba County)**

Ms. Caliso, Staff Engineer, introduced the item. She showed its physical location, cited the applicable codes and regulations, listed the actions taken up until the present, and gave a timeline of the history of the property.

Max Steinheimer, Downey Brand, commented on the essential legal issues, noting that there had been no written agreement between the railroad and the predecessor landowners.

Kevin Heeny, CTA Engineers & Surveying, gave an overview of the survey he had prepared that determined the encroachments that lay within State land.

Ms. Caliso stated that RD 784 was in support of the enforcement action. The Corps had rated the levee unacceptable due to some of the off-roading taking place from some of the private parcels.

The Board discussed the situation extensively, establishing that the issue was the ownership of that piece of land, with the property line beginning 20' from the levee toe as required by the permit.



Paul Brunner, Executive Director for Three Rivers Levee Improvement Authority (TRLIA), addressed questions regarding the patrol road on the levee and measurements from the levee toe.

The property owners were concerned because the fence had been in place beginning in 1939. Susan LaGrand, one of the property owners, provided a history of the fenceline on her family's property. In 1984 her stepfather had taken out a permit to build his shop on land that was now in question. Shortening the building as Ms. LaGrand was now being requested to do would cost approximately \$10,000.

Steve Fordice, RD 784 General Manager, showed photographs of the levee area in question, and spoke about maintenance and problems. Mr. Brunner showed additional photographs and provided dimensions. He noted that the issue was not the levee corridor – it was the property rights, and the land was found to be State property.

Scott Shapiro, General Counsel for TRLIA, stated that TRLIA could live with whatever is necessary for RD 784 to have its O&M ability; they were willing to accommodate as best they could.

Ms. Nagy stated that from the Corps' perspective, it appeared that the structures were within the right-of-way or fee-owned land from the State. At a minimum, an encroachment permit would need to be reviewed by the Corps to make a determination on any and all of the space.

She stated that the Corps supported the 20' urban levee design criteria; the maintenance corridor was critical. She also stated that RD 784 was active and doing a good job maintaining the levee.

Carol Miller, property owner, shared research she had done refuting the survey results. Phillip Miller, her brother, reviewed the history of the land's development. He stated that the property should be measured from the centerline of the railroad rather than the tow, which would put it back eight or nine feet.

President Carter stated that it appeared that some sort of agreement could be reached in which the State authorizes TRLIA to build a fence at the 20' line that avoids the shop building on Ms. LaGrand's property, and then resolves the issues regarding the property lines. The LMA and the State could have the 20' of access along the levee toe without causing the removal of the shop building.

Board Member Moffatt addressed the only other permanent structure in question: the house owned by Mr. Miller. It encroached onto State land only about 1.5'. President Carter noted that it appeared that there was clearance to establish a 20' maintenance access on the landward side toe.

Executive Officer Punia stated that after conferring with counsel, the staff proposal was to return in January. The main issue was the encroachment on State property. Staff would discuss this subject with counsel and return next month with a recommendation.

Robin Brewer, DWR staff counsel, agreed that the issue could be resolved without potentially moving the shop building. However, the encroachment evidence was clear; there were some legal and real estate issues that needed to be resolved.

Mr. Shapiro summarized that TRLIA could live within the 20' and the fence could be built. But at this point there was no final determination as to the property dispute.

Ms. LaGrand stated that she was amenable to this new proposal, as did Mr. Miller and Michael King, another property owner.

Vice President Rie pointed out that the State of California's right-of-way maps had not been referenced.

Mr. Heeney stated that he had reviewed all the maps available with county records, as well as the railroad right-of-way maps. His opinion was that they had done the research and identified that the deed matched the subdivision map, and that the map he had prepared showed the correct property line. It had been reviewed by the County Surveyor's Office as well.

*Upon motion by Board Member Moffatt, seconded by Board Member Suarez, the Board voted to make a determination that the encroachments are on State property and to direct staff to work with TRLIA and the property owners to resolve the disposition of the property and the encroachments on the State property, and to resolve the ownership consistent with existing law, by the next Board meeting on January 27; staff will work with DWR Real Estate and Right-of-Way on this issue; the enforcement orders on the 51 properties will be stayed pending resolution of those negotiations. The motion carried by a vote of five ayes and two nays.*

**E. Permit No. 18690 Three Rivers Levee Improvement Agency – Postponed**

**Consider approval of Resolution No. 11-31 granting authorization of protested Permit No. 18690 to install chain link fencing, K-rails, and a maintenance road on State of California, Sacramento and San Joaquin Drainage District property and right-of-way, on the landside of the Feather River east levee and Yuba River south levee in West Linda, CA. (Yuba County)**

**F. Adoption of California Code of Regulations Title 23 Revisions Rulemaking**

**(Necessary only if additional written comments are received by November 18, 2011.) – Not Necessary**

**Hearing to accept public comments and consider adoption of the Tier 1B Revisions to Title 23 of the California Code of Regulations, as published in the California Notice Register. The proposed regulatory amendments address new California laws regarding added enforcement authority and delegated authority to the Executive Officer for permitting, as well as other substantive and non-substantive changes.**

**9B. American River Watershed, Folsom Dam Modification – Joint Federal Project (JFP) – Continued**

Staff supplied the Board members with a revised resolution. Mr. Goldberg read it as follows:

“Directs program staff to consider approval of the acceleration of funds pursuant to the terms of Amendment No. 3 up to \$9 million for Calendar Year 2012, with the understanding that any further acceleration of funds pursuant to Amendment No. 3 shall require program staff to obtain prior Board approval.”

*Upon motion by Board Member Suarez, seconded by Vice President Rie, the Board voted unanimously to approve the staff recommendation given above.*

**8G. Schedule for Central Valley Floodplain Evaluation and Delineation Program  
(Moved from Consent Calendar to Hearing)**

**Pursuant to Senate Bill 5, consider approval of Resolution No. 11-29 to approve the current Schedule for the Central Valley Floodplain Evaluation and Delineation Program.**

Board Member Suarez pointed out that she felt it important for the Board to have a summary and discussion of this item.

Dave Wheeldon, DWR Floodplain Evaluation Branch Chief for the Division of Flood Management, provided an update to the schedule of the project as mandated by Water Code Section 8612. Below is a summary.

- The Central Valley Floodplain Evaluation and Delineation Program (CVFED) consists of three major projects: topography acquisition, hydraulic evaluation, and floodplain delineations where they are creating the maps.
- The intent of the CVFED program is to identify the areas at risk of flooding that are protected by the State Plan of Flood Control.
- Currently they are wrapping up topography acquisition, which is a major program for the Central Valley. They are getting a detailed one-foot contour of the Central Valley.
- For the hydraulic evaluation, they are using the topography data to create hydraulic models of the rivers and tributaries as well as the floodplains.
- The intent of the final part of the program – the actual delineations of the floodplains – is to identify the maximum areas of risk.
  - They are taking into consideration the FEMA guidelines as well as the Corps guidelines so that both of those entities can use the CVFED products to serve their own needs.
  - This portion of the program is estimated for completion at the end of 2012.
- They have had some internal difficulties managing the workload because of the recent State agency furloughs and budget problems.

Board Member Suarez asked about statutory deadlines. Mr. Wheeldon replied that in addition to the reporting deadline, they have other deadlines that are more contingent upon the uses of their product. They will not have the CVFED completed in time for the 2012 release of the CVFPP, but the 2017 release of the CVFPP will be built on CVFED results.

Mr. Wheeldon went on to say that the communities are under the requirement for 2015 to have their 200-year protection. The CVFED schedule is set to support that; it takes FEMA about two years once they receive the CVFED maps to have those produced into something usable for the communities.

*Upon motion by Board Member Suarez, seconded by Board Member Brown, the Board voted unanimously to approve Resolution No. 11-29 to adopt the current schedule of the CVFED program.*

**8A. Permit No. 18313-2-1, West Sacramento Area Flood Control Agency (Moved from Consent Calendar to Hearing)**

**Consider approval of Permit No. 18313-2-1 to plant mitigation plantings for “The Rivers” and “Riverwalk” projects along the Sacramento River. (Yolo County)**

Mr. Williams gave a presentation; below are highlights.

- This portion of that 408 project was under 208.10 with the Corps or 408 minor modification of the levee.
- The work that will go on under this proposed permit is vegetative mitigation planting and irrigation works on the Sacramento River at the river’s development in West Sacramento.
- Mr. Williams described the plantings for the mitigation.
- He explained the hydraulics in this area which are very complicated.
- Presently, the levee work under the 408 project is coming to an end. In the next few weeks they will be doing a job walk and finalizing everything except the mitigation work and irrigation work.
- Accordingly, it’s very critical that they proceed with allowing this 208 project to be done by West SAFCA for the end of December/early January.
- The staff recommendation was that the Board adopt the CEQA findings and approve Permit No. 18313-2 – they had Corps approval and a Letter of Permission – and to direct staff to file a Notice of Determination with the Clearinghouse.
- The applicant, Derek Larsen of MBK Engineers, stated that the plantings for this project mitigate for the river’s levee improvement project in addition to a portion of work that was completed on their Riverwalk trail in the bridge district for West Sacramento.
- He noted that the plantings are essentially in an effective flow area. It is a very large waterside berm.

Vice President Rie asked about requirements for a long-term management plan. Mr. Williams responded that they are in the environmental documents. In the permit, there is a condition that an O&M plan shall be developed and provided to the Board for approval prior to planting.

Mr. Williams stated that they had just received a letter from the Corps, stating that the District Engineer had no objection to approval of the application by the Board from a flood control standpoint, subject to eight conditions which Mr. Williams read aloud to the Board.

The Board Members discussed the permit and decided to amend it to include a specific permit term that addresses the vegetation management plan having to come back to the Board for approval, and that work does not commence until that happens.

Vice President Rie asked when the Board would be approving the long-term management plan. Mr. Larsen responded that the goal was to establish a mitigation as soon as possible – in all likelihood that would be April at the earliest. Dave Shpak, City of West Sacramento, stated that they would aim to bring the plan to the Board in February for approval.

President Carter made clear that the Board's concern was that the plantings be managed in the long run. Executive Officer Punia stated that staff will ensure in the future that when presenting mitigation projects, they will have a long-term plan.

*Upon motion by Board Member Suarez, seconded by Vice President Rie, the Board voted unanimously to approve Permit No. 18313-2-1 with the condition that the long-term management plan must come back to the Board for approval.*

#### **11. BOARD COMMENTS AND TASK LEADER REPORTS**

- Board Member Moffatt stated that this was his last Board meeting. He had very much enjoyed working with Board and staff, and wished them luck with monumental task of the CVFPP.
- Board Member Brown had attended the National Marine Fishery Service meeting with Secretary Hodgkins. The speaker gave a good progress report on the San Joaquin River restoration.  
He had attended the open house for RD 1000, also with Secretary Hodgkins.  
He planned on attending the upcoming DWR Conservation Strategy in Modesto.
- Vice President Rie requested for Mr. Marino to schedule a conference call with herself and Board Member Villines before staff finalized the comments on the Delta Plan EIR.
- Secretary Hodgkins commented regarding the meeting with the National Marine Fishery Service: they were doing an incredible job of trying to help people understand what it would mean to have the experimental species status put on the salmon when they are restored in the San Joaquin.
- Board Member Suarez had been working on the planning process for the CVFPP. In the next couple of weeks they will focus on Tier 2; she, Mr. Butler, and Secretary Hodgkins will meet and start working through the comments.
- Board Member Villines had continued work on the flood plan.

He noted that working with Board Member Moffatt in the State Legislature and the administrations has always been a pleasure and a real growth experience.

- President Carter had worked with the Roundtable, discussing the working draft and, in particular, vegetation. In conversations with Colonel Leady and DWR staff, they all indicated that DWR was including some language that helped the Corps become comfortable with the eventual compliance of the system to the engineering technical letter standards.

Since then, all discussions have ended among the steering committee as well as the Roundtable because of the intervention by the California Department of Fish and Game and the Friends of the River lawsuit.

President Carter has been working closely with Ms. Pendlebury on the brochure for the upcoming centennial celebration. He was enthusiastic about this ten-page document as a polished piece for the CVFPB.

## 12. FUTURE AGENDA

Board members discussed the schedule for the January meeting, which was looking to be a full day Thursday and a full day Friday.

## 13. CLOSED SESSION

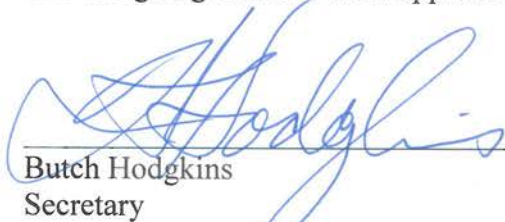
(The Board had met in Closed Session during the lunch hour.)

## 14. ADJOURN

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

Dated: 26 JANUARY 2012

The foregoing Minutes were approved:

  
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Butch Hodgkins  
Secretary

  
\_\_\_\_\_  
Benjamin F. Carter  
President