

MINUTES
MEETING OF THE CENTRAL VALLEY FLOOD PROTECTION BOARD
February 24, 2012

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 February 24 beginning at 8:30 a.m. at the Resources Building Auditorium, 1416 Ninth Street, Sacramento, California.

The following members of the Board were present:

Mr. Benjamin Carter, President
Ms. Teri Rie, Vice-President
Ms. Jane Dolan, Secretary
Mr. Bill Edgar
Mr. Tim Ramirez
Ms. Emma Suarez
Mr. Mike Villines
Assemblyman Jared Huffman, represented by Ms. Tina Cannon-Leahy

The following members of the Board staff were present:

Mr. Jay Punia, Executive Officer
Mr. Len Marino, Chief Engineer
Mr. Eric Butler, Supervising Engineer
Ms. Mitra Emami, Senior Engineer
Mr. Michael Wright, Senior Engineer
Mr. Martin Janolo, Staff Engineer
Ms. Amber Woertink, Staff Assistant
Ms. Deborah Smith, Legal Counsel

Department of Water Resources (DWR) staff present:

Mr. Keith Swanson, Chief, Division of Flood Management
Mr. Efrain Escutia
Mr. Eric Koch, Chief, FloodSAFE Program Management Office

Also present:

Mr. Larry Afzal, representing Lawrence Cassidy

Mr. Lewis Bair, Reclamation District 108, Sacramento River Westside Levee District,
Knights Landing Ridge Drainage District
Ms. Tara Broucker, Yuba-Sutter Farm Bureau
Mr. John Cain, American Rivers
Ms. Denise Carter, Colusa County
Mr. Paul Devereux, Reclamation District 1000
Mr. Fritz Durst, Reclamation District 108, Sacramento River Westside Levee District
Mr. Tom Ellis
Mr. John Garner, Colusa Basin Flood Control District
Mr. Jim Giottonini, San Joaquin Area Flood Control Agency
Mr. Dan Gorfain, Friends of the Sacramento River Greenway
Dr. René Henery, Trout Unlimited
Mr. Butch Hodgkins
Ms. Ashley Indrieri, Family Water Alliance
Mr. Richard Johnson, Sacramento Area Flood Control Agency
Ms. Petrea Marchand, Yolo County
Mr. John McCamman, California Waterfowl Association
Mr. Tim Miramontes, Yolo County Farm Bureau
Mr. John Moffatt
Ms. Meegan Nagy, United States Army Corps of Engineers
Ms. Tiffany Ryan, representing Senator Doug LaMalfa
Mr. Chris Scheuring, California Farm Bureau Federation
Mr. Scott Shapiro, California Central Valley Flood Control Association, Sutter Butte
Flood Control Agency
Mr. James Sligar
Mr. Thomas Smith, RiverSmith Engineering
Ms. Nicky Suard, Snug Harbor Resorts
Mr. Roger Swanson, Wild Goose Duck Club, Butte Sink Waterfowl Association
Ms. Susan Tatayon, The Nature Conservancy
Ms. Melinda Terry, California Central Valley Flood Control Association
Mr. Val Toppenberg, Sierra Railroad
Mr. Dan Welsh, United States Fish and Wildlife Service
Mr. Matt Williams
Mr. Greg Zlotnick, State and Federal Contractors Water Agency

1. ROLL CALL

President Carter welcomed everyone to the meeting. He welcomed the Board's two newest members, Mr. Bill Edgar and Mr. Tim Ramirez.

Board Member Edgar expressed his pleasure at being appointed to the Board for a second time.

Board Member Ramirez stated that he had worked as a State staffer and had tracked the Board for several years, and was happy to be a new Board member.

2. APPROVAL OF AGENDA

Executive Officer Punia gave the staff recommendation to postpone Items 8A, 8B, 8G, and 8H.

Upon motion by Board Member Suarez, seconded by Vice-President Rie, the Board unanimously approved the staff recommendation given above.

3. PUBLIC COMMENT

Roger Swanson, representing the Butte Sink Waterfowl Association, addressed a subject of concern to that organization: a new bypass along the Cherokee Canal, which runs through the Wild Goose Duck Club. He wanted to find out who is working on that element of the flood control plan in order to get involved. President Carter referred him to staff members Nancy Moricz, Eric Butler, and Jay Punia.

4. RECOGNITION OF SERVICE

President Carter presented Resolutions for Butch Hodgkins, John Moffatt, and John Brown, recognizing their service as Board members. President Carter read the Resolutions aloud and wished each former Board Member well in their future endeavors.

5. SELECTION OF THE BOARD SECRETARY

President Carter opened the nominations for Board Secretary.

Upon motion by Board Member Suarez, seconded by Vice-President Rie, the Board unanimously elected Board Member Dolan as CVFPB Secretary.

6. REPORT OF ACTIVITIES OF THE DEPARTMENT OF WATER RESOURCES

Keith Swanson, Chief, Division of Flood Management, gave the monthly Department of Water Resources (DWR) report. Below are highlights.

- Currently the Sierra snowpack is 7" on average – just 30% of normal. Fortunately, the reservoirs are at 109% of average.
- Regarding the Central Valley Flood Protection Plan (CVFPP):
 - DWR has talked with a number of media sources and held briefings for many different groups, with more planned. Senator Steinberg has arranged for a couple of town halls.
 - A National Research Council discussion is scheduled for March 1.
 - The first of many meetings with the Farm Bureau is scheduled for March 2.
 - Meetings have begun with the Central Valley Flood Control Association, the Sacramento Area Flood Control Agency (SAFCA), and Yolo County.
 - DWR has met with a number of Delta implementers, mainly the geotech interests. They are concerned about how the remaining funding in the bond might be spent.
 - The Program Environmental Impact Report (PEIR) is on schedule with a draft to be ready for public release on March 6.
- Regarding interactions with the Corps:

- There has been much discussion on levee vegetation research and how to move forward.
- A vegetation symposium will be held in late summer or fall.
- Last week the Corps released their draft vegetation variance policy. Based on an initial review, DWR feels that it is going to be unworkable for California. DWR will respond with comments in April.
- The Department of Fish and Game filed a 60-day Notice of Intent to sue, based on violations of the Endangered Species Act (ESA).

