

MINUTES
MEETING OF THE CENTRAL VALLEY FLOOD PROTECTION BOARD
June 1, 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 1 beginning at 9:00 a.m. in the Auditorium of the Resources Building, 1416 Ninth Street, Sacramento, California.

The following members of the Board were present:

Mr. Bill Edgar, President
Ms. Emma Suarez, Vice-President
Ms. Jane Dolan, Secretary
Mr. Joe Countryman
Mr. Clyde MacDonald
Mr. Tim Ramirez
Mr. Mike Villines

The following members of the Board staff were present:

Mr. Jay Punia, Executive Officer
Mr. Eric Butler, Supervising Engineer
Ms. Mitra Emami, Senior Engineer
Ms. Nancy Moricz, Staff Engineer
Ms. Amber Woertink, 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:

Ms. Tara Bocker, Yuba Sutter Farm Bureau
Mr. John Cain, American Rivers
Mr. James Gallagher, Sutter County Supervisor
Mr. Chris Scheuring, California Farm Bureau
Mr. Monty Schmitt, Natural Resources Defense Council

Mr. Scott Shapiro, Downey Brand
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 Mr. Villines, who arrived later.

2. APPROVAL OF AGENDA

Executive Officer Punia stated that staff was requesting to follow the agenda as listed.

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

3. PUBLIC COMMENTS

There were no public comments for items not on the agenda.

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 stated that the Board was very pleased with the public participation in the adoption process over the last three months. Stakeholders had provided very valuable input and perspectives on various aspects of the plan.

He thanked Vice-President Suarez and Board Member MacDonald for meeting with Department of Water Resources (DWR) staff and stakeholders to revise the existing draft. They had inserted the comments and revisions recommended by various parties, and done some fine-tuning. After a long session they had produced a new draft that had been posted on the web on Wednesday, May 30.

Vice-President Suarez recapped the work that the drafting committee had done, emphasizing that the May 25 draft was not a draft that represented DWR's approval.

Board Member MacDonald explained that the drafting committee had reorganized the document to make it more readable. They had added headings and moved text around a bit.

He displayed the two drafts side-by-side and further explained the changes. He and President Edgar summarized the policy issues that needed further work:

- The Cherokee Canal
- Vegetation management on levees

- The role of the Board in the implementation process going forward
- The deletion of Phases 3 and 4
- Amendments to the plan prior to the five-year interval
- Ensuring that concepts from the old vision statement have not been deleted
- “Glitches”
- The mechanics of system plans and regional plans
- DWR’s role in the regional plans

President Edgar noted that tension is going to continue between the regional planning contingent and the state and implementing agencies. Board Member Ramirez commented on the importance of two factors:

- Transparency for everyone, including those not members of a Levee Maintaining Agency (LMA) or implementing agency.
- Keeping continuity with the systemwide perspective.

He cautioned everyone to be aware of inconsistencies among the different levels of planning on the regional side.

He and President Edgar agreed that the reason the implementation process is unclear at present is that no one has yet figured it out. There are any number of levels of complication that will not get worked out in the short term; the process will continue to evolve.

Comment from DWR

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

- The drafting committee was an example of effective collaboration between the Board, DWR, and a wide variety of stakeholders and interest groups.
- DWR would be submitting more clean-up comments: technical corrections, suggestions for consistency, and suggestions to keep implementation flexible.
- DWR looked forward to continued collaboration with the Board and stakeholders in implementation. All have a real opportunity to define roles and responsibilities for the Board and DWR more clearly, as well as expectations of stakeholders and local agencies for regional planning and the basinwide studies.
- DWR fully agreed with the importance of laying out very clear principles that won’t change as the process evolves.

Public Comment

- Scott Shapiro, General Counsel for the California Central Valley Flood Control Association, stated that the Association felt that the resolution was coming along very

nically. The Flood Control Association Board had held a session in which they walked through the resolution and prioritized the key issues.

The Association had additional comments that Mr. Shapiro shared with the Board and also provided in writing.

- He shared text for a new *whereas* clause that discusses the benefits of agriculture.
- There should be some reference in the document to the process that DWR used to arrive at this point; people had expectations that Phases 3 and 4 were going to provide the opportunity to develop the regional plan. Mr. Shapiro supplied text for an additional *whereas* clause.
- References to the Yolo Bypass and Paradise Cut Bypass are flashpoints for many landowners, and should be deleted.
- The Association supports the Board's approach and DWR's agreement regarding the support that DWR will provide to cities and counties. A key issue for the cities and counties is the floodplain mapping that DWR is developing. The Association felt it appropriate to set a deadline of July 1, 2013 for DWR to provide 200-year floodplain mapping.

Board Member Countryman clarified with Mr. Shapiro that the mapping applies to the areas protected by the State Plan of Flood Control, not to every creek and channel in the Central Valley.

- The Association suggested two changes on regional planning: deletion of a redundant sentence, and a new paragraph outlining the Board's role as liaison and participant in the dialogue on regional plans and their correlation with the systemwide plan.

President Edgar agreed with Mr. Shapiro that formal Board approval of regional plans would initiate an unwanted California Environmental Quality Act (CEQA) issue. However, if regional plans came to the Board for review and comments, this would be good from two standpoints:

1. It would require the regional agency to be very clear on the expectations from the plan.
2. It would give the Board the necessary information about projects that are happening.

Mr. Shapiro explained that the Association felt that the Board was the appropriate place for stakeholders and the public to come and hear about the regional planning process – not discounting anything DWR wants to do to make the process better and more efficient.

President Edgar expressed the need for more detail in the regional planning process – how it will work and the roles of the Board, locals, and DWR.

Vice-President Suarez asked about the expected role of the Board in the regional processes. Mr. Shapiro replied that they hoped that a Board member would be

assigned to each region; at Board meetings, the members would then discuss what's happening in the various regions to help things run possibly more smoothly. The Association would support staff involvement as well.

Board Member MacDonald commented that they needed to remain flexible on the separation between the system plan and the regional plan. DWR should be able to give the systemwide perspective, then work with the locals to fit specific opportunities. He visualized a fluid process with objectives coming from DWR and local ideas working in. Mr. Shapiro agreed.

- The Association felt that the importance of agriculture should be mentioned in the framework section with four points:
 1. The plan should protect and preserve rural agricultural lands.
 2. The plan should minimize disruption of agriculture by using it to provide ecosystem benefits – doing mitigation and restoration without taking land out of production.
 3. The plan should mitigate for any economic impacts of lost agricultural land.
 4. The plan should minimize the impacts to adjacent landowners from the creation of new habitat and flood system improvements.
- Coordination with other state processes was important, as was an acknowledgement that DWR and other agencies are doing other things that touch flood control. The plan should state a Board intention in cooperation with DWR to reach out to key state agencies and departments, as well as branches within DWR, to ensure coordination between this process and other related processes such as the Bay Delta Conservation Plan, the Delta Plan, the California Water Plan, and others.

Board Member Ramirez remarked that the goal was for the state to present its plan to local governments, not to have individual state agencies present their plans and force the integration onto others. The state entities could do a better job of coordinating an integrated approach rather than an individual approach.

- There is a friendly dispute between DWR and some members of the Association, as well as cities and counties, on what the application of the Urban Level of Flood Protection (ULOP) should be, and whether it should apply to interior drainage and communities that do not have levees, for example.
- For *resolveds* 18, 19, and 20, which discuss the serial updates to the descriptive document and the State Plan of Flood Control document, add the phrase, *in an open, public, and transparent manner* for clarification.
- If current court cases find that the Corps' vegetation management policy is illegal, the plan would need to be implemented consistent with that case.

- The Association has struggled with taking a position on the Cherokee Canal. They very much support additional capacity, but the Cherokee Canal entered the game a little late. The Cherokee Canal is one particular alternative to achieving some goals on the Feather River system. However, there wasn't much of a discussion of reoperation of Oroville.

The Association suggested removing references to the Cherokee Canal from the plan; it should be studied as one alternative among a list of alternatives.

Board Member Countryman felt that this was not the right way to remove the Cherokee Canal. He favored letting the process work its way out. Mr. Shapiro responded that it was not just the widening of the canal that affects several landowners; it is a swath that affects hundreds of landowners.

He continued that its reference appears to be more than it is by staying in. The plan's existing text makes it clear that the Board has serious concerns but does not speak at all to whether DWR shares those concerns.

- The definition of *stakeholder* should be clarified – the plan contains references to *landowner, agriculturist, conservationist, and environmentalist*.
- As the plan is a framework only, some text would be useful to that effect.

Vice-President Suarez inquired about the additional language Mr. Shapiro had suggested for mitigation of economic impacts. He responded that it was meant for situations such as land being made part of a bypass that now had a higher chance of inundation. The language was an acknowledgement of the economic cascade effect. Some urban areas would have a positive economic cascade effect from higher levels of protection, while other regions may have a negative effect.

Board Member Countryman asked about the presumption that the plan would lower the level of protection for anyone. Mr. Shapiro replied that possibly someone's previous expectation of a certain level of protection might not occur; the rurals are not getting the same '57 level of reliability that the urbans are. The plan clearly puts forth the Legislature's vision of a bifurcated system of flood protection. Not everyone is going to have the same level, and perhaps the rurals should be compensated.

Board Member Countryman pointed out that the '57 profile actually never provided an even level of protection for everyone. Mr. Shapiro responded that this was the position the Association was asserting in support of its rural members.

- Chris Scheuring, representing the California Farm Bureau Federation, stated that his members feel that the State Systemwide Investment Approach (SSIA) has too big a footprint. There's too much ag conversion. The threat of eminent domain is always scary for members. There's the general feeling that ag is left holding the bag.

The Farm Bureau was appreciative that the Board has been very responsive to their concerns, but they still may not be in a position of openly endorsing the plan on June

29. Mr. Scheuring also recognized the hard work of the DWR staffers in developing the plan.

He stated that the Farm Bureau supported most, if not all, of Mr. Shapiro's suggestions. He agreed that specific mention of the Yolo Bypass and the Paradise Cut should be struck from the plan. He very much liked the agricultural language that Mr. Shapiro presented.

Board Member Ramirez encouraged the Farm Bureau to think about what everyone could do after July 1 to bring all the various perspectives and goals closer together. He also commented that traditionally, when people design flood control systems, what happens over time is that the landscape is transformed generally.

He continued that when the law was written and the plan was set on course, the intent was to support agriculture as best as it could be done then. Over time, the options for supporting agriculture need to be developed, and the Farm Bureau could greatly help in identifying options.

Board Member Countryman offered the idea that a program could be started near the waterways in which farmers could make available, on a volunteer basis, a certain amount of land for habitat. It wouldn't necessarily all have to be done inside the basins.

- Ron Stork, representing Friends of the River, commented that the environmental folks' perspective on the plan is that while it is basically on target, it is not ambitious enough on flood damage reduction, environmental issues, global climate change, and sea level rise.

He stated for the record that Friends of the River, South Yuba River Citizens League, and the Sierra Club, at the urging of Sutter and Yuba County flood control interests, had weighed in on the Federal Energy Regulatory Commission (FERC) relicensing proceeding. They raised the argument that the project at Oroville had deficiencies in its flood control operational capabilities that were inconsistent with FERC's engineering manual.

Unfortunately, DWR and the state water contractors disagreed. That forum is still available; the FERC relicensing has not been buttoned up for Oroville Dam.

Mr. Stork briefed the Board on the levee vegetation issue with regard to the lawsuits and its effects on the plan.

- DWR rejected the Corps' policy on levee vegetation. DWR adopted a policy that it will comply with Corps policy on new levees, remaining silent on whether or not this was a Corps issue or not.
- DWR has departed from the Corps' guidance by saying that it is likely that lower waterside slope vegetation will be retained. But in a very slow implementation of Corps guidance, upper waterside levee, and landside levee, and landside near-levee land would eventually be cleared of woody vegetation.

- That proposal is best framed in the conservation framework, which the Board is proposing to adopt with the plan.
- Mr. Stork cautioned the Board against adopting something that the Department of Fish and Game, representing DWR and by implication the State of California, is opposing in a lawsuit against the Corps. That directly exposes the Board to some risks of cognitive dissidence. It also exposes the Board to risks that the policy guidance in the plan may be overturned in the litigation.
- Friends of the River suggested that the Board revisit the issue in the Urban Level Design Criteria (ULDC) review or the Urban Level of Protection (ULOP) review. It is conceivable that the litigation may have sorted itself out by then.

Mr. Stork has sent the Board a memo proposing two approaches.

1. Adopt the modified Resolution 22 as proposed by Mike Inamine, Interim Executive Director of the Sutter Butte Flood Control Agency.
2. Adopt the approach proposed by the counsel of Friends of the River: do not adopt the policy of prohibition of vegetation in the plan to comply with Corps guidance for newly constructed levees. They are not operative because there has not been National Environmental Policy Act (NEPA) and Endangered Species Act (ESA) compliance carried out by the Corps with respect to the Corps' issuance of the Engineering Technical Letter (ETL).

President Edgar requested for the Board to discuss the issue.

Board Member Ramirez addressed the timing problem. DWR had put into the plan a pragmatic effort to reach agreement. The situation unraveled and litigation has begun. He agreed that it might be problematic to adopt something that is currently in question and possibly isn't even feasible to begin with.

He was not sure that the Resource Agencies could implement the lifecycle management plan the way it is articulated.

He spoke of the need to maintain flexibility – to write the resolution in a way that enables the Board to do something that makes sense and adjust over time, whether it's litigation or legislation. He agreed that the wording in the plan needed to be tweaked.

Board Member MacDonald mentioned the incredible damage that the Corps' policy would do to recreational resources for the public. He felt that the Board should maintain its flexibility, and not be out of step with the Resource Agencies and with this administration.

Board Member Countryman supported Board Member Ramirez' perspective. He stated that he was inclined toward Mr. Stork's second alternative. He had seen the consequences of the Corps policy on Sacramento Area Flood Control Agency's (SAFCA's) costs on construction in the Natomas area, and agreed that the policy is wrong.

Board Member Ramirez stated that what was proposed long ago was a compromise. The Board should not adopt the way it was proposed then as part of the plan, but should take a step back and let the situation play out. Hopefully, the state's perspective will be part of the resolution.

Vice-President Suarez confirmed, for the upcoming drafting committee meeting, that Board Members Ramirez and Countryman were supportive of the Board not adopting the vegetation policy as articulated in the proposed plan.

She addressed a question to Ward Tabor, DWR Assistant Chief Counsel: for the Board to make a statement as such – that it does not adopt the vegetation policy as articulated in the plan – what would be the impact on the CEQA document?

Mr. Tabor cautioned to keep in mind that clearly the Board, as the non-federal sponsor of the flood project, has obligations to the Corps to maintain it consistent with the Operations and Maintenance (O&M) manuals. There is a clear distinction between legacy levees and new levees.

He suggested that while crafting some language to provide more flexibility in the future, the Board should acknowledge that the vegetation management strategy was a compromise, that adjustments will need to be made over time. To say that we need a NEPA document before we can make any changes would tie us up too much.

The Board discussed the issue in detail with Mr. Tabor.

Board Member Ramirez stated that as the lifecycle management issue was also a policy that was half-baked, it should also not be adopted. He wished to be able to craft the language in a way that allows the work to go forward on a sort of case-by-case basis. Maybe we will reach some kind of an agreement on a policy that does make sense, that does address the Resource Agency concerns, the LMA concerns, and the state's concerns as maintaining agencies.

President Edgar felt that this was the sense of the Board.

Executive Officer Punia explained that the levees are maintained presently the way DWR has articulated the policy. On the landside slope and up to 20' from the hinge point on the waterside, the policy is accessibility and visibility.

Mr. Shapiro spoke in his capacity as General Counsel for the Sutter Butter Flood Control Agency, Three Rivers Levee Improvement Authority, and Project Manager with West Sacramento. Those agencies are working with some projects where they are implementing the lifecycle management philosophy.

On all the projects they have done thus far, they are either not touching a section of levee so they are not touching the trees, or the Corps has been letting them get permits for sections, or they are taking trees out as impediments to equipment, but not because of the ETL.

Keith Swanson, DWR Chief of the Division of Flood Management, spoke regarding the ongoing need for O&M. When DWR came up with the policy articulated in the plan, it

was founded on the need to access and see the waterside slope, and then have access to that top 20' of the landside slope.

The policy has involved a lot of pruning up of vegetation. The whole idea of lifecycle management is to buy time, so that DWR can do the research to move forward. This is where, from a public safety perspective, DWR thought it had to be responsible, to be able to argue with the Corps about what it felt was excessive regulation on their part.

Mr. Inamine responded to Board Member Ramirez's comments: lifecycle management is, in effect, currently being practiced by responsible urban levee managers. If a tree dies, and it poses some risk to a levee, it is going to be removed appropriately. Responsible LMAs are not planting trees all over levees for much of the reasons that were described.

That is opposed to the important waterside habitat, where the current policy, as described in the plan, allows for riparian life to be sustained.

Mr. Inamine continued that DWR's policy prevents wholesale removal of vegetation, which is bad for the environment as well as public safety. There are practical reasons why levee implementers, such as Sutter Butte Flood Control Agency, need some certainty. The language proposed by Mr. Stork allows the Board to adopt what's in the plan, and also leaves an opening to let ongoing research and new biotechnologies be used in the future without radically altering the plan. The Board has some time also with ULDC.

Vice-President Suarez stated that it was clear that the Board wanted stronger language on the issue. The wording needed to allow flexibility until the fight is resolved, at which time the partners and DWR will be able to work and progress.

- Monty Schmitt of the Natural Resources Defense Council touched on three key areas.

1. If this program is going to be implemented and driven by regional planning, there needs to be an overall framework. It shouldn't suffer from the piecemeal approach of today's flood system.

Hydrologic quantitative criteria that enables design and planning, as well as environmental criteria for habitat needs and so on, need to be developed and provided to the regions.

There's a need to support the ongoing planning efforts of projects that are happening today – for example, the San Joaquin River Restoration Program, which Mr. Schmitt is working on.

2. Cumulative impacts to the environment come from the flood management system. While it has obviously provided much public protection, much environmental degradation has occurred as well. While the Council agrees that the primary purpose of the plan is to provide in the long term a functioning flood management system that protects public safety, there is no way that other state-adopted conservation goals (for example, the salmon doubling goal) will be achieved unless the plan acknowledges a need to support them.

3. Both the flood plan and the current version talk about climate change, but not enough. No one can say with certainty what climate change means to the hydrology of the different regions of the Central Valley. Mr. Schmitt proposed that some part of the resolution create a requirement to develop some greater specificity about how to manage that issue for the next 100 years.

Board Member Countryman noted that the appendix on climate change was very well-written. Mr. Schmitt said that he was targeting the flood plan's vision: it could be more strongly stated regarding planning for the impacts of climate change, to ensure that the systemwide flood plan and regional plans provide for future protection.

- Tara Bocker, representing the Yuba Sutter Farm Bureau, presented her comments in order of priority.

The Farm Bureau would like to include the language suggested by Mr. Shapiro regarding the contributions of agriculture.

The Farm Bureau would like to see the language on the Cherokee Canal removed. This would go a long way to reassure landowners in that area that the Board really has heard their concerns.

Replacing it with the Paradise Cut and Yolo Bypass language was not necessarily good. Identifying specific projects is worrisome for landowners, making them feel like they are being targeted without having the opportunity to participate in the process.

Regarding the Yolo Bypass, the Farm Bureau is very concerned about land acquisition. The soils there are some of the best in the state. They grow some of the best crops. The Farm Bureau would like to see regional planning identify the areas with the least productive soils for accommodating the expansions.

Economic and agricultural impact to the communities should be factored in. There are lands out there that are much less productive.

The Farm Bureau likes the opportunity to use the term *landowner* or *agriculturist* wherever possible. Landowners bring solid historic knowledge to the table. They have lived through floods in the past and owned the land for generations; they have tremendous knowledge of the system and how it works in a region.

The Farm Bureau would like to see stronger language with regard to FEMA.

Any opportunity to mention water storage will be appreciated.

Regarding conservation strategies, agriculturists have tremendous respect for Mother Nature. They must compete with conservationists over a very limited resource, and that is land. Agriculturists would very much like to participate in the discussion on finding new and creative ways to resolve the conservation and ecosystem part of the plan.

They feel that the priority of the plan is to protect life and property, and they are confused by some of the language that often puts the ecosystem and the conservation strategies in a priority position. Landowners make the ultimate sacrifice when they lose land: they lose their livelihood.

Ms. Brocker reiterated the Farm Bureau's stand on land acquisition. A loss to production agriculture affects everyone. California feeds the world; that ground cannot be replaced. The economic impact is tremendous. The Farm Bureau would like to see stronger language stating that any acquisition is going to be minimized.

The agricultural community has a perception that with the levee expansions in urban areas, the rural areas may be flooded intentionally for the benefit of the urban population. Ms. Brocker recommended language to address that concern.

- John Cain of American Rivers commented that one of the key issues is the tension between the Board and DWR regarding the amendments to the plan.
- While American Rivers desires to begin implementation and not have planning go on forever, they have also said in 80 pages of comments that there are a lot of deficiencies in the plan.
- If the Board is going to amend the plan between now and 2017, DWR would no doubt agree that we need to find an efficient way to move forward. The drafting subcommittee was an example of an efficient way to move forward with a lot of public input.
- In the *Resolved* section, emphasis should be placed on risk reduction rather than flood control.
- Creating urban levees over large areas to protect areas that are currently rural but urbanizing, could ultimately lead to an increase in flood risk if it allows large subdivisions to happen behind those levees.
- The history section of the plan is very good. Mr. Cain referred to the book *Battling the Inland Sea*.
- It's important to state simply that the Yolo Bypass and the Paradise Cut are the places where we need to start expanding the system.
- The appendix on climate change is excellent. Unfortunately, it's not part of the plan. The section in the plan about climate change is okay, but the SSIA is not built around climate change hydrology.
- James Gallagher, Sutter County Supervisor, stated that there needs to be stronger wording that the regional plans will define and may modify the plan as adopted. Phases 3 and 4 were supposed to form what the plan adopted; now, the *Resolved* clauses 7 and 9 specifically need stronger language. We all know there's more that needs to be studied and more input that needs to be received.

- The Cherokee Canal project needs to be eliminated from the plan. It is too expensive and its benefits are limited.
- The plan should make a stronger commitment to rural levee funding and rural levee repairs. Most of the funding for the Early Implementation Program (EIP) has gone to urban levees. Money needs to be set aside for rural levee repairs that are going to be needed as part of the plan.
- The plan needs to have a focus on how storage and dam operation meets its goals.
- Mr. Gallagher affirmed many of the comments that Ms. Brocker and Mr. Shapiro brought up.

B. Board discussion of Draft Adoption Resolution and Package.

President Edgar explained that the Board would use the afternoon session to ensure that they had enough information, material, direction, discussion time on the major issues for the drafting committee to have a productive meeting the next week.

The Board proceeded to discuss the major issues. Below are highlights of the points they made.

Cherokee Canal

Countryman: This project shouldn't be singled out for deletion; many projects in the plan may not be cost-effective and are going to come out after the studies are completed.

MacDonald: Deletion of references to the Yolo Bypass and Paradise Cut are different; they would just not be named specifically, but the projects themselves would remain.

Ramirez: Having specificity in the plan is preferable. Eventually, if Yolo applies for state funding to support the regional planning effort, they are going to cite the fact that the resolution refers to it. This will support their grant application.

Edgar: The problem is that the Cherokee Canal has created such a stir. Is it worth it to include?

Ramirez: It should stay somehow the way that it's captured.

Dolan: Mr. Shapiro's proposed single sentence is not adequate.

The project name should be settled: *Feather River Bypass* or *Cherokee Canal*?

Leaving it in may cause stakeholders to feel disinclined to participate in regional planning, because they feel the project is already approved. On the other hand, there are very serious maintenance issues with the Cherokee Canal. The system was never completed. There are bottlenecks.

The language could state that the Board doesn't think it is a high priority; if all concerns and issues are conceptually addressed in the regional plan, maybe the Board will look at it during the 2017 update.

Ramirez: Acknowledge the longstanding issues that need to be addressed, but don't make the leap that it's going to be a new bypass.

Dolan: the map on page 36 of the plan, meant to be a conceptual depiction of bypasses to be considered, is misleading to stakeholders.

Suarez: Incorporate the language from the May 25 version that explained the conceptual nature.

Villines: If we delete the Cherokee Canal, we may have to delete other conceptual projects.

Edgar: We are not trying to do DWR's job; we are trying to be included in the discussion leading to their work. It's a bit of a cultural change. My sense is that the Cherokee Canal is going to be an option that they are going to look at, one way or the other.

We could acknowledge the public concern about it and recognize that it will be looked at in the way we do projects; but keep it under very strict language.

The suggestion to include a disclaimer on all the maps is a good idea.

Vegetation Management

Edgar: The Board consensus seemed to be to send the message to both DWR and the LMAs that they need to keep maintaining their levees in a way consistent with the maintenance manuals. However, recognize as well that things are going to change and we need to maintain flexibility as we go through the next few years.

MacDonald: If we are not adopting the Corps' policy, we need to say something because that's in the conservation plan.

Ramirez: It would be acceptable to say that we are adopting the plan and one of its elements is the conservation strategy.

We could state the problem, keeping in mind that as it evolves, we have a chance to ensure that it finds its way back into the appropriate documents.

Villines: The plan should not include any language that will tie the hands of the LMAs or DWR.

MacDonald: The plan should include some kind of statement on this issue.

Ramirez: If DWR needs a state signature by July 1, the Board needs to find a way to accommodate them while at the same time expressing our concerns.

Suarez: The reality is that the default then becomes the Corps' policy, which no one likes.

Tabor: The legacy levees can be thought of as a placeholder. It's probably not perfect, but we need to have something in there, and we can talk about the need to refine it based upon the science and engineering. However, having nothing there is a void which would be a mistake.

Suarez: Looking at what DWR put together in the conservation strategy regarding this issue, there is no better place where the issue is described in detail. It articulates why the policy doesn't work, financially and in terms of priorities.

Dolan: In the 2017 update, the term *conservation framework* changes to *strategy*. This needs to be corrected.

The Board's Role in Implementation of the Plan

Edgar: He and Board Member Countryman had met with DWR leadership. They had discussed the use of the Board as a forum for public discussion on implementation going forward. As long as there isn't any affirmative approval of the regional plans, generally their leadership is okay with the Board participating in implementation.

They had discussed regional plans being submitted to the Board for discussion. The Board would informally reach a general agreement for the plans as they move forward. This would encourage the local regional groups to decide what they think are important regional plans, as well as allow DWR to express its concerns.

Board Member MacDonald had raised the issue about what the regional plans are going to need as criteria – specificity, and quantification of systemwide plans and goals that would affect the regional plans. The more discussion we can have about the regional plans versus the systemwide plans leading into project implementation, that better off we're going to be.

Countryman: Systemwide issues versus regional issues don't necessarily match up. Their coordination is going to be an important issue.

Informational hearings held by the Board would be one way of integrating all the players. A big concern is that the environmental interests may not be able to participate fully in the regional plans.

Villines: Forums may be more work and may create more problems, but people need to feel that their voices are being heard. For the Board to provide that forum for people is important; many of the public commenters had mentioned this today.

We will reach a spot where we are working well with DWR, and they will realize that we have leadership objectives as they do to get these things done well.

Arrich: DWR has processes for setting up, establishing guidelines, and determining the priorities for funding certain projects. What is the intent of having public forums for people to come to consensus? Is it just to provide input?

DWR intends to use the regional planning process, and the parallel process of the basinwide feasibility studies, to get to a point where they can prioritize the use of their limited remaining funds, and also prioritize future needs for funds in general.

The regional plan process and the basinwide feasibility study process will be iterative, because they need to inform each other as we go forward. That will help DWR figure out how much money is available to regions or projects.

To prioritize among regions, DWR will look at things such as consistency with the CVFPP. Projects that provide broad public benefits within the state, not just the affected parties in the Central Valley, are important. Broad public benefits, multi-benefit projects, and wise use of public funds are other important factors.

It's going to be an evolving process. While we do have limited funds available right now, we want to know what each region's vision is for flood management.

DWR does not want to limit the regional plans to focus only on what they can do with the money that's available today. That's an important piece, but there are two key elements:

1. In the near term, what is available today?
2. What do we want to achieve over the long term?

Edgar: There are different funding sources for each of these flood improvements: state funds, local funds, developer fees. Are you going to get into that kind of detail?

Arrich: We will ask each region to develop a funding plan. We do expect to see that there won't be exact consistency among the regions in terms of the quality and the weight of their plans, but we've developed a fairly detailed project management plan – although it is generic/one size fits all.

We are also working to develop the funding plan, which the resolution calls a *funding plan* and *schedule*, for financing long-term flood improvements.

Suarez: That is what the statute calls for.

Villines: The voters overall will want to see trust built over time as a result of funds being spent as planned with results and goals that are reached.

Suarez: The source of this language comes from specific concerns that the Board heard regarding people wondering what was going to happen with the money left from the proposition dollars.

People are concerned that DWR will make decisions about the money regarding the projects they will fund, without transparency and opportunity for a public forum of open discussion.

One solution is to recognize the Board as a public space where those kinds of issues can be raised – whether we do it here in the Board, or in a separate advisory group that reports back to the Board.

Villines: Mr. Gallagher's point was that the money left isn't going to go to the rural areas at all.

Arrich: The concept of providing an open and public process is fine. But we would like to find a way to revise the language not to sound as if we're going to reach consensus with everyone, and we're going to develop and agree on guidelines on how DWR is going to spend the money.

Edgar: We don't want these hearings to turn into giant budget hearings.

Villines: As we travel around, we're hearing from people that they want to talk about objectives and policy in the forums. They don't want to have to knock constantly on DWR's door to get answers.

Arrich: It might help to use the term *work groups* as well as *advisory committees* in one or more of the resolution items.

DWR needs to establish some guidelines in general for the regional groups, on what it is trying to accomplish – objectives, goals, interplay of the basinwide studies with the regional.

DWR is going to encourage the local agencies and stakeholders that are involved in the process to reach out to their public and educate them. We want the locals to have some ownership in the regional plans.

Ramirez: The project feasibility studies are where you actually have a defined scope; you are asking for money. The groundwork must be laid: political support, integration in the systemwide perspective, funding.

Getting to that point in time as quickly as we can is important, so that projects don't have to wait, and we don't spin our wheels and spend all the money on planning.

Whether you're a local Joint Powers Authority (JPA), a local nonprofit organization, or a landowner that lives along the Cherokee Canal, you need to know where to go for the answers to your questions. Right now we lack such a place.

The Board doesn't want to be there just to listen, but to help shape some of this.

Edgar: The Board could help in the regional planning effort in two ways:

1. Task individual Board members to go out and be responsible for certain areas, if they want to attend meetings and provide feedback.
2. As part of the new Board schedule of members attending two meetings a month, one of those would be a planning forum meeting.

Countryman: Two meetings per month are fine, but helping to scope and organize the regional meetings may be beyond our capability.

Punia: We are expanding into a new arena. Previously, the planning was done by the Corps. Now we are launching into a new area where DWR and the state are taking the charge in the planning of flood control projects. But it is beyond our traditional work, and for the time being we may not have the capability.

Ramirez: To be able to carry out the plan once it is adopted, hopefully the administration and the Legislature will be open to hearing about the resources necessary to do that. For DWR to be able to implement the plan without expanding current staff would not be possible.

Suarez: Because Phases 3 and 4 never occurred, stakeholders feel that they went from a high-level dialogue suddenly to a plan with specifics and a narrow range of alternatives, with one preferred alternative selected that combined all the different approaches.

In their minds, making references to that and discussing the Board's resolution for future implementation then makes even more sense, because the implementation process picks up where Phases 3 and 4 dropped off.

Dolan: It's the right time to go forward and say that we have this plan, and there are some implementation and regional initiatives to be done. Public forums will provide outreach. We'll have key points in the implementation process; we'll be a touchstone; we'll keep communicating.

Amendments to the Plan

Edgar: We've heard some talk about whether the plan can or should be amended before 2017.

There is going to be some clean-up work. Technical revisions may be required, since we are doing this in a fast timeframe. We ought to have a fairly dynamic process for amending the plan.

Deborah Smith, Staff Legal Counsel: Looking at the plain language of the statute, it appears that it can be amended in years other than 2 and 7. The updates must occur at a minimum in years ending in 2 and 7.

If the plan is amended, it must be done in compliance with CEQA, for example.

Tabor: Unless there are some significant infusions of cash, there may not be a 2017 plan. The Board seems to believe that as we get closer to 2017, DWR will do a complete new analysis of all the State Plan of Flood Control facilities, a new status report, and all the other things leading to that.

According to 9611 of the Water Code, it seems that the Legislature is saying that the Board can consider changes to the State Plan of Flood Control, but only after DWR proposes them.

Edgar: During the regional planning process, different things may come up or we may find technical errors; if DWR and the Board agree, then we ought to amend the plan.

Tabor: CEQA would apply to any new adoptions of amendments that may happen. It may be that we can rely on the programmatic document that will be in place by then. It may be a simple process – DWR wrote the EIR so that it could be adaptable to many different situations.

It also may be that as we move from June 29, 2012 to 2017 that some of the things people want clarity on may be merely interpretations of the plan and not amendments.

The Board should consider whether the resolution is changing the plan or shaping future actions.

Suarez: Stakeholders would like the Board to remain open-minded to changes in the plan being generated by their input.

MacDonald: Some stakeholders lost trust during development of the plan. Now, we're sort of pulling it back together and we need to be flexible. We should not be arguing

with DWR over whether we can amend the plan, but for stakeholder purposes we need to be able to do that as per *13 Resolved* in the resolution.

Dolan: Terms such as *update* and *revision* may be preferable to *amendment*, which carries a heavier weight. *Revision* connotes quicker turnaround.

Suarez: The resolution does contain the phrase, *...adopt interim updates*.

For the drafting committee meeting next week we need some direction on whether to retain the references to Yolo Bypass and Paradise Cut.

Countryman: The issue is that we should start downstream and go upstream. Part of the plan is the Yolo Bypass, Paradise Cut, and Sutter Bypass. Leaving them in or taking them out doesn't change the reality of what the plan is.

Ramirez: The bottom line is to retain them – if anything has a chance of getting through some level of feasibility in the next five years, it's those two areas.

Edgar: Paradise Cut is probably going to happen; the Yolo Bypass must happen to obtain increased capacity. In contrast, the Cherokee Canal may not happen. Retaining the references to Paradise Cut and Yolo Bypass is probably a good idea.

Suarez: Would it be of interest to the Board to add the climate change attachment as one of the attachments adopted as part of the plan? At least one stakeholder said that it was a good document and that the plan was weak on the climate change issue. DWR would also like the Board to include the attachment as part of the plan.

Countryman: The attachment is not conclusive. It explains the issues around climate change, especially pertaining to flood control and how DWR is planning to address those issues; but it does not say the increase in flow is 10%.

Edgar: We will have a major perception problem if we start including attachments at the last minute. We have said for three months now that we are going to adopt Volume 1 with the six attachments plus the plan.

Also, the agricultural community really reacts to the term *climate change*.

It is a descriptive document and would be better dealt with in the resolution.

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


Board Member Ramirez noted that many public commenters had submitted letters that the Board needed copies of. Eric Butler, Staff Supervising Engineer, replied that they had just been posted on the website.

5. ADJOURN – REGULAR BOARD MEETING

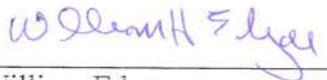
President Edgar adjourned the regular meeting at 3:30 p.m. for a very short Executive Committee meeting.

Dated: August 24, 2012

The foregoing Minutes were approved:



Jane Dolan
Secretary



William Edgar
President