

MINUTES
MEETING OF THE CENTRAL VALLEY FLOOD PROTECTION BOARD
June 8, 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 special meeting of the Central Valley Flood Protection Board was held on June 8, 2012, beginning at 9:13 a.m. at the Resources Building, 1416 Ninth Street, Sacramento, California 95814.

The following members of the Board were present:

Mr. Bill Edgar, President
Ms. Jane Dolan, Secretary
Mr. Joe Countryman
Mr. Clyde MacDonald
Mr. Tim Ramirez

The following members of the Board staff were present:

Mr. Jay Punia, Executive Officer
Mr. Eric Butler, Supervising Engineer
Ms. Nancy Moricz, Staff Engineer
Ms. Lorraine Pendlebury, Staff Assistant
Ms. Deborah Smith, Legal Counsel

Department of Water Resources staff present:

Mr. Jeremy Arrich, Chief, Central Valley Flood Planning Office
Mr. Keith Swanson, Chief, Division of Flood Management
Mr. Ward Tabor, Assistant Chief Counsel

Also present:

Mr. Dick Akin, Akin Ranch
Mr. Lewis Bair, Reclamation District 108
Ms. Tara Bocker, Yuba-Sutter Farm Bureau
Mr. John Cain, American Rivers
Mr. Ben Carter, Benden Farms
Mr. Dan Dolan
Mr. Tom Ellis
Mr. Palmer Hatch
Mr. Carl Hoff, Butte County Rice Growers Association
Mr. Christopher Lee, County of Yolo
Mr. Bryce Lundberg, Lundberg Family Farms
Mr. Paul Sankey, Sankey Farming

Ms. Anjanette Shadley Martin, Western Canal Water District
Mr. Chris Scheuring, California Farm Bureau
Ms. Susan Schohr, Schohr Ranch
Mr. Scott Shapiro, California Central Valley Flood Control Association
Mr. Ronald Stork, Friends of the River

1. ROLL CALL

President Edgar welcomed everyone to the special meeting, a continuation of the regular May 25 Board meeting. He stated that its purpose was to continue discussion of the draft adoption resolution and package of the 2012 Central Valley Flood Protection Plan (CVFPP).

Executive Officer Punia reported that all Board Members were present except for Ms. Suarez and Mr. Villines.

2. APPROVAL OF AGENDA

Executive Officer Punia stated staff requested to follow the agenda as posted.

Upon motion by Board Member Countryman, seconded by Board Member MacDonald, the Board unanimously approved the agenda.

3. PUBLIC COMMENTS

- Palmer Hatch objected to the inclusion of the Feather River Bypass in the CVFPP.
- Dan Dolan stated he was in attendance by the request of Bill Connelly and Steve Lambert, members of the Butte County Board of Supervisors and Commissioners of the Sutter Butte Joint Powers Authority. He stated he agreed with Mr. Hatch and urged this Board not to make the Feather River Bypass a part of the CVFPP.

4. CENTRAL VALLEY FLOOD PROTECTION PLAN

A. Draft Adoption Resolution and Package for the Central Valley Flood Protection Plan.

President Edgar reviewed the previous week's meeting.

He thanked Vice President Suarez and Board Member MacDonald for meeting with Department of Water Resources (DWR) staff and stakeholders on May 29th and June 5th to revise the existing draft, and stated staff posted the June 8th draft on the web today. He asked Vice President Suarez, Board Member MacDonald, and staff to produce a resolution to the outstanding Cherokee Canal and vegetation management policy issues for the next meeting.

Board Member MacDonald stated the meetings with the DWR and stakeholders were to clarify the language in the resolution to eliminate the possibility of multiple interpretations. He added hydraulic impacts of multiple projects and climate change to the outstanding policy issues mentioned by President Edgar.

Board Member Countryman stated this is the first time he has heard the issue of hydraulic impacts raised and invited discussion of this issue. In answer to President Edgar's question, Executive Officer Punia stated the Board's standard practice is to ask the people sponsoring the project to conduct a hydraulic analysis to show that localized impacts are acceptable. Supervising Engineer Butler added that regulations are applied to determine an assessment of adverse hydraulic impacts; further review of the applicant's submittals is site-specific.