As a consequence, the Corps has cancelled the National Committee on Levee Safety meetings, and have not been willing to participate in the last two Roundtable meetings.

- The Corps has issued new instructions on their civil works feasibility study program; they are considering eliminating one-third of their ongoing studies, and are only moving forward with those studies that can be completed within three years.
- Regarding DWR Department of Flood Management (DFM) activities:
 - Next week there will be a cross-divisional coordination between the IWM groups, planning groups, and flood management. When the Board approves the CVFPP, DWR will need to look internally to make sure of using its resources in a prioritized manner.
 - DWR is developing atlases by pulling together existing information from the planning process.
 - DWR is developing a project management plan to lay out how to move forward with the regional plans.
 - DWR will be working at the local level to develop regional plans. Frank discussions with the locals are necessary, especially in light of the way federal funding is diminishing.
 - DWR is working on its Program Management Plan (PMP) for system feasibility studies.
 - An issue that may become more controversial is a mitigation obligation: staff from the Department and the Board have been working with the Corps to try to resolve how to take care of an obligation for on-site mitigation for PL 84-99 work that occurred around 2008. The issue becomes complex because of the Corps' vegetation policy; at this site they are requiring that two types of willows be managed for size, visibility, and accessibility.

The Corps has said that they are going to get federal permits that would allow the local maintainers to manage the willows, but that they don't have an obligation to get permits at the State level. The locals would then have to get 1,600 State permits to manage the vegetation.

Questions and Discussion

In response to a question from Vice-President Rie, Mr. Swanson explained that the Regional Advance Mitigation Planning (RAMP) group is an effort to develop advanced mitigation on a large scale. Conceptually it says that as DWR and other agencies move forward with many of the civil work improvement projects, if they could mitigate in an organized fashion, they could probably develop cheaper and more environmentally beneficial mitigation.

Board Member Suarez asked when Mr. Swanson felt he would be able to provide detailed information on the CVFPP regional planning process; he estimated two months.

President Carter asked for a status on the Section 104, 221 credit situation with respect to their projects in terms of getting federal credit for some of them. Mr. Swanson responded that the Corps has tightened up the requirements over the last year or so, making it much more difficult to get credits. This is problematic for California, because DWR is trying to work quickly to implement public safety improvement projects.

President Carter commented that the Board intends to comment on the Corps' draft Policy Guidance Letter (PGL) when it's published on the Federal Register. He requested comments from the Board with respect to the PGL before the deadline of April 17. The Board, as founder of the Roundtable, has been working hard on the PGL for the last four years.

President Carter also commented with respect to the Corps' PL 84-99 on-site mitigation which represents some significant challenges for the Board's local partners: it puts them in a Catch-22 situation of needing to maintain their sites to Corps standards, while at the same time needing to comply with resource laws. From the Board's perspective, this is not a sustainable approach for the State, because it involves the State and the locals continually investing money in managing the vegetation, rather than designing a system that is self-sustaining. The CVFPP very much wants to work with the Corps on the situation.

Secretary Dolan ascertained with President Carter that, as the Roundtable is not functioning, the Board is trying to negotiate the situation directly with the Corps. He clarified that the Corps, because of legal considerations, is not allowed to participate in the Roundtable but can attend in listening mode only. The steering committee has decided that since this major partner cannot interact and collaborate, it is not worth all of the members' time to meet.

7. REPORT OF ACTIVITIES OF THE EXECUTIVE OFFICER

Executive Officer Punia reported on the following Board staff activities.

- Major levee projects:
 - On the Sacramento Area Flood Control Agency's (SAFCA's) project, the staff requested the Sacramento Area Flood Control consultant team to conduct permeability testing for the recently completed levee section.
 - The Sutter Butte Flood Control Agency is planning to brief the Board in April on their efforts; they will then submit a package for requesting a Section 408

approval from the Board and the Corps. They have established an excellent team, and staff has been meeting with them to resolve their easement issues.

- The West Sacramento Area Flood Control Agency is making progress in preparing for the next submittal of their 408 request.
- CVFPP:
 - Staff attended a briefing arranged by DWR that gave an overview of all the technical attachments to the plan.
 - Staff wants to complete the review of all the technical documents by the middle of March, in order to prepare the staff report for the April hearings.
 - Public comments are being compiled and collected on the CVFPB website. Staff will send the Board a notification each week including all new comments.
- Title 23 update:
 - The Office of Administrative Law has approved the Tier 1B changes to Title 23. The publishing company West Law will publish a new copy of Title 23, which staff will post on the website.
 - One of the key components is that based upon the 2007 flood legislation, the Board can delegate the staff to approve permits. Staff will bring a resolution for Board consideration to the April Board meeting.
 - Once the CVFPP is finished, staff will again be able to focus on the Tier 2 updates. The Title 2 updates are on hold as well.
- Delta Plan Environmental Impact Report (EIR): staff provided comments on the Delta Plan on February 1, 2012. The package included a detailed map and table.
- Staff provided comments on the Corps' policy on classifications of actions subject to U.S. Army Corps Federal Regulation 33, Section 408. Staff has not yet received feedback.
- Staff is currently working on six CalTrans bridge permit applications.
- The Central Valley Joint Venture had sent a letter explaining issues with the CVFPP permit process and the Corps review of encroachment permits. Staff met with the Central Valley Joint Venture and resolved several misunderstandings. The meeting also afforded information on how to improve the permitting process.
- DWR is proposing the Small Erosion Repair Program for repairing the sites without getting individual permits for each. Most of the staff's concerns have been resolved with DWR, and they will continue to work together.
- Regarding CVFPP budget, staff is tracking its expenditures closely. If there are further budget cuts, staff may not be able to support all its current positions.

Vice-President Rie asked how budget cuts may affect the enforcement program. Executive Officer Punia replied that if staff must be cut, they haven't made their decision on whom it will be. Staff has cut its operating expenses to the maximum.

Vice-President Rie commented that in order to proceed with enforcement actions, CVFPP needs legal support, and perhaps will have to contract out some support services.

- The Central Valley Regional Water Quality Control Board has put CVFPP on notice that based upon their basin plans, they have to control the mercury load into the Yolo Bypass and in the Delta. As a non-federal sponsor of the Cache Creek Settling Basin, they are asking the Board to develop a report outlining the actions to take to reduce the mercury load in the Yolo Bypass and in the Delta.

After discussion at the Board's Executive Committee level, staff took the position that it is naturally occurring in the basin – Cache Creek is not augmenting the load into the Yolo Bypass and the Delta. They are not buying into the argument. Staff is requesting the Central Valley Regional Water Quality Control Board to come and give a briefing to the CVFPB.

- The Corps PGL for requesting vegetation variance is out. Staff will be working with some of the Board to generate their comments, which will also be coordinated with DWR.
- This month, staff has received all requested approval letters back from the Corps. Executive Officer Punia thanked Meegan Nagy for working closely with staff.

Michael Wright, Senior Engineer, gave a synopsis of staff enforcement efforts.

- Enforcement hearings for the removal of unauthorized encroachments on State land for the Feather River levee in Linda will be heard on March 2, as well as Three Rivers Levee Improvement Authority's (TRLIA's) Permit Application number 18690 to construct a levee boundary fence adjacent to the Feather River levee in Linda.
- The Sacramento Yacht Club was issued a Notice of Violation on January 19 for illegally dumping spoils on the waterside of the levee. Staff has been in contact with them to work toward voluntary compliance.
- On February 2, staff issued an emergency repair authorization for the repair of the levee Cranmore Pump Station on the Sacramento River within RD 1500. Repairs were successfully completed on February 7.
- Staff continues to work with the Corps on the periodic inspection program.
 - On January 13, they attended the Corps' periodic inspection outbriefing for the Elder Creek and Gerber Levee System located south of Red Bluff and north of Corning Road.
 - On February 10, staff attended the Corps' periodic inspection outbriefing for the Butte Creek and Cherokee Canal levee systems located south of Chico and west of Lake Oroville. The systems have unacceptable violations.
- In April, staff has a potential enforcement hearing for levee toe excavations caused by orchard operations on the Feather River levee in Sutter County. In May, staff has a potential enforcement hearing for a hay barn and elevated berm constructed in the Yolo Bypass.

Mitra Emami, Senior Engineer, gave an overview of the permitting tracker update.

- Staff issued 12 permits last month. Two are conditionally approved.
- Fifty have been scheduled for future meetings.
- Eight are under review.
- Fifteen are in the backlog; last January, there were 87 in the backlog. The reduction is 83%, due basically to the improved intake process.

Questions and Discussion

In response to a question from Board Member Suarez, Ms. Emami stated that the Enforcement Action backlog is not Bear Creek; it is projects that either are not Title 23-conforming or are not up to Corps standards.

Board Member Edgar asked the definition of backlog. President Carter made a comment from the applicant's perspective: from the time an application is submitted to the time it gets an approval and a permit, that's the applicant's perspective of the backlog.

Eric Butler, Supervising Engineer, explained that from an internal perspective, the backlog currently consists of 15 permits: seven in Ms. Emami's shop and eight in Mr. Wright's shop. From an applicant's perspective, when staff receives an application that is complete (i.e., the proper CEQA determinations, paperwork with proper specifications, compliance with Title 23), staff can turn it around with Corps approval in about 3-4 months. The key is for the applicant to submit a complete application.

Board Member Ramirez noted that after having tracked permits and encroachments for several years, it was encouraging to see the current staff dedication.

He added that problems with the Corps regarding vegetation policy, especially the onsite mitigation issue, were especially discouraging in the context of the CVFPP.

Board Member Suarez asked Mr. Swanson to comment of the Small Erosion Repair Program – an issue for which Secretary Hodgkins had taken leadership. Mr. Swanson replied that progress was taking place. DWR's contention was that this should be treated as maintenance. Moving forward, they will continue to push that concept; flexibility is needed to get the repairs done in a timely fashion.

8. CONSENT CALENDAR

A. Permit No. 18313-2-1, West Sacramento Area Flood Control Agency (continued from December 2, 2011) (*Postponed*)

Consider approval of the Mitigation and Monitoring Plan for the "The Rivers" and "The Riverwalk" projects' mitigation plantings, which were conditionally approved by the Board at the December 2, 2011 Board Meeting.

B. Permit No. 18581-REV, Butte County Association of Governments (*Postponed*)

Consider approval of Permit No. 18581-REV to plant replacement vegetation to mitigate the effects of the construction of the State Route 99 widening over Big Chico Creek. (Butte County)

C. Permit No. 18683, California Department of Fish and Game

Consider approval of Permit No. 18683 to restore 54-acres to riparian habitat inside the Princeton Southeast Unit of the Sacramento River Wildlife Area (Womble Tract) on the left (east) bank overflow area of the Sacramento River (RM 162). (Colusa County)

D. Permit No. 18684, California Department of Fish and Game

Consider approval of Permit No. 18684 to restore 8-acres to riparian habitat inside the Stegeman Unit of the Sacramento River Wildlife Area (Stegeman Tract) on the right (west) overflow area of the Sacramento River (RM 160). (Colusa County)

E. Permit No. 18685, The Nature Conservancy

Consider approval of Permit No. 18685 to restore 49-acres to riparian habitat (1000-acre Ranch Tract) on the right (west) bank overflow area of the Sacramento River. (Colusa County)

F. Permit No. 18699, John Orosz

Consider approval of Permit No. 18699 to authorize a 24-foot by 60-foot floating dock; a 3-foot by 40-foot gangway; and two concrete deadman winch pads. (Sacramento County)

G. Permit No. 18700, Lodi Unified School District (Postponed)

Consider approval of Permit No. 18700 to construct a stormwater pump station outfall system consisting of 1) three 24-inch and one 12-inch steel discharge pipes, 2) approximately .037 acres of non-grouted, facing class rock slope protection; and 3) a float sensor to stop the pumps when Bear Creek exceeds its design capacity. (San Joaquin County)

H. Permit No. 18702, Pacific Gas & Electric Company (Postponed)

Consider approval of Permit No. 18702 to authorize an existing utility pole within the limits of the Kings River Designated Floodway, and to install underground electric Central Valley Flood Protection Board service drop line running east from the power pole to a new agricultural pump on the east side of the Kings River. (Kings County)

President Carter recused himself from Items 8C, D, and E.

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

Thomas Smith of River Smith Engineering commented that he had been prepared to give a presentation had there been questions. He complimented the Board on the job they were doing.

9. HEARINGS AND DECISIONS

A. Permit No. 7236-1, Lawrence Cassidy

Consider approval of Resolution No. 2012-07 for a variance to levee setback standards for the construction of a residential addition connected to an existing dwelling (Board Order 7236) within the Sacramento River Floodway on Garden Highway. (Sacramento County)

Martin Janolo, Staff Engineer, gave the presentation. He showed a vicinity map and an aerial view, pointing out where the proposed addition will be placed.

Mr. Janolo listed the applicable regulations as California Code of Regulations Title 23 Sections 11(a), 11(b), 113(b)(1), and 133.

He provided background on the application and described previous relevant permits from 1960, 1972, 1973, and 1994.

Mr. Janolo explained the reason for the needed variance to Section 113: the proposed addition was encroaching in an area where dwellings are not allowed. He explained that the existing dwelling had been granted a variance and permitted with a 55' setback. The proposed addition is more than 2' above the design floodplain. It meets the requirement under Section 133 and as referenced in Section 113. Staff believed that granting a variance was appropriate for the construction of the addition.

Mr. Janolo gave the staff analysis for the hydraulic portion. The Corps had sent a review letter stating no objections to the project. RD 1000 had endorsed the project.

Larry Afzal, an attorney representing Lawrence Cassidy, concurred with the staff recommendation.

Questions and Discussion

Board Member Suarez expressed concern with how staff was making the sections work: the variance seemed to be to Section 133 and not Section 113. Deborah Smith, Legal Counsel, stated that after checking, she believed that there was no a conflict – that Section 133 applied. Board Member Suarez clarified with her that the Board was being asked to approve a variance to a prohibition to allow building in an area.

Board Member Villines voiced apprehension about Board support – the Board seemed to be dealing with many encroachment issues, and directing some people but not others to take things out or do something different. He had concern about voting “yes,” knowing that it wasn't within the 65' and there was no specific reason for allowing it.

Secretary Dolan agreed: if others come forward with proposed additions, how does the Board apply its standards?

Ms. Smith noted that this may be one of the areas that Tier 2 will clarify.

Vice-President Rie asked about the 65' setback versus 55'. Paul Devereux, General Manager, RD 1000, responded that because there is an existing dwelling that already encroaches in the 55', there wouldn't be an impact to their operations and maintenance (O&M) of the levee or flood fight capability. If this were a new property, the answer

from RD 1000 would be very different. Mr. Devereux did not know where the 65' figure for reasonable distance originated.

Meegan Nagy, Army Corps of Engineers, Sacramento District, stated that the Corps' review letter gave *no objection*, rather than giving *support*. The Corps wanted to make it very clear that there are risks and that the homeowner may get flooded.

President Carter stated that the lack of guidance on some of the regulations essentially means that it's up to the discretion of the Board as to how to apply them. For him as a Board member, the ultimate considerations are for public safety and protection of the system.

Upon motion by Vice-President Rie, seconded by Board Member Edgar, the Board voted 5 to 2 to approve Resolution 2012-07, Encroachment Permit 7236.

Board Member Edgar noted that he is used to more explicit criteria for variances. Ms. Smith recommended making some clarifications to that section.

10. BOARD SPONSORED PROJECTS AND STUDY AGREEMENTS

A. Recommend Selecting the National Economic Development Plan as the Tentatively Selected Plan for the Yuba River Basin Project General Reevaluation Report

Consider approval of Resolution No. 2012-02 to:

1. Approve submitting a letter to the US Army Corps of Engineers requesting the National Economic Development Plan be selected as the tentatively selected plan for the Yuba River Basin Project General Reevaluation Report.

2. Delegate to the Board Executive Officer the Authority to execute the letter.

Efrain Escutia, DWR, explained the resolution. The General Reevaluation Report (GRR) was an evaluation of what the Corps would have constructed had the State and local partners not constructed the projects within the GRR's area.

He stated that the Assistant Secretary of the Army believed that the Plumas Lake development was in a floodplain at the time and should not be part of the benefit-cost analysis. It was this action that necessitated selection of the National Economic Development (NED) Plan.

The NED was supported by the State, the local sponsors, and the Assistant Secretary of the Army.

Questions and Discussion

In response to a question from Vice-President Rie, Mr. Escutia stated that the resolution was part of the process of developing the GRR.

In response to a question from Board Member Ramirez, Mr. Escutia explained the term *tentative*. Michael Sabbaghian, Acting Flood Project Office Chief, added that afterward, there would be a Chief's report issued, which would be certified by the Chief Engineers

of the Corps, and then it would be given to Congress for authorization. That's when it would be considered final.

Upon motion by Vice-President Rie, seconded by Board Member Villines, the Board voted unanimously to approve Resolution 2012-02.

(12.) CLOSED SESSION

To discuss litigation (Giudice v. State of California et. al; San Joaquin County Superior Court Case No. 39-2011-00256176-CU-OR-STK) pursuant to Govt. Code section 11126(e)(1).

Pursuant to the authority of Government Code section 11126, subdivisions (e)(1), (e)(2)(B)(i), and (e)(2)(C)(i), the Board will meet in Closed Session to consider potential litigation involving the Board.

The Board recessed into Closed Session at 11:26 p.m., reconvening at 12:08 p.m. President Carter informed the public that the Board had discussed litigation as agendaized on the published agenda, and the Board gave direction to staff to act accordingly.

11. DRAFT CENTRAL VALLEY FLOOD PROTECTION PLAN

Board invites stakeholders to make recommendations for any topics that the Board should focus on during its review of the Central Valley Flood Protection Plan prior to adoption.

President Carter began the session by stating that the CVFPP was being developed following a 2008 law requiring the DWR to prepare it, and the CVFPB to adopt it after receiving public input.

He invited all members of the public to submit detailed comments regarding focus areas via the CVFPB website. He reminded everyone that the Board will hold four public hearings in early April to address focal points from the stakeholders, the California Environmental Quality Act (CEQA), and staff technical findings.

President Carter invited all members of the public to speak. Below is a summary of the speakers and the points they made.

- Greg Zlotnick, representing the State and Federal Contractors Water Agency:
 - The issues that agency is interested in are the bypasses within both the northern and the southern Delta, and the related multipurpose projects.
 - Associated with those issues is coordination and potential collaboration on the Bay Delta Conservation Plan.
 - The agency is also interested in the Delta Plan that the Delta Stewardship Council is working on.
 - Mr. Zlotnick hoped for consistency with State policy, particularly the conservation strategy.
- John Garner, farmer, Director of the Colusa Basin Flood Control District, and Board Member of the Colusa County Farm Bureau:

- Farmers have invested millions of dollars in their infrastructure to provide produce that feeds the United States, Canada, Mexico, and the Pacific Rim. Rural areas should not be any more or less protected than other areas.
- When expanding bypasses takes agricultural ground out of production, it reduces farmers' ability to stay economically viable.
- The CVFPP should be more proactive about some of the retention basins. Mr. Garner referenced the flooding in 1986. FEMA informed the landowners that in the future it would not help with funding for flood damage. By allowing more flood waters to back up in the Yolo Bypass and then through the Colusa Basin, the CVFPP is putting farmers in a precarious situation.
- Having hearings in April makes it very difficult for the farmers to participate, because of the heavy workload at that time of year.
- Chris Scheuring, farmer, representing the California Farm Bureau Federation:
 - The CVFPP has much good in it for the environmental community in terms of habitat, and the urban community in terms of the upgraded protection to 200-year level of flood protection. However, the agricultural community has some legitimate concerns.
 - With the expanded bypasses, 35,000-40,000 acres of mostly prime ground is going to be burdened. About 10,000 acres of that is going to be permanently converted, meaning loss to agricultural production.
 - One plan focus for the CVFPP should be what's achievable in funding terms.
 - Another focus should be all the issues associated with the conversion of agricultural land, including the land that will be inundated.
 - Farmers who will be affected need to be contacted directly.
 - April is a difficult month for farmers to participate in meetings.
 - The draft plan carves out two other approaches, but the preferred approach is the big, expensive ambitious approach. There should be at least a discussion of some sort of reduced scope.
 - The spill-over impacts of habitat protection – 10,000 acres of new habitat – should be discussed.
 - Is increased vegetation in some of the floodways consistent with channel capacity?
 - Ag levees and funding should be addressed. The concept of ag being a de facto sort of transitory storage for flood water is a concern.
 - Reservoir reoperation to provide increased flood buffers should be explored.
- Tim Miramontes, Yolo County farmer:
 - Expanding the bypasses will make it almost impossible to farm there as flood waters stay on longer.

- Putting more farm ground into the bypass expansion will lower the land values for the counties.
 - Overgrown vegetation in the bypasses puts pressure back up in the rivers. The money will have to come from somewhere to maintain the vegetation.
 - Along with the 10,000 proposed acres of habitat and the 30,000 acres going inside the bypass, the BDCP is trying to add another 20,000 acres for their fisheries projects.
 - The spring forums of the last two years were tough for the farmers, as that is their busy time.
 - Four working groups were established for the forums: climate change, levee performance, operation management, and environmental stewardship. There was nothing to do with agriculture until the farmers complained, but by then it was late in the game.
 - More outreach is needed in the rural areas, as the community is not well aware of the CVFPP.
 - Mr. Miramontes presented 18 letters from people who were not able to make the meeting.
- Tom Ellis, Colusa basin farmer and landowner:
 - The two-tier level of flood protection that was mandated by Senate Bill 5 requires a 200-year level of flood protection for urban areas and a 100-year level for rural communities.
 - The rural areas have been put in an untenable position uncertain of their future flood protection. The Sacramento River Flood Control Project has kept them relatively free from significant flooding since its completion, and they have become accustomed to that level of protection.
 - The new flood plan appears to be more of an ecosystem restoration plan than a flood protection plan. Those in production agriculture need assurances of recourse for when they find themselves neighboring a restoration project. A grievance procedure and a good neighbor fund needs to be in place to address conflicts.
 - The CVFPP involved the development of the 90+ management actions under consideration for inclusion in the 2012 plan. The actions were divided into 11 category-based workshops. Action items were allotted only 10-12 minutes during the two hour workshops.
 - Phases 3 and 4 were cancelled, so stakeholders never had the opportunity for the promised in-depth discussions.
 - In the final plan, the management actions appear in Attachment 7, Section 6. They were not fully discussed by the attendees.

- The Finance and Revenue workshop included Management Action #82, which was to compensate rural areas for accepting lesser flood protection than urban areas. Yet it was deleted in the final plan.
- On pages 2-12 of the plan, a new bypass along the alignment of the Cherokee Canal into the Butte Basin is discussed. In all the upper Sacramento region meetings, it was never mentioned.
- There is no history document in the plan.
- Dan Welsh, Assistant Field Supervisor with the U.S. Fish and Wildlife Service in the Sacramento Fish and Wildlife Office:
 - That office would like the Board to focus on the sections of the legislation that require the plan to:
 1. Improve systemwide ecosystem function.
 2. Increase and improve the quantity, diversity, and connectivity of riparian, wetland, and flood plain and shaded riverine aquatic habitats.
 - The plan could be strengthened by focusing more on ecosystem restoration goals: identifying actions to establish connectivity of habitat, improve fish passage, and expand habitat for listed species beyond mitigating for impacts.
 - They are concerned with the timing of implementation of ecosystem restoration actions. The plan should ensure that these actions would occur in conjunction with, or prior to, projects which affect species and habitat.
- Fritz Durst, farmer, president of RD 108, Commissioner for the Sacramento River Westside Levee District, and Commissioner for the Knights Landing Ridge Drainage District:
 - Mr. Durst opposed the plan as presented: the planning process was hurried to a great degree, and agriculture and its interests were not treated fairly in the process.
 - His primary issue was that urban residents get better flood protection at the cost of rural residents. He cited examples: diversion of flood flows from the Feather River into the Butte Basin, and fortification of urban levees which would add stress to weaker rural levees.
 - The primary purpose of our levees and bypasses should be flood control. Since the late 1960s, we have gradually come to value habitat more than flood control, and have halted many maintenance activities that help flood channels handle flows.
 - The Board should slow down this process and listen to the fair solutions that ag stakeholders can offer.
- Lewis Bair, General Manager for RD 108, the Sacramento River Westside Levee District, and the Knights Landing Ridge Drainage District:

- The plan rolls out levels of flood protection for the urban areas and small communities; but for the rural areas it departs from the approach which targeted the system design capacity, resulting in a very ambiguous future.
- Raising urban levees to 200-year flood protection makes certain that the rural areas will fail before the urban areas. The plan suggests that repair will take place if funding is available and where feasible.
- Of the \$2 billion left from Prop 1E and \$2 billion left from Prop 1E and Prop 84, there are mandated directives in the plan that we must get to 200-year flood protection in the urban areas. It will be very difficult in the future for the State to divide off some of those funds to the rural areas when it hasn't fulfilled a commitment in the urban areas.
- The change from targeting design capacity to something different for rural areas is a huge paradigm shift that is not declared and boldly stated in the plan.
- We need a systemwide approach to the plan.
- Federal funding is on a project-by-project basis. Rural areas will have an extremely hard time competing for federal funding.
- The National Flood Insurance Program language is good, but it is very generic and general.
- A four-step plan had been in place for completing the plan's process. Steps 3 and 4, which were going to address implementation, have been cut.
- The Cherokee Canal project has the potential for disaster. It has had no vetting process.
- Jim Giottonini, San Joaquin Area Flood Control Agency (SJAFCA):
 - The highest priority of the plan should be flood protection. There is going to be limited funding in the future, and it could possibly be exhausted on non-life safety improvements.
 - The plan lacks specific information for SB 5 compliance.
 - The Board should pay particular attention that both the Sacramento and the San Joaquin basins are treated equitably and given the same level of flood protection.
 - The Board should look at the completion of the SJAFCA feasibility study for consistency. It has been using the work product from the CVFPP, the hydrology and the hydraulic models, the LiDAR, and the geotechnical work.
- Dr. René Henery, California Science Director for Trout Unlimited:
 - The plan as it stands has done several things really well; for example, the conservation framework has done a great job of laying out the context in which to operate, and the State Systemwide Investment Approach details the connection of some of the different components.

- The plan needs to lay out a clear vision. It constitutes a paradigm shift, but this is not articulated clearly. The absence of a vision is leading to the perspective that the plan is not doing what it needs to for either conservation or for agriculture.
- The plan lacks specific objectives. These would lead us from a vision to regional planning – the implementation of specific projects.
- Many projects are happening now with a direct potential long-term benefit for flood control, for example, the San Joaquin River Restoration Project. These projects should be incorporated into the plan from the outset.
- Susan Tatayon, Associate Director with The Nature Conservancy’s California Water Program:
 - Ms. Tatayon reiterated Dr. Henery’s point that the Board needs to develop a clear and compelling vision that tells everyone what the future Central Valley flood management system ought to and will look like.
 - Three guiding principles should be integration, resilience, and sustainability. As the Board reviews the plan, they should consider whether each project contributes to a systemwide approach for an integrated flood management plan that will provide resilience and sustainability for the long term.
 - To support this statement, Ms. Tatayon cited Water Code Sections 9616(a) and 9616 (a)(9).
 - Owners of ag lands ought to be compensated, as they would be contributing to an integrated flood management system, thereby contributing to the public safety and public good.
- Jim Sligar, landowner on the Cherokee Canal system:
 - Regarding transparency – as a landowner to be directly impacted by the Cherokee Canal system, Mr. Sligar had not heard anything about the project until he happened to read a letter from the California Farm Bureau on January 17. Growers up and down the canal system, his State Senator, the Farm Bureau president, the California Rice Experimental Station – no one had been informed of it.
 - The Cherokee Canal system that runs through his property is an easement that was granted. It is no longer been maintained, and cannot move water the way it should.
 - The different parties speaking at this meeting have been brought into the CVFPP planning process, while people who will be asked in the future to give up their property and their farming livelihood have not. 40,000 acres of farm land constitutes 50 to 60 rice farmers that the CVFPP is going to put out of work.
- Tara Booker, south Sutter County resident:

- She could not support the plan for the primary reason that the agricultural and rural communities have not had an opportunity to be informed or to participate in its development. A large number of people who will be significantly impacted do not have any information.
 - Ecosystem restoration has no place in flood protection, which should be designed to protect life and property.
 - The existing bypass systems show how habitat and vegetation have caused a negative impact to the system, preventing it from functioning at full capacity.
 - We should focus on the system we have, improving the flows by removing excess vegetation, instead of creating a larger system and then introducing more habitat.
 - The plan gives no assurances for rural agricultural communities. These communities should not be sacrificed for the greater good – they have a right to receive equal treatment.
- Ashley Indrieri, representing the Family Water Alliance:
 - For nearly a century when flood improvements were made here, urban and rural communities got better together. This plan now shifts flood risk to rural communities in an effort to reduce the State's liability.
 - The Family Water Alliance opposes massive setback levees and taking ag land out of production.
 - The fact that this plan proposes over 35,000 acres of land to be flooded will only further hurt our economies. The vitality of agriculture in rural communities is paramount. Furthermore, the property owners who would be impacted by the widening of bypasses and setback levees were not consulted by DWR.
 - Ms. Indrieri recommended thoroughly analyzing the impacts to rural and agricultural communities; ensuring that these communities are compensated for accepting a lower level of flood protection; and ensuring that rural communities and ag lands receive increased flood protection by eliminating phrases such as "*to the extent feasible*" and "*when funding is available.*"
 - The majority of the plan appendices were not developed with public input, and should not be adopted as part of it.
 - Denise Carter, Colusa County Supervisor:
 - Agriculture is critically important to the long-term economic viability of Colusa County.
 - The funding required to attain 100-year protection for small communities should be borne largely by the State and federal governments, and not be conditioned on economic feasibility.

- Colusa County opposes the Cherokee Canal expansion. There was no public vetting of this project or discussion of the implications to the Butte Sink of nearly tripling the design capacity.
- Val Toppenberg, representing Sierra Northern Railway:
 - In the event of flooding, the waters of the Yolo Bypass and the Fremont Weir create pressure against the Fremont trestle. Trains cannot travel across it. The more water that comes down the bypass, the more damage there is to the trestle.
 - The State of California has declined to repair the damage. The railroad has to repair it every time there's a flood event.
 - The CVFPP does not recognize the Fremont trestle and the repairs it requires.
 - A solution could be to relocate the rail line rather than to rebuild the trestle. The railroad is ready to work with the Board to find a solution.
- Scott Shapiro, General Counsel of the California Central Valley Flood Control Association (CVFCA):
 - The CVFCA has been pleased to have a continuing role in the development of the plan.
 - The administrative draft of the plan did not make sufficiently clear that this needs to be a flood protection plan first. The CVFCA does not think that you can balance ecosystem restoration with a flood protection plan.
 - The administrative draft focused too exclusively on facilities of the State Plan of Flood Control, which is a legal fiction – a list of facilities that the State has provided assurances on, when the Legislature's instruction was to develop a flood plan for the Valley. The revised plan, as opposed to the admin draft, does that.
 - Implementation is subject to funding. DWR is supposed to develop a funding plan following the adoption of this plan. CVFCA's support is tempered by not knowing what the funding plan is.
 - With only four months left until adoption, the time has passed to make the plan more specific. However, it is imperative that some questions about implementation be addressed. For example, how will the regional work groups function? And, will DWR fund the work?
 - The CVFCA's view is that we must all "get better together." That includes systemwide improvements, as well as specific improvement actions for the urban and small communities, the ecosystem, and the rural areas.
 - While the draft plan offers a very specific vision for what will happen in the urban and small communities, and a programmatic level view of what will happen systemwide and for the ecosystem, there's very little detail and commitment on how rural stakeholders will benefit from some of the near-term actions in the draft plan.

- The appropriate minimum level standard for rural areas must be set. The rural districts and landowners must receive something for serving as the de facto relief valve in large events. The plan does not offer specific answers.
- There are multiple technically complex appendices to the plan, some of which are not out officially. The CVFCA questions whether all of them are ready for adoption by the Board. The Board could consider bifurcating the plan with the appendices that have not had thorough review and comment.
- Leadership of the CVFCA has met with members from an environmental coalition with a goal of seeking common ground in making recommendations on how the plan could be modified. The meetings have been very helpful.
- John McCamman, representing the California Waterfowl Association:
 - The Board should be concerned with the \$3 billion to be spent between now and 2017 (the next iteration of the plan). Prioritizing local investments through an exclusively regional planning process, diminishes the opportunity for investment in systemwide improvements that will enhance habitat for waterfowl.
 - The Board should make sure to solicit and incorporate existing documented numerical goals and objectives.
 - Adding more flood waters to already highly impacted areas, such as the Butte Basin, may have an adverse impact on hunters, local hunt clubs, and existing public access wildlife areas.
- Dan Gorfain, representing the Friends of the Sacramento River Greenway:
 - The group urged the Board to consider enhanced regard for so-called bicycle trails atop levees as a means of serving multiple goals and interests expressed in the CVFPP. In reality these trails are multiple use for the benefit of walkers, joggers, and runners in addition to bicyclists.
 - Trails on the levees serve the plan's stated goals of fostering multiple uses of floodplain protection assets. More important, they provide a paved roadway that is far superior to the existing gravel roadways on most levees.
 - Because the funds for these trails are available from local, State, and federal transportation, recreation funds, and even private sources, they serve the plan's goal of encouraging cost-sharing.
 - The group urged the Board to drop the presumption against bicycle trails on levees and take at least a neutral stand, so that the issue can be addressed on a case-by-case basis.
- John Cain, Conservation Director for Flood Management at American Rivers:
 - American Rivers very much wants to work with agricultural interests in order to advance public safety, agriculture protection, and environmental conservation.

- Environmental organizations are involved in the flood planning process as partners and friends. Identifying a common vision will make it much easier to marshal the resources that will be necessary from State and federal taxpayers to implement a plan that gets us all “better together.”
- The plan needs specific measurable, achievable, relevant, and time-bound objectives.
- The plan needs to provide more specific guidance on how and when it will develop flood bypasses and other cost-effective measures for reducing flood risks, such as levee setbacks and transitory storage.
- The plan needs clearly to describe key physical changes in policy initiatives necessary to achieve plan objectives.
- The plan must prioritize how and when various portions of the planning area will be improved.
- The plan needs to provide more specific guidance to local jurisdictions regarding the nature of the plan, so that local jurisdictions can amend their land-use plans accordingly to be in compliance.
- The plan needs a clearer vision about what it is going to do, whom it’s going to benefit, and why taxpayers should help support it.
- Tiffany Ryan, speaking on behalf of Senator Doug LaMalfa:
 - The land upon which the CVFPP proposes to create new habitat in floodways is the best in the nation for farming. The CVFPP also does not include a proper maintenance plan.
 - The plan jeopardizes thousands of acres of existing agricultural lands. The likely eminent domain seizure of this land for conversion to habitat is highly objectionable and takes it out of the property tax base.
 - The plan would also displace family homes, farming operations, processing facilities, and businesses that have been in place for generations.
 - DWR and/or the Board have done an inadequate job of making residents aware of the plan.
 - The plan purports to achieve 200 years of flood protection for urban areas, as well as habitat restoration. Where is the evidence, and how has it been demonstrated to property owners?
- Rick Johnson, Executive Director of the Sacramento Area Flood Control Agency (SAFCA):
 - In general, SAFCA supports the plan. It is consistent with SAFCA’s policy framework and principles.
 - SAFCA will be submitting comments of its own.
- Petrea Marchand, Manager of Intergovernmental Affairs for Yolo County:

- The Yolo County Board of Supervisors is opposed to the widening of the Fremont Weir, expanding of the bypass, and the associated measures. Yolo County encourages the CVFPB to make those bypass expansions a focus of review efforts.
- A proposal related to public outreach is to learn from the mistakes that the Bay Delta Conservation Plan made early in the process. Stakeholders interested the Yolo Bypass Conservation Measure had to attend multiple-day meetings, and found it very difficult to receive the information and to participate.
- The State began to make progress when it created a technical working group focused specifically on the Yolo Bypass.
- Yolo County does not believe that the development of regional plans is enough, in terms of public outreach. The people affected by the projects don't have the time or resources to participate in long, in-depth regional planning processes that cover unrelated issues. Ms. Marchand urged the Board to consider a different approach.
- She urged the Board to focus on the bypass expansion and the other rural issues that were addressed by the previous speakers.
- Nicky Suard, owner of Snug Harbor Resorts at Steamboat Slough:
 - When there is extra flow on Yolo Bypass, it backs up into Steamboat Slough. The slough has not been dredged since the 1970s and has many shallow areas.
 - The conflict between flood control and restoration is impacting residents of Steamboat Slough.
 - Recent restorations on Grand Island and Ryer Island have created a bottleneck on Steamboat Slough. Where high water used to happen once every 10 years, it now happens once every two and a half years, with the incidence increasing yearly.
 - The excessive high and low tides artificially created by DWR for fish testing are causing the banks to corrode.
- Mr. Shapiro, General Counsel for the Sutter Butte Flood Control Agency:
 - The member agencies of the Sutter Butte Flood Control Agency – Levee District 1, Levee District 9, Sutter and Butte Counties, and the Cities of Yuba City, Live Oak, Gridley, and Biggs – are developing their views on the CVFPP.
 - They have an Early Implementation Project (EIP) to improve levees along the Feather River, which will very much influence their view.
 - Bypasses and setback levees are issues that are going to be important to them. It is an appropriate topic for the Board to organize a work group to take testimony.

- The agency strongly supports the remarks made earlier by community members who spoke about rural levee improvement programs, as well as changes that might be made to the FEMA program in rural areas. The southern half of their basin is very much at risk.
- Funding is going to be key as they are embarking upon an EIP.
- Melinda Terry, CVFCA:
 - CVFCA had lost about a year waiting for DWR to get started with public outreach meetings. Now the Board has a truncated amount of time to try to deal with the plan's issues. Furthermore, Phase 3 and Phase 4 have been cancelled.
 - It is time to think about sharing with the Legislature that possibly the Board and the public deserve a bit more time to work on the plan.
 - The 30 appendices, 26 of which were released in January, are thousands of pages long. Thousands of pages of the EIR are yet to be released. It is time to go to the Legislature with a new, workable deadline to propose.
 - For the April hearings, a suggestion would be to hold meetings in the evenings.
- Matt Williams, Yolo County resident:
 - As an urban community resident, he felt that he shouldn't benefit from flood protection on the backs of the farmers of this State.
 - The existing flood protection structures are not being maintained to their optimum level; habitat is being allowed to grow in them. Before we impose eminent domain or ask the farmers to sell productive farmland and take it out of our economy, we should do everything we can to maintain the system we have.

13. BOARD COMMENTS AND TASK LEADER REPORTS

President Carter stated that the task to be done between now and early April, when the hearings are scheduled, is to take the plan and the public comments, and organize the discussions. Board Members Suarez and Villines are working with staff. They will organize the public comments and identify the themes.

Board Member Edgar requested discussion of the hearing hours. Board Member Villines noted that the point about timing had been made consistently today by the speakers who are farmers. Board Member Ramirez remarked that the Board should do what it can to accommodate people's interests and schedules.

Vice-President Rie commented that many of today's speakers voiced concern about changing the paradigm. We have the '57 profile, and we have a proposed 200-year level of protection for the urban areas. We need to have a focused discussion on the hydraulics and the impact on the non-urban areas, in particular the Delta.

Mr. Butler suggested having DWR's consultants provide information on how they formulated the plan and went through the various alternatives to get to the State Systemwide Investment Approach (SSIA).

Board Member Suarez suggested holding a separate briefing regarding the technical analysis and discussion. President Carter agreed. The Board proceeded to discuss this idea.

Board Member Ramirez noted that the webcast really helps to make the information accessible to everyone, even after the meeting has taken place.

Board Member Villines suggested that DWR could give a briefing that would be webcast; many of the people commenting today needed more information.

Board Member Edgar suggested having geographically focused briefings prior to the hearings.

President Carter stated that he would work with Board Members Suarez and Villines in setting up the agendas. At a minimum, they would schedule a briefing prior to the March meeting.

Mr. Butler pointed out that each of the technical documents don't necessarily have an individual geographic focus, for example, those on river hydraulics, groundwater, cost estimating, risk analysis, etc. Others are more geographically focused.

Eric Koch, DWR FloodSAFE Program Management Office Chief, confirmed that he would talk with his staff and the consultants to put a briefing together that meets the Board's needs.

Task Leader Reports

Vice-President Rie reported that she participated in the Corps webinar on vegetation research efforts. The Corps said that they would email the PowerPoint presentation; she will pass it on to Executive Director Punia.

Vice-President Rie also mentioned that DWR had invited her to participate in their Urban Level of Flood Protection work group meeting on March 7. This subject is going to be an appendix to the CVFPP.

Board Member Villines reported that he had spoken with Senator Nielsen based on the previous issue mentioned by Mr. Marino. The Senator was pleased about handling that issue up in his district.

President Carter reported that he had been coordinating with Board staff and DWR at the executive level, and keeping apprised of work within the Roundtable. The Steering Committee is continuing to postpone meetings until they can achieve critical mass around the table.

He also mentioned that a vegetation symposium is being organized for sometime next fall; the project manager is Peter Buck from SAFCA. It's turning out to be an international event with international representation and will be held in California. The symposium is designed to share existing knowledge and to show where gaps exist.

President Carter referred to the Board task teams. Executive Director Punia said that he had just distributed a working copy, showing where Board Members Butch Hodgkins and John Brown participated. The new Board Members were encouraged to contact President Carter if any of the task teams were of interest to them.

14. FUTURE AGENDA

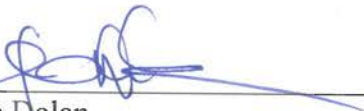
The Board discussed Future Agenda items with staff.

15. ADJOURN

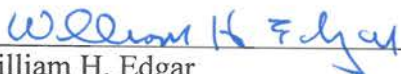
President Carter adjourned the meeting at 4:23 p.m.

Dated: 7-27-2012

The foregoing Minutes were approved:



Jane Dolan
Secretary



William H. Edgar
President