

**MINUTES**  
**MEETING OF THE CENTRAL VALLEY FLOOD PROTECTION BOARD**  
**February 22, 2013**

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 of the Central Valley Flood Protection Board was held on February 22, 2013, beginning at 9:06 a.m. in The Resources Building Auditorium, 1416 Ninth Street, Sacramento, California.

**The Members of the Board:**

Mr. William H. (Bill) Edgar, President  
Ms. Emma Suarez, Vice President  
Ms. Jane Dolan, Secretary  
Mr. Joe Countryman (absent today)  
Mr. Clyde Macdonald