President Edgar asked if maintenance projects require a hydraulic analysis. Executive Officer Punia stated, while each case is evaluated separately, this is usually unnecessary.

President Edgar asked Supervising Engineer Butler to review the adoption package to clarify what will be voted on next week. Supervising Engineer Butler presented the graphical representation of the components of the plan.

Comment from DWR

Jeremy Arrich, the DWR Central Valley Flood Planning Office Chief, provided some comments.

- The DWR is looking forward to the implementation of the much-needed flood improvements.
- The resolution is in the early stages of the regional planning process. He stressed the importance of local participation and feedback in the basin-wide feasibility studies.
- The purpose of modifying the language of Whereas O, the urban level of flood protection, is to ensure the resolution does not extend beyond the intent of the legislation or the Federal Emergency Management Agency (FEMA) requirement.
- The language of Resolved 11(h), developing rural levee repair criteria, is being modified to maintain the flexibility of the resolution.
- Due to group discussion on Tuesday, he would like to strike the comment on Resolved 12 because he realized the Board is comfortable with the current language.
- In regard to Resolved 15, hydraulic impact, he recommended mentioning the need to address the issue, rather than trying to resolve it in the resolution. The DWR has not yet developed a hydraulic impact policy, but recognizes the need to establish a practice, through discussions with the Board and various implementing agencies, for conducting the analysis.

Board Member Countryman stated part of the problem is the misuse of "hydraulic impact," which refers to changing the water surface elevation. He feels many hydraulic impact analyses are completed in projects where they are not applicable.

Board Member Ramirez asked for clarification of the intent of Resolved 15. Scott Shapiro, general counsel for the California Central Valley Flood Control Association, stated the provision was proposed in order to clarify some language referencing the analysis in an appendix to the plan. This language makes it appear that the Board and the DWR endorse a different, dangerous policy. He proposed changing "standard" to

“practice” in the first sentence, and striking the second sentence. He stated the DWR proposed changing the phrase “or geometry” to “or the cross-section of the channel and overflow area.”

DWR Central Valley Flood Planning Office Chief Arrich stressed the importance of a vegetation management strategy to provide guidance for effectively improving public safety by creating visibility and accessibility.

Board Member MacDonald summarized the major policy issues.

- Vegetation management – The Corps of Engineers has adopted an engineering letter that states all woody vegetation on levees has to be removed. The Corps of Engineers will not help in the event of levee damage or failure if California does not eliminate all the vegetation on the river. FEMA may map these areas into a flood zone if California is not satisfying the Corps of Engineers’ requirements. Removal of the vegetation has financial, aesthetic, and environmental impacts. The DWR proposed a policy to allow maintained vegetation near the water, but not over the top or down the other side to within fifteen feet of the levee; however, the State received a letter from the Corps of Engineers stating this was not acceptable.
- Cherokee Canal – The people who farm in the Cherokee Canal do not want it enlarged. There are concerns about hydraulic mitigation due to the additional water creating a hydraulic impact downstream. If the Cherokee Canal does not go in, the DWR will need to find an alternative avenue for the water.
- Hydraulic analysis – This issue has already been discussed in this meeting.
- Climate change – The public wants to make minor changes to the language to ensure the DWR is appropriately considering climate change.

Public Comment: Dick Akin

Dick Akin, of Akin Ranch, is concerned that the Cherokee Canal will require the extension of the Sutter Bypass, which would create an economic issue in Sutter County by diminishing property value. The expanded farmland within the levee area, due to the levees being moved back, will no longer produce a diversity of crops, but will become a rice-only culture within the Bypass. The existing river systems and levees are well-engineered and only require repair. He requested the Board strike the Cherokee Canal and the expansion of the Sutter Bypass from the resolution.

