

MINUTES
MEETING OF THE CENTRAL VALLEY FLOOD PROTECTION BOARD
June 24, 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 June 24, 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
Ms. Teri Rie, Vice President
Mr. Butch Hodgkins, Secretary
Mr. John Brown
Mr. John Moffatt
Ms. Emma Suarez
Mr. Mike Villines

The following members of the Board staff were present:

Mr. Jay Punia, Executive Officer
Mr. Len Marino, Chief Engineer
Mr. Curt Taras, Supervising Engineer
Mr. Eric Butler, Senior Engineer
Ms. Mitra Emami, Senior Engineer
Ms. Nancy Moricz, Staff Engineer
Mr. Jon Tice, Staff Engineer
Ms. Amber Woertink, Office Technician
Ms. Deborah Smith, Legal Counsel

Department of Water Resources (DWR) staff present:

Mr. Gary Bardini, Chief, Division of Flood Management
Mr. Noel Lerner, Chief, Flood Projects Office
Mr. Paul Marshall, Assistant Chief, Flood Management Division
Mr. Mike Mierzwa, Supervising Engineer

Also present:

Mr. John Cain, American Rivers

Ms. Susan Dell'Osso, River Islands
Ms. Jessica Ludy, American Rivers
Mr. Ryan Luster, The Nature Conservancy
Mr. Scott Miller, North Valley Building Systems
Ms. Meegan Nagy, United States Army Corps of Engineers
Mr. George Nicolaus, Nicolaus Nut Company
Mr. John Nock
Mr. Michael Nordstrom, Triangle T Ranch
Mr. Shawn O'Brien, Butte County
Mr. Jack Phelps
Mr. Dick Schafer, Harman & Menefee
Mr. Thomas W. Smith, RiverSmith Engineering
Mr. Michael Tharp, Harman & Menefee
Ms. Kathryn Tobias, California State Parks
Ms. Jeanne Zolezzi, John Hancock Life Insurance

1. ROLL CALL

President Carter welcomed everyone to the meeting. He requested Executive Officer Punia to call the roll. All Board members were present.

2. APPROVAL OF MINUTES

Upon motion by Secretary Hodgkins, seconded by Board Member Brown, the Board unanimously approved the Minutes for April 22, 2011.

3. APPROVAL OF AGENDA

Executive Officer Punia stated the staff recommendations that Item 7E be postponed per the applicant's request, and that Item 8B be moved to an informational briefing.

Upon motion by Board Member Brown, seconded by Secretary Hodgkins, the Board unanimously approved the agenda as amended above.

4. PUBLIC COMMENT

Ms. Meegan Nagy, U.S. Army Corps of Engineers (the Corps), informed the Board of a letter the Corps had received from Headquarters that week. The letter gave approval for the West Sacramento 408 request, both the CHP Academy and The Rivers.

Within the approval was a paragraph including the language, "Until the potential cumulative effects of numerous levee alterations and related actions in the region are described in a programmatic NEPA document, we will be hesitant to approve additional 408 requests for alterations to federal flood damage reduction projects."

Ms Nagy had initiated a request for a meeting to get further information on exactly what the language meant.

5. REPORT OF THE ACTIVITIES OF THE DEPARTMENT OF WATER RESOURCES (DWR)

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

- DWR was still watching and coordinating reservoir operations on the San Joaquin system. Mild temperatures and other circumstances had allowed that system to be managed well so far.
- Mr. Bardini and President Carter had met with the new Colonel Promotable Mike Wehr, the Division Commander of the South Pacific region. They were working with the Corps in coordinating another meeting with General Grisoli at Headquarters.
- The May meeting with RD 1001 afforded a good example of how local maintenance and operation of the system is done, and where the State needs to provide assistance. DWR was now coordinating with RD 1001 on their problems and the engineering solutions, so that the subject could be addressed in the Central Valley Flood Protection Plan (CVFPP).
- Next month DWR will talk about some of the key program policies related to the CVFPP with the Board.
- When that plan comes out at the beginning of next year, it will be going through the Board adoption process; also, budget documents that complement the plan will be going through the Legislature.

Discussions with the Legislature will begin on financing the flood control system in a more sustainable way in the long term.

Mr. Mike Mierza, technical lead for the Central Valley Flood Protection Plan, gave a presentation on the status of the plan's development. Below is a summary.

- He provided a timeline of items covered thus far.
- He described the two workshops held in West Sacramento and Stockton, whose purposes were to inform workgroup members and other interested individuals of the technical analyses supporting the development of the plan.
- He gave three example questions from people attending the workshops:
 1. A technical question: Why isn't climate change explicitly considered within the context of the plan?
 2. A plan development question: Are you going to have to modify the plan to incorporate new proposed projects?
 3. A coordination question: To what degree is the Army Corps of Engineers involved?
- He provided a plan development schedule for the future.

6. REPORT OF ACTIVITIES OF THE EXECUTIVE OFFICER

Executive Officer Punia reported on the following items.

- A new attorney, Mr. James Andrew, has been assigned to help Staff Counsel Deborah Smith. Mr. Andrew is with the Department of Attorney General.
- **The San Joaquin River Restoration project.** Several meetings have been held.

- Staff and Board Members Hodgkins and Brown participated in the briefing arranged by the U.S. Bureau of Reclamation and DWR.
- Staff and Secretary Hodgkins reviewed the Memorandum of Understanding which they are planning to sign with the U.S. Bureau of Reclamation for participating as a cooperating agency for compliance with the National Environmental Policy Act (NEPA).
- Staff is planning a visit to the San Joaquin River Restoration project site for August 12.
- **Abbott Lake.** The Board had issued a permit to the River Partners and the Department of Fish and Game, but LD 1 sued the Board, and as a settlement that application was withdrawn. Now, the River Partners are again working with the Board staff and LD 1, planning to submit another application.
- **The Central Valley Flood Protection Plan.** The 70% draft has been issued. Board staff is reviewing it with Mr. Dan Fua, Supervising Engineer, as the lead person.

DWR has developed teams to work on specific policies in the plan. One of the policies in which the Board has a key interest is the policy to evaluate the hydraulic impacts associated with the project modifications. Mr. Eric Butler, Senior Engineer, will participate with DWR in the development of this policy.
- **The CalTrans bridge permit application.** Many timebound applications are coming in from CalTrans for their bridge permits. The applications have grants associated with them.
- **The Delta Plan.** Board Members Rie and Villines, as well as Mr. Len Marino, Chief Engineer, are working with the Delta Stewardship Council, reviewing their drafts and providing comments.
- **Title 23 Regulations.** The Board has approved the proposed regulations for Tier 1B (which are based on Assembly Bill 1165). Staff has developed the Statement of Reasons, which go along with the regulations. Staff is ready to submit the packet to the Secretary of Natural Resources Agency.
- **The Section 104 Credit.** The Assistant Secretary of the Army has written a letter indicating that they will not entertain the Section 104 credit. Subsequently, local interests, the DWR, and Board staff are engaged in developing a white paper to highlight the issue.
- **The West Sacramento project.** The Corps has given 408 approval but has imposed additional conditions. Staff is looking into them.
- **The Cosumnes River Schneider and Hardesty mining operation.** Staff has received a geotechnical report and is reviewing it.
- **The RD 1001 levee crack.** Staff will continue to work with the Corps to explore the possibility of fixing the levee under Public Law 84-99.

- Mr. Punia included written reports for the Board on the following items to supply quick updates.
 - **Plan and schedule of enforcement activities.** Staff has developed a spreadsheet detailing the plan.
 - **The Sutter Bypass modeling effort.** Staff and the consultant are making excellent progress.
 - **Application No. 18166, Sacramento Regional Transit Application.** Staff and Regional Transit have agreed on what type of modeling runs are needed for the hydraulic evaluations.

Board Member Suarez requested that all the Board members be informed of the content of the Section 104 credit letter.

Mr. Butler briefed the Board on the permit applications backlog. He had tweaked the data to make it more understandable.

- A trending chart showed the monthly total of applications that are at the Corps. There were currently 53 applications, 10 of which had been previously approved by the Board conditioned upon the Corps response.
- Since the previous August/September, the backlog of applications has been cut by about half. Mr. Butler anticipated that slope continuing downward.
- Mr. Butler estimated that when staff receives an application that is deemed complete, a typical 208.10 permit can be processed through staff review, Corps review, and Board approval as quickly as 90 days, and on average 3 to 4 months.
- Currently there are 9 applications in the fresh in-box, 32 requiring further staff evaluation, 9 inactive that will probably be administratively closed, and 9 that have been accepted into the system and need more information to be supplied from the applicant. About 9 more applications will likely come to the Board as denial hearings.
- The Board had been willing to delegate some responsibilities to staff to issue certain types of applications without bringing them to the Board. This could improve the speed at which staff can get applications through the system

Board Member Moffatt inquired about the balance of time being spent on minor applications versus major applications. Mr. Butler responded that the charts showed an initial flood of problematic items that had been unchecked for quite awhile. In the future, a greater portion of staff time will probably shift from processing of routine 208.10 encroachment applications to enforcement and flood control improvements.

7. CONSENT CALENDAR

A. Permit No. 18650, Pacific Gas and Electric

Consider approval of Permit No. 18650 to authorize an existing power pole with aerial crossing and to install approximately 75-feet of buried electrical conduit to a waterside agricultural pump on the left (east) bank levee of the Sacramento River. (Sutter County)

B. Permit No. 18651, William and Sharon Giesbrecht (Postponed to Hearing)
Consider approval of Permit No. 18651 to construct a 50-foot by 75-foot pre-engineered steel building for agricultural equipment in the Butte Basin. (Glenn County)

C. Permit No. 18659, Yuba County Department of Public Works
Consider approval of Permit No. 18659 to authorize two existing traffic flashing beacon poles and approximately 771-feet of buried 2-inch diameter electrical conduit on the landside and over the left (south) bank levee of the Yuba River and inside the Yuba River Designated Floodway. (Yuba County)

D. Permit No. 18666, Occidental of Elk Hills, Inc. (OEHI)
Consider approval of Permit No. 18666 to remove and replace approximately four miles of 16-inch diameter high-pressure natural gas pipeline that is primarily above ground with the exception of approximately 1,800-feet that will be placed underground by horizontal directional drilling. In addition, remove two Natural Gas Liquid (NGL) pipelines (3-inch and 4-inch diameter) and replace with three NGL pipelines (two 4-1/2 inch diameter and one 6-5/8 inch diameter) NGL pipelines approximately 1.5 miles in length. Portions of the pipelines are adjacent to, cross over, and will be drilled under the Kern River Designated Floodway. (Kern County)

E. Operations, Maintenance, Repair, Replacement and Rehabilitation (OMRR&R), Three Rivers Levee Improvement Authority (TRLIA)
(Postponed)

Consider approval and execution of the Reclamation District 784/TRLIA OMRR&R Agreement for the Feather River and the Upper Yuba Levee Improvement Projects between the Central Valley Flood Protection Board and RD 784/TRLIA.

F. Southport Early Implementation Program (EIP) Project, West Sacramento Area Flood Control Agency (WSAFCA)

Consider approval of a letter from the Central Valley Flood Protection Board to the U.S. Army Corps of Engineers (Corps) to initiate a joint EIS/EIR for the Southport EIP (new EIP project) with the Corps acting as the lead agency on NEPA, and with WSAFCA acting as lead agency on CEQA.

The Board discussed with staff the jurisdiction issue of Item 7B.

Upon motion by Board Member Suarez, seconded by Vice President Rie, the Board voted unanimously to approve Consent Items 7A, C, D, and F with Board Member Moffatt recusing himself from Item 7A.

8. HEARINGS AND DECISIONS

A. Permit No. 9089-E, Jack Phelps

Consider approval of Permit No. 9089-E to replace existing clubhouse with a pre-manufactured clubhouse on the left (west) bank of the Feather River Designated Floodway. (Butte County)

Ms. Mitra Emami, Staff Senior Engineer, gave a presentation on the application. Below are highlights.

- She began by describing the location downstream of Oroville.
- She gave the background, including the construction and expansion of the RV park.
- A staff site visit had determined that the current clubhouse was in poor structural condition.
- Use of the U.S. Army Corps Decision Tree had determined that no hydraulic analysis was needed. Neither was a geotechnical analysis needed.
- The new structure can be properly anchored to prevent flotation during an extreme flood event. It will conform to current fire building and safety codes. It complies with Title 23, Sections 113 and 114.
- On January 4, 2011, staff received a Corps comment letter recommending denial of the application.
- On June 7, 2011, staff received another Corps letter stating that the location was upstream of the federal levees and channel.
- Staff thus concluded that the project was within the Board's jurisdiction to authorize whether it was permissible.
- The project was exempt from the California Environmental Quality Act (CEQA).

In response to a question from Secretary Hodgkins, Ms. Emami explained that an RV park is for temporary living, in contrast to a trailer park which is permanent.

Vice President Rie asked about an issue that has come up repeatedly: why the staff sends letters to the Corps for comments, when an encroachment is not within the Corps' jurisdiction. Ms. Emami responded that it ensures that staff is not overlooking any part that is within the Corps' jurisdiction. She added that Ms. Nagy had stated that the Corps would cause no repercussion for approving this permit.

Mr. Punia further explained that the Corps has an Executive Order which discourages development in the floodplains. They can only say that they have no objection to a project such as this; they cannot approve it.

Board Member Villines asked about legal issues should a problem occur in the future. The Board needs a clearer definition of when Corps approval is required.

Ms. Smith commented that there is information in the staff report that supports the 8610.5 findings for the Board to rely on, if it chooses approval.

Board Member Suarez asked why, if the Corps has no jurisdiction of the floodways, they are discouraging the project. Ms. Emami responded that while the Corps had written that allowing new structures within the floodway increases risk to both property and human life, this request was just to add a clubhouse not meant for residential purposes.

Secretary Hodgkins noted that the RV park was put into operation before there was a designated floodway. The Board now has regulatory control of the floodway, but doesn't compensate anyone for any use it might deny them of their property.

Board Member Moffatt established with Ms. Emami that from a public safety standpoint, the new structure would be better than the existing structure because it would be anchored properly and compliant with safety codes and building codes.

Mr. Jack Phelps, owner of the RV park, described the clubhouse location with respect to flooding, the nature of the RV park, and the nature of the clubhouse use.

Board Member Suarez commented that the Board should not ask the Corps for an opinion, whether they have jurisdiction or not, and then say to disregard the opinion if it's not favorable. Once the Board asks the question, it must prepare to address specifically the Corps concerns.

Upon motion by Board Member Brown, seconded by Board Member Suarez, the Board voted unanimously to adopt the staff recommendation, which includes adopting Resolution 11-14, determining that the project is exempt from CEQA, approving the Permit number 9089-E (modifying Condition 26 to delete the wording "during flood season"), and directing staff to file a Notice of Determination with the State Clearinghouse.

7B. Permit No. 18651, William and Sharon Giesbrecht (Moved from Consent Calendar)

Consider approval of Permit No. 18651 to construct a 50-foot by 75-foot pre-engineered steel building for agricultural equipment in the Butte Basin. (Glenn County)

Mr. Curt Taras, Staff Chief of Encroachments, described the project to the Board. Below is a summary.

- He showed an exhibit of the project location on the Sacramento River.
- The project was determined not to be hydraulically significant to the Butte Basin, as it blocked less than 1% of the floodway width.
- Staff has not yet received a Corps 208.10 comment letter.
- The Corps has asserted that it has jurisdiction of the area.

Discussion ensued about Corps jurisdiction. Board members noted that in the Butte Basin there are no federal levees, federal improvements, or flood easements. They doubted that the Butte Basin should be considered part of the flood control project.

Board members expressed the need to establish jurisdiction before giving conditional approval to the project. There was no member of the Corps present at the meeting at that point.

Mr. Scott Miller with North Valley Building Systems came forward to represent Mr. and Mrs. Giesbrecht. He stated that he has made applications on several projects up and down the Butte Basin the past several years. The structure for this project is just 50' x 75'. However, this is the first project that has been subject to Corps input.

Mr. Miller stated that he submitted the application in January for this small steel structure which is consistent with existing structures and uses in that area. It would be built above the base flood elevation. The owner was having a hard time grasping the delay.

Upon motion by Board Member Brown, seconded by Board Member Villines, the Board voted unanimously to approve the staff recommendation, and approve the permit with the removal of Condition 13 (having to do with transiting State-owned property) and Condition 20 (making it subject to a favorable Corps letter).

Mr. Miller had no objections to the Board's action.

9. INFORMATIONAL BRIEFINGS

8B. Permit No. 18576, California Department of Parks and Recreation (*Moved from Hearing*)

Consider Permit No. 18576 to restore a 43-acre parcel (Singh Unit) by removing berms, removing non-native vegetation and replacing with riparian vegetation and native grasses within the Sacramento River Designated Floodway on the left (east) bank of the Sacramento River. (Butte County)

Mr. Jon Tice, Staff Engineer, gave a presentation. Below are highlights.

- He gave the project location near Chico and also Hamilton City.
- The Singh Unit is part of a larger Bidwell-Sacramento River State Park System.
- The project directive from the application was to restore the natural topography and vegetation of the Singh Unit. The nearby confluence of Sacramento River, Mud Creek, and Big Chico Creeks make this site a good candidate for restoration. However, the same confluence makes it very sensitive to potential hydraulic changes.
- California State Parks started the encroachment process in 2008. The project was considered complete in February of 2010 for permit valuation. After the project was complete, adjacent property notification letters were sent out. Staff received seven protest letters, which expressed flood concerns.
- Mr. Tice gave the hydraulic analysis and the sedimentation and erosion analysis.
- He showed historical photos of the area including designated floodway maps. He then showed recent images from Google Earth.
- A letter from the Corps made no objection to the application as long as flood conveyance was not impacted.
- The Butte County Board of Supervisors voted not to endorse the project because it would convert prime agricultural land to non-agricultural use, and because of the uncertainty of annual maintenance funding from Cal State Parks to maintain the land.
- Mr. Tice listed the following staff concerns:
 - The applicant's hydraulic report did not use the State's 100 year design flow at 260,000 cfs for this reach of the Sacramento River.
 - The Peterson Addition has hydraulics connected to the Singh Unit, and affects the overall hydraulics of the area.

- Cal State Parks has not performed proper vegetation management on the Peterson Addition since acquisition.
- The proposed planting palettes need revision to better fit into existing agricultural land uses in the area as they are managed today.
- Mr. Tice gave eight specific suggestions on the project for Cal State Parks' consideration.

Board Member Brown asked why Cal State Parks wanted to change over this particular piece of ground to environmental habitat, when it would entail taking out of agricultural production a viable orchard that's fairly young, and making a payment capacity to the State of California. Mr. Tice said that possibly Cal State Parks wanted to incorporate this property and another, the Nicolaus property, together.

After perusing the protest letters, Board Member Suarez commented that the majority, if not all, did not have an objection to the removal of the berm; they were concerned about the vegetation. Mr. Tice agreed and said that most of the protesters made note of the potential of increased flooding, sediment deposition, and erosion resulting from conversion of the existing walnut orchard riparian habitat.

Mr. Ryan Luster of the Nature Conservancy gave a presentation, summarized below.

- The project had been funded by the Department of Fish and Game's Ecosystem Restoration Program, initially under CALFED.
- In 2004 a grant was awarded to the Nature Conservancy to start the process, including plant development, CEQA analysis, the Environmental Impact Report (EIR), hydraulic analysis, and purchasing property. The grant ends in 2013.
- The permit has been in the application process since 2009.
- A model developed by the Corps showed reduced velocities on the river road bank. There are no net increases or decreases in water surface elevations as a result of the project, based on the modeling outputs.
- A sedimentation analysis showed no changes to the existing erosion and sedimentation patterns.
- Mr. Luster explained some misunderstandings in the staff report that came primarily from the hydraulic analysis.
- Cal State Parks thought that it had a buy-off from CVFPB that there was no need for a permit. Discussion with the Board determined that in effect, the letter had come from the Board staff.
- There is a comprehensive park planning document for the Bidwell-Sacramento River State Park that was adopted in 2006.
- Mr. Luster addressed the rest of the suggestions given by Board staff in Mr. Tice's presentation.

Mr. Tom Smith of RiverSmith Engineering made the points that there may be some misunderstanding in the interpretation of the hydraulic results; the planting plan went

through a number of revisions until they got flood neutrality on the neighboring parcels; and there is indeed a hot spot in the river but the project does not affect it.

Mr. Shawn O'Brien with the Butte County Department of Public Works stated that Butte County has objected to the project. The county shares many of the concerns expressed by the Board staff and supports its suggestions.

Mr. George Nicolaus, representing Nicolaus Nut Company and the operator/farmer on the Singh Property, stated that the Singh Property consists of 40 acres of productive walnuts. Its yield for the past three years has been above average at 5,500 pounds per acre.

Mr. Nicolaus voiced concern with the diverse impacts of the project:

- The percentage of the lease that goes to Cal State Parks is such that they receive \$50,000-65,000 per year.
- The orchard is a source of revenue and provides jobs to those working it.
- It would be a shame to convert the orchard before it outlasts its viability, while there is still significant economic life in it.

Mr. John Nock, representing his parents who are owners of an adjacent property, expressed the difficulty he had experienced in making his comments heard to the Nature Conservancy. The project was critically flawed, as the staff report acknowledged. Directing the private citizens into another round of meetings would serve no purpose.

Mr. Nock noted the problems with the Peterson unit, which had never received a Board permit: leaving it off the table would cause a delay that would not lead to a resolution. Putting the Peterson unit in play would encourage the water flow through this critically important area.

He described errors in the Ayres hydraulic report that show incorrect water flows. The Corps model should have had a peer review, because it contains mistakes that are being replicated as its use continues.

Mr. Nock made mention of the Sacramento River Conservation Area Forum, of which private landowners are a part. It exists to facilitate conservation activities established in legislation. However, Cal State Parks had decided not to use that agency but to hold their own hearings.

He closed by noting that Cal State Parks should explain, at a time when it is closing parks, why it wants to expand a park on a productive orchard at great expense.

President Carter recommended that because so many facts on the hydraulic modeling are in dispute, all the parties ought to work with staff to establish agreement. There also needs to be agreement on land management and so forth.

President Carter noted that long-term funding is a definite concern of the Board. The applicant needed to assure that the system capacity will be maintained in the long term. The issue of whether a permit was necessary for the Peterson unit needs to be addressed.

Secretary Hodgkins voiced concern that Cal State Parks had done restoration on Peterson; it had a Vegetation Management Plan – however, maintenance required to prevent

increasing the roughness and potentially the water surface has not been done. Lack of funding or ability to do maintenance upon a restoration is a serious concern.

10. REQUESTED ACTIONS

A. Status of the Road 9 Fresno River Diversion Project

Consider undertaking as a Board sponsored project the initiation of the environmental documents for the repair of the East Side Bypass drop structure to restore water delivery to riparian water rights owners through the Road 9 structure in Madera County.

Mr. Len Marino, Staff Chief Engineer, gave a presentation. Below is a summary.

- He showed the location at the intersection of the Fresno River and the Chowchilla Canal Bypass.
- When the bypass was built, it intersected the Fresno River and cut off the downstream reaches. For years there were riparian diverters taking water off of the Fresno River channel.
- The Lower San Joaquin River channel was built in the 1960s by DWR on behalf of the Board.
- A structural defect has occurred and the riparian owners have not been provided sufficient flow to meet their water rights of 100 cfs. Staff is currently trying to figure out a way to repair the structure and restore water delivery through the Road 9 bypass.
- The hydraulic analysis showed that only a half a foot increase in the height of the drop structure's lip (that crosses over the Chowchilla Bypass) would be sufficient head to drive 100 cfs through the box culvert and into the Fresno River channel.
- Surveys also disclosed that the whole area has undergone subsidence.
- At present there is no CEQA document and no findings.
- The staff recommends that the Board adopt Resolution 11-05, and this would direct staff to allocate funding in the amount not to exceed \$150,000 to further develop the engineering analysis, and complete preparation of environmental documents so that we are in compliance with CEQA.
- Upon completion of the environmental documents, staff will come back to the Board to present the preferred project alternative with cost estimates, as well as a construction schedule.

Extensive discussion ensued regarding the \$150,000 figure. Mr. Marino pointed out that this was a maximum figure – probably less than a third of that amount would be needed. Staff at the South Central Region of the DWR Fresno office would be assisting Board staff with the CEQA analysis.

Mr. Marino went on to say that before staff can develop a project description, more engineering analysis needs to be done.

He stated that the permitting requirement was going to be minimal. It is a previously built public works structure so that they would be doing modification work on infrastructure that already exists.

Mr. Marino explained that construction funds would come from a series of manual reservations set aside in the Board staff's budget, that are left over from previous fiscal years.

President Carter suggested considering cost-sharing with the beneficiaries of the project, so the Board isn't footing the entire bill.

Board Member Brown supplied the history of the project up to the present. For years the downstream riparian owners have been denied water because of activities not of their doing. The diverters have made complaints to regulatory agencies through the years that they weren't getting water. Obviously a defect, in geotechnical design or construction, has prevented the water from being diverted properly.

Mr. Mike Nordstrom, representing Triangle T Ranch, stated that the situation is a continuing wrong in which every year the riparian owners lose water. In '09 and '10, for instance, Triangle T Ranch spent close to \$20,000 putting sandbags on top of the sill to obtain sufficient water.

He had provided to staff the July 1966 document that granted the water right of way. He felt that every year that the riparian owners are deprived of water, the District or the State are in breach of the agreement and there is an issue for damages. He encouraged the Board to move forward on the project as rapidly as it can.

Mr. Dick Schafer, a consulting civil engineer for Harman & Menefee from Visalia, stated that he had been before the Reclamation Board and this Board six times in the past 35 years trying to resolve the issue of the 100 second fee. It is clearly an error in the design and construction by the State. The structure was improperly constructed, and in addition it has settled.

He agreed with Mr. Nordstrom that the project is CEQA exempt and Fish and Game exempt. It's 404 exempt under the Clean Water Act, because it's the maintenance of an existing structure.

Mr. Schafer estimated that the engineering and construction could be done for \$150,000.

Ms. Jeanne Zolezzi, John Hancock Life Insurance (the current owner of Triangle T), emphasized that they do not agree with the staff conclusion that this is a discretionary action, that the statute of limitations has passed on the obligation, and that the Board has met its obligation; the obligation is continuing.

Like Mr. Nordstrom, Ms. Zolezzi expressed the hope of working with the Board in a cooperative manner to resolve the issue. The riparian owners were not able to repair the State flood control system by pouring concrete on a State structure. They did the fixes that they could do on their individual properties.

Mr. Michael Tharp, also of Harman & Menefee, had brought slides to illustrate the situation.

The Board discussed again their concern with allocating a number such as \$100,000 for the project when there is no spending plan or preliminary cost estimates.

The motion made by Board Member Brown and seconded by Board Member Villines to adopt Resolution 11-05 with the modification of Item 5 under other findings and conclusions to limit the authorized expenditure to \$75,000 was withdrawn.

Upon motion by Secretary Hodgkins, seconded by Board Member Brown, the Board voted on whether to authorize \$25,000 for staff to develop a cost estimate for modifying the facility and for giving a more detailed analysis of the CEQA cost, and to report back on further discussion with the downstream water rights holders on cost sharing. The motion failed by a vote of two ayes and five nays.

B. Board Comments on the Delta Plan

Consider approving a letter to be sent to the Delta Stewardship Council containing the Board's comments on the most current Draft Delta Plan.

Mr. Marino gave a presentation on the Board's comments on the third draft of the Delta Plan. He briefly reviewed the comments to date, captured in the letter he displayed for the Board.

Upon motion by Board Member Suarez, seconded by Secretary Hodgkins, the Board voted unanimously to submit the comments as presented, reserving the opportunity for staff and the Board representatives to make additional comments as they relate to any additional information with regard to Paradise Cut (to be heard later in the meeting).

11. INFORMATIONAL BRIEFINGS

A. The Central Valley Flood Protection Plan (CVFPP) compliance with the California Environmental Quality Act (CEQA) Update

Mr. Paul Marshall, Assistant Chief of the DWR Flood Management Division, gave a brief presentation on the status of the Program EIR/EIS for the CVFPP. Below is a summary.

- Objectives are as follows:
 - The main objective is to get a legally defensible document that the Board can use to adopt the CVFPP. The document's statutory deadline is next June.
 - Another objective is to provide a document that has the follow-on planning and feasibility studies for many other projects contained within the plan.
 - A third objective is to inform the public on the potential program-level environmental impacts and analysis.
- Mr. Marshall provided a history of the documents developed and accomplishments.

- He introduced staff that is doing much of the legwork for the Program EIR: Ms. Stephanie Chun, Ms. Meredith Parkin, and Mr. Sean Bechta.
- They are working concurrently on the CVFPP and the Program EIR, with staff maintaining consistency.
- Sections being written are the Program Description, Alternatives, Existing Conditions, and Cumulative Impacts.
- Mr. Marshall gave the administrative draft and final publication schedule.

Board Member Suarez ascertained with Mr. Marshall the schedule for the final CEQA document.

B. Briefing on the proposed modifications to Paradise Cut to serve as a San Joaquin River bypass

Ms. Susan Dell'Osso (Project Director for River Islands) and Mr. John Cain (Director of Conservation for California Flood Management for American Rivers) gave a presentation. (American Rivers is a nonprofit environmental organization that works on river protection and restoration.)

They updated the Board on the current flood protection and ecosystem restoration activities associated with the Lower San Joaquin River bypass.

- They showed maps of the area including a map of urbanization and growth projections.
- They noted that there are really two separate processes going on with Paradise Cut:
 - The northern levee setback is part of the River Island project, which is a 11,000 unit, 5 million square foot development project. Much of the infrastructure is in place but development has not started yet.
 - Within the Paradise Cut area some extensive eco-restoration is planned.
- As part of development, River Islands is proposing to lower a sediment bench by about 5 feet – currently it blocks the flow of water in the San Joaquin River into the Paradise Cut.
- They are setting aside 250 – 300 acres in Paradise Cut as part of levee setbacks.
- They have completed the hydraulic and risk analysis impacts and have submitted them to the Corps. Board staff has copies.
- The expanded Paradise Cut bypass is a result of a settlement agreement from a permit issued by the CVFPB where they built their Phase 1 super-levees with 300' wide crowns.
- The bypass has some important benefits:
 - By increasing the weir to 900' from the current 180', there's about a 20" reduction in 100-year flood elevation along the San Joaquin River at Mossdale.

- Flood events can be predicted and system reliability can be improved.
- They showed a map containing the different model stations from which they would get results.
- Moving further into design, the goal is to design in a way that that maximizes the reduction in stage in the urbanized main stem reaches and minimizes any increases in stage downstream.
- The most important recent development was the expansion of their partnership to include the South Delta Water Agency, and work with them to submit an application to the DWR floodway corridor program for \$5 million to begin acquisition of land.
- They feel that the time for analysis is over. They have a group of partners interested in a promising project, and want to move it forward. To be most effective, they need DWR and the Corps' planning efforts to focus on what they are doing, rather than taking a broad planning analysis.
- SB 5 actually calls for the analysis of this bypass in the CVFPP.

Mr. Marshall confirmed DWR's reluctance to include site-specific projects in the CVFPP. DWR wants the plan to stay more high-level, although this type of project sounds very good.

Mr. Cain said that from his perspective, this isn't a local site-specific project – it is a project that solves a major bottleneck in the San Joaquin River system. It lowers flood stage in a rapidly urbanizing area where there are provisionally accredited levees.

Ms. Dell'Osso emphasized the diverse partnership composed of the development community, the local municipalities, the South Delta Water Agency, and the environmental community all supporting the expanded bypass. It is an unusual situation.

Vice President Rie suggested for them to propose some language for the Delta Plan, that the Board could include in its letter to the Stewardship Council.

Board Member Suarez encouraged them to bring the Paradise Cut issue to the public process required for the development of the CVFPP.

Mr. Marshall and Mr. Punia pointed out that if the Board can work with DWR to have this concept in the CVFPP at a programmatic level, with the San Joaquin Feasibility Study, site-specific projects such as this can be spooled up ready to go.

12. BOARD COMMENTS AND TASK LEADER REPORTS

- Board Member Villines mentioned that the letter going out to the Stewardship Council shows good communication between that group, the Board, and Board staff.
- Board Member Suarez stated that she has been participating in the Sacramento River Conservation Area Forum meetings and has been forwarding information to them on particular issues. She asked the other Board members to let her know about issues they'd like her to address in the meetings.

- Secretary Hodgkins attended the first meeting of the Lower Yolo Bypass Fishery Group. It was a reasonable kick-off with a very intense schedule. DWR is moving forward with evaluating an alternative that would leave the fish stranding problem up at the Fremont Weir.

He also attended a meeting on the definition of urban flood protection. There are many issues regarding how modifications to flood control laws are impacting local land use agencies.

- Vice President Rie attended a similar meeting called the Urban Levee Design Criteria. The group is developing the 200-year standards for urban levees.

She also attended a meeting with the Delta Levees Subvention Group. They are proposing a wholesale change to the Delta Levee Subventions Criteria. She requested them to come to the July Board meeting with an informational briefing on some of the proposed changes, because some are controversial.

- Board Member Brown attended the San Joaquin River Restoration Project Committee review with Mr. Hodgkins. He mentioned that there is talk about recirculating the water out of Friant up through the Delta and then back into the California Aqueduct for a conservation reclamation program – but the only water that would be circulated is when it meets the pumping restrictions already imposed out of the Delta, which essentially means very little.

He mentioned that he had taken an ethics course conveniently offered via DVD.

The Woodland Water Resources Association had invited Board Member Brown to talk to them on conservation, reclamation, and water. A key question they asked was if the Board tried to integrate benefits within projects, which enabled him to present a good response.

He also met with Neil Schild of Montgomery, who likes to keep apprised of Board operations.

- Board Member Moffatt met with Kasey Schimke, DWR Assistant Director for Legislative Affairs, about any legislation moving through the process that might impact the Board, the Plan, etc.

He also met with Ms. Melinda Terry of the Central Valley Flood Control Association. Based on that conversation and today's meeting, he looked forward to the upcoming policy discussion with DWR on the Flood Plan.

- President Carter participated in Roundtable discussions on vegetation policy and the proposed alternative variance process that DWR had drafted.

He will participate in a Roundtable steering committee meeting in which they will discuss outcomes of subcommittee discussions, as well as prepare for Major General Grisoli's upcoming visit.

President Carter asked the Board, in preparation for DWR's policy discussion on the DVFPP, to think about how they would define success for the plan – to give their expectations of what the plan will look like a year from now.

13. FUTURE AGENDA

The Board discussed items for the next month's meeting agenda. Mr. Punia noted that there were many items to accommodate into a one-day meeting.

14. CLOSED SESSION

The Board went into closed session to discuss litigation. They received advice from staff counsel and gave direction to counsel on handling those issues.

15. ADJOURN

President Carter adjourned the meeting at 5:15 p.m.

Dated: _____

The foregoing Minutes were approved:



Butch Hodgkins
Secretary



Benjamin F. Carter
President