President Edgar acknowledged the system is aging and needs repair, but noted it also needs an increase in capacity, as evidenced by the 1986 and 1997 storms where the levees were overwhelmed. He stated this plan is a framework. Based on this framework, the Board will begin a long, evolving planning process by working with local communities and completing feasibility and engineering studies before implementing improvements. There are operational maintenance problems in the Cherokee Canal that the State would be unable to assist with if the Cherokee Canal is removed from the plan.

Public Comment: Ben Carter

Ben Carter, of Benden Farms, stated the vegetation management issue surfaced during 2005 and 2006. In 2007, this Board founded the California Levee Roundtable, which was implemented to develop a long-term plan to deal with vegetation. The CVFPP essentially remains unchanged from what was articulated in the Roundtable framework. He characterized the Corps of Engineers as considering vegetation “guilty until proven innocent,” and the State considering vegetation “innocent until proven guilty.” The problem was that, at the time, there were no scientific analyses to inform the decision one way or the other. Many entities have sponsored research on vegetation and its impacts on levees since that time, but the results are still being vetted among scientists. He stated the CVFPP and its included conservation strategy have articulated an appropriate path forward in the absence of any new data.

In answer to Board Member Ramirez’s concern, Mr. Carter agreed that litigation has halted all productive discussion. Whether in court, in the boardroom, or out in the field, the CVFPP and the course recommended by the DWR are defensible and supported by science, history, and current practice. He strongly encouraged the Board to maintain its position until new information necessitates a change.

Board Member Ramirez suggested ensuring the Attorney General’s office is part of this discussion, without undermining the State’s position in the litigation.

Public Comment: Ronald Stork

Ronald Stork, of Friends of the River, one of the litigants in the lawsuit against the Corps of Engineers’ vegetation policy, stated the Friends of the River have offered an alternative vegetation management policy as part of the CVFPP. While the State has yet to go through the formal process, this strategy in the CVFPP needs to be adopted.

According to the Engineering Technical Letter to the Corps of Engineers, the only permitted vegetation on or near a levee are perennial grasses. It not only requires a vegetation-free zone, but also a root-free zone. The roots that are deemed noncompliant have to be excavated, which also, in many cases, means removal of the levee.

Board Member MacDonald suggested discussing the legal nuances of the resolution with Mr. Stork later. Board Member Ramirez requested sharing the results of the discussion with Legal Counsel Deborah Smith.

Public Comment: Christopher Lee

Christopher Lee, on behalf of the Yolo County Board of Supervisors, stated the County appreciates the addition under Resolved 11 regarding the framework to guide the implementation of the CVFPP, paragraph 1, which preserves rural agricultural landscapes, minimizes losses to production, and minimizes impacts to surrounding landowners. He stated the County strongly urges the Board also to seek to mitigate the losses of any agricultural land or decreases in production as a result of implementation of the CVFPP. As the County’s lingering concern with this resolution, he stated it should, at least, be drafted in a way that ensures those specific mitigations can be considered at a future date.

Public Comment: Chris Scheuring

Chris Scheuring, of the California Farm Bureau, questioned the possibility of removing reference to the Cherokee Canal from the plan that is going to take place on June 29th, if it does not preclude future maintenance projects. He recommended a stronger commitment to mitigation. He applauded the addition of water storage in the resolution and would like to see it strengthened even more. He clarified an answer he gave to Board Member Countryman about the possibility of paying farmers cooperatively to farm habitat: although some farmers will farm habitat, farmers often dislike it because of species and habitat creep. The collective experience seems to be that habitat projects do not have an upside for adjoining landowners, only potential downsides. He suggested building in sufficient third-party assurances to deal with that.

Public Comment: Tara Broucker

Tara Broucker, President of the Yuba-Sutter Farm Bureau, stated, while flood protection is needed in the rural and agricultural areas, and levees do need to be maintained, repaired, and improved, this cannot come at the cost of losing productive land. She expressed her concern about the ability to make a living in the future. The CVFPP addresses some of these concerns, but the loss of agricultural production, due to bypass expansion, mitigation, and transitory storage, could reach over 100,000 acres.

The Yuba-Sutter Farm Bureau requests stronger language protecting the loss of agricultural ground; stronger resolved language in the Resolved 11(i), with the inclusion of mitigation; removal of the Cherokee Canal from the plan; assurances that the regional planning process will be locally driven; and the opportunity to influence change by participating in the process. Ms. Broucker encouraged the Board to promote landowner participation and incorporate public input.

Board Member Ramirez stated the Board's intent is to acknowledge and relieve public concerns over issues such as maintenance and expansion in a way that is meaningful. He felt these issues require more discussion and technical work in order to be resolved.

Public Comment: Scott Shapiro

Scott Shapiro, as general counsel for California Central Valley Flood Control Association, called attention to two key inclusions in the most recent draft: additional language on regional planning and the inclusion of language on agriculture. He noted several suggestions in the DWR's June 6th draft.

The California Central Valley Flood Control Association supports the suggestion for modification to 11(a), 11(h), 11(i), and 12. The DWR proposes adding language to 11(a) regarding the Board's role in enforcing maintenance requirements and other applicable permitted conditions, and suggests changing the language to "incorporating habitat values and current agricultural landscapes." It is also important to include language to clarify that the plan does not change the Board's practice or encompass cumulative impacts where hydraulic impacts have not been found in the first place.

On behalf of the San Joaquin Area Flood Control Association (SJAFCFA), Mr. Shapiro read a letter from Roger Churchwell, the Deputy Executive Director of SFAJCA, which noted the absence of the Mormon Creek Bypass in the draft resolution. The opportunity exists to place an in-channel bypass through an urban area and to achieve a level of flood protection above 200-year with the reoperation of Mormon Channel Bypass through San Joaquin County and the City of Stockton.

Mormon Channel was blocked off in the early 1900s by the Corps of Engineers to prevent sedimentation in deepwater ship channels. Redirecting high flood flows to Mormon Channel would lower the flows in the Lower Calaveras River, provide a level of flood protection above 200-year, and reestablish a diverse aquatic habitat. Mr. Churchwell requested the Mormon Channel Bypass be included among the list of bypasses which the State will explore.

Public Comment: Anjanette Shadley Martin

Anjanette Shadley Martin, the Special Projects Manager of Western Canal Water District, stated local communities know best how the system works and what needs to be done. She showed a photo of the bridge on Richvale Highway, which crosses the Cherokee Canal. She noted that the capacities are much diminished and that there are capacity issues that have not been addressed since it was built. She stated that Western Canal and Richvale Canal have siphon projects under the Cherokee Canal, and asked the Board to consider the impact on the 68,000 acres served by the Western Canal siphon project and on the many acres of waterfowl habitat.

Public Comment: Carl Hoff

Carl Hoff, of the Butte County Rice Growers Association, stated he submitted a letter outlining the Association's position on the Cherokee Canal. He shared his concerns regarding the expansion of the Feather River Bypass, specifically the effects downstream and adequate maintenance not being performed in the existing canal. A key to the CVFPP and the planning process is putting safeguards in place to help the State maintain existing flood structures. He stated landowners feel that levee expansion will trade a smaller problem for a larger one, and recommended focusing on the existing structure, removing the sediment that has been built up from the hydraulic mining tailings, and cleaning the vegetation back to its existing capacity.

Public Comment: John Cain

John Cain, with American Rivers, stated he will address three related issues: flood risk, climate change, and hydraulic impacts. He offered some proposals for amending the resolution to better describe flood risk. For Whereas K, he suggested adding, "Flood risk is the product of the probability of flooding multiplied by the consequences of flooding," followed by the equation. He also suggested changing the language about flood control to "Whereas the primary challenges limiting the ability to control the probability of flooding are insufficient levee integrity and insufficient capacity to handle large rain floods in both the Sacramento and San Joaquin Rivers, and prolonged snowmelt runoff events in the San Joaquin Basin." He requested a new Whereas M: "The primary challenge limiting the

ability to control the consequences of flooding is inappropriate urban development of floodplains.” He perceived the underlying analysis to be more about flood control rather than about flood risk management. He proposed amending Resolved 3 by adding a new Resolved 3(g), “Improve system resilience to address uncertainties such as the effects of climate change, unknown foundational conditions, and other changes in hydrology.”

Board Member MacDonald asked Mr. Cain to explain what a foundational condition is. Mr. Cain stated this language was suggested by Mr. Shapiro, who would better be able to define it.

For Resolved 15, Mr. Cain proposed adding, “The Board has consistently applied this practice and found no adverse hydraulic impacts are associated with levee strengthening, which does not change the alignment, height, or geometry of the levee or does not allow for conversion of agricultural land uses behind the levee to urban land use.” If Resolved 15 passes as is, there may be an increase in applications that in fact reduce the risk profile of the system while claiming to be fixing a levee with no hydraulic impact. He also drew the Board’s attention to Resolved 16, which contradicts or could be read to contradict Resolved 15, and raises the question of whether Resolved 15 is even necessary.

Board Member Ramirez asked if Resolved 15 would be acceptable if the second sentence were removed. Mr. Cain agreed, as long as the Board understands the need to look toward reducing risk impacts, rather than managing hydraulic impacts.

Board Member Countryman asked Mr. Cain to explain the term “risk profile.” Mr. Cain used the example of considering probability without consequences. He stated, by calculating hydraulic impacts, there is the possibility that someone will object to any action; he recommended judging by flood risk instead.

For Resolved 16, Mr. Cain proposed adding, “to develop appropriate policies or guidance for the consideration of potential temporary or permanent hydraulic or risk impacts.” Resolved 16 is an opportunity to discuss hydraulic impacts raised with Resolved 15, and to develop a new measurement by risk.

Public Comment: Bryce Lundberg

Bryce Lundberg, of Lundberg Family Farms, supports the Board’s concerns regarding the caveat in Resolved 23(e). He is opposed to the enlargement of the Cherokee Canal and requests this be taken out of the plan for consideration, until such time as it can be reconsidered with more local and community involvement. He stated the Cherokee Canal is effective when it is maintained and allowed to work the way it was designed to. He asked the Board to acknowledge that Cherokee Canal’s existing channel is an important part of local flood control and to include maintaining the existing channel in the plan, rather than enlarging it in order to divert Feather River water through the area.

He appreciates the Board’s inclusion of Whereas M and the recognition of agriculture’s work in the area of the economy, food, habitat, and open space. Water areas can serve a dual purpose: environmental restoration and water reliability. He cautioned the Board to be careful about where and how habitat is introduced in order to maintain open flows for the emergency corridors.

Public Comment: Paul Sankey

Paul Sankey, of Sankey Farming, commented on the broad, long-term, economic impact of the Cherokee Canal on Colusa County, which may take thousands of acres out of production. He encouraged the Board to tour the Cherokee Canal. Butte, Colusa, and Sutter Counties are major food-producing counties and have some of the most fertile ground in the world. He asked the Board to consider the Cherokee Canal's long-term effects on this production.

Mr. Sankey stated setback levees also take thousands of acres out of production, and felt maintenance and improvements to current levee structure can compensate. He asked the Board to consider the ramifications of the plan to put farmland into rehabitat, and to remove the Cherokee Canal project until its impacts can be studied further; he also encouraged the Board to extend the deadline to allow for more collaboration with the public.

President Edgar explained this plan is just the beginning of the planning stage. There are many analyses to complete, and the Cherokee Canal should be part of those studies by being included in the plan. Feasibility studies, system basin studies, engineering studies, and geotechnical analyses need to be completed in order to determine the need to repair the levees and increase system capacity. At that point, the Board will consider how to accomplish these goals. He anticipated this study process to take at least ten years. If Cherokee Canal is taken out of the plan, it may no longer be considered consistent with the plan. The plan is a way to ensure issues will be addressed.

Public Comment: Susan Schohr

Susan Schohr, of Schohr Ranch, noted that the agriculture paragraph of part 3, page 3, number 3 seems to be inconsistent with the Cherokee Canal. Landowners along Cherokee Canal, who have been trying to resolve the operational maintenance problems for years, pay annual levee maintenance, but the maintenance is not done. Also, the resolution on pages 10 and 11 has language about economic benefits, but there seem to be no economic benefits in the proposal.

Engineers from the DWR were on Ms. Schohr's property and the levees in the Cherokee Canal the week of June 5th. They stated they were working for the DWR on behalf of the Flood Board, but could not share a project number or their supervisor's name. It seems the plan has moved into construction. She stated measurements taken during rice irrigation do not accurately reflect the water level during the flood season.

Executive Officer Punia stated the Board did not send anyone to Cherokee Canal, but the DSW has various programs, such as water use efficiency. Board Member Ramirez added there are many reasons State people would be out in the field as they have ongoing responsibilities.

Public Comment: Lewis Bair

Lewis Bair, the General Manager of Reclamation District 108, spoke on the Resolved for dealing with agriculture and the Resolved language that included the mitigation of

impacts, both direct and indirect, on converted agricultural property. He stated Dr. Jerry Meral, the Deputy Secretary of the California Natural Resources Agency, who was speaking to the Yolo County Water Resources Association related to the Bay Delta Conversation Plan (BDCP), talked about the coordination between the two programs, BDCP and the Flood Plan. Yolo County has been investigating the impacts on agricultural land within the bypass. Mr. Bair spoke to Dr. Meral, who said it was a consistent principle for BDCP. Mr. Bair recommended a statement be put back into that agricultural Resolved: "Mitigation of both direct and indirect impacts related to the change in use of agricultural lands."

In regard to the Cherokee Canal, Mr. Bair suggested ensuring it is on equal footing with other solutions to additional capacity for the Feather River system, with no preference for the Cherokee Canal expansion. He proposed rewording Caveat (e) to reflect that.

Mr. Bair has been asked to be the liaison for mid-Sacramento and, in order to have a functional regional planning process, felt it essential to have further information on the Cherokee Canal issue. The process will be more productive if the public is assured there is no preference for the Cherokee Canal alternative to expand the Feather River bypass.

President Edgar stated discussions have begun with the DWR on what the regional planning process will look like. A potential problem is with large waterways that go through two or three regional areas; the Cherokee Canal is one of those. One of the questions being discussed is whether local stakeholders will be expected to attend multiple regional meetings or one regional meeting on each waterway. Mr. Bair agreed that this is one of many questions that are essential to answer before the outset of the regional planning process. He recommended appointing a small work group to discuss the Board, State, and local landowner goals and how they can be integrated. This should be a cooperative process that includes the local public in developing a plan.

B. Board discussion of Draft Adoption Resolution and Package.

President Edgar recommended that Board Member MacDonald speak to Mr. Bair about some rewording on the Cherokee Canal.

Secretary Dolan asked the drafting committee to consider clarifying or separating the idea of a Feather River Bypass from the longstanding issues of the Cherokee Canal. She stated the fourth draft of the resolution has titled sections for clarification.

Board Member MacDonald stated the items in the Caveats section did not seem to fit under Amendments and Adoption. Secretary Dolan recommended using another word instead of Caveats. She also suggested changing the last sentence of Caveat Section 23(e) to "more localized facility improvements and longstanding lack of maintenance shall be the first priority." Board Member Ramirez suggested instead, "The Board advises the DWR to consider management and maintenance improvements of the existing facility first, and that if an enlargement is considered further, the DWR must fully and carefully evaluate hydraulic and economic impacts and immediately engage the local community as part of the development of regional plans in the Sacramento Valley." He recommended adding Mr. Bair's ideas for clarification.

President Edgar suggested Mr. Bair's language that all bypasses are going to be on equal footing and would be considered, be added to Resolved 10.

Secretary Dolan requested that Board Member MacDonald speak to Dr. Meral about the BDCP and whether their range of principles will be integrated in future plans, such as mitigation for direct and indirect impacts to the change in the use of agricultural lands.

Board Member Ramirez suggested, for consistency, running the language through Resources and the California Environmental Quality Act (CEQA) documentation, so that it will be consistent in the certified Environmental Impact Report (EIR).

In answer to President Edgar's question, Supervising Engineer Butler stated accounting is already done. President Edgar asked Board Member MacDonald to post this on the web, and asked Legal Counsel Smith to check with the agencies on vegetation management.

Secretary Dolan requested the word "conceptual" be added to some of the maps, particularly the map on page 3.5 of the plan. This term is in Whereas KK and the Caveats on page 17(g), but its inclusion on maps clarifies they are still in planning. President Edgar asked Board Member MacDonald to see if this addition is possible; Board Member MacDonald recommended putting it in the resolution.

Secretary Dolan recommended taking out, "but generated substantial concern that actual alignments have been proposed" and adding, "but do not reflect actual alignments" or "but do not indicate actual alignments."

Supervising Engineer Butler stated he will email his notes to the Board so they can review today's comments.

Secretary Dolan stated the EIR should be considered before making a final decision; the DWR will not have that available until June 29th, the day of the decision meeting. She is concerned that the Board will be making semi-final decisions before considering the EIR.

DWR Assistant Chief Counsel Tabor shared the findings with staff earlier this week. Supervising Engineer Butler added that staff is drafting the findings to appear on the version that will be voted on.

James Herota, Staff Environmental Scientist for the Board, stated he is incorporating the DWR's Draft Programmatic Environmental Impact Report, Mitigation Monitoring Plan, which includes all of the mitigation measures for each of the impacts identified in the Program Environmental Impact Report, into the current resolution.

President Edgar stated the DWR is researching and certifying the Programmatic EIR. The Board will then review it before taking action on the plan. Legal Counsel Smith added that the Final EIR will be produced the day before the Board adopts the plan. The Board may review draft findings before that time.

Supervising Engineer Butler asked if Mr. Herota's condensed version of the draft findings could be included in the version of the document to be considered on the 29th. Legal Counsel Smith asked that it also be included in the draft resolution.

In response to Supervising Engineer Butler's concerns, Legal Counsel Smith stated it will be clear that the findings are merely drafts based on the draft EIR, and that they will be revised to be consistent with the Final EIR.

Board Member Ramirez recommended meeting with the DWR to ensure that the proposed resolution next Friday is not inconsistent with the Department. President Edgar agreed, as the Board should not be posting draft findings for another agency's document.

C. Next steps in the adoption process and discussion of media outreach plan.

Secretary Dolan recommended making it clear that the Board cannot take final action until it has considered the certification of the EIR. Supervising Engineer Butler stated the internal discussions with the DWR have conveyed the intent not to post anything on the website related to the CEQA findings until the version that goes up for adoption on the 29th is released.

In response to a question from President Edgar, Legal Counsel Smith stated the Board will not adopt anything on the 15th; it will approve proposed changes for posting for a two-week period prior to adopting. Further changes can still be made after that; the two-week period is to give one final chance for the public to weigh in.

President Edgar asked, if more changes were made at that point, whether it would be necessary to repost for another two-week period. Supervising Engineer Butler stated, since the Resolved section is the portion of the resolution that conveys the Board's changes to the public, substantive changes made to the Resolved section after the 15th will require posting.


President Edgar stated, provided the final CEQA document is available, the Board will review the certified environmental document on the 29th and adopt the plan after that.

5. ADJOURN – REGULAR BOARD MEETING

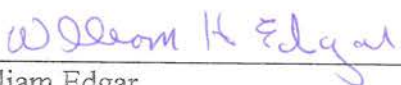
President Edgar adjourned the regular meeting at 3:25 p.m. for a short Executive Committee meeting.

Dated: August 24, 2012

The foregoing Minutes were approved:



Jane Dolan
Secretary



William Edgar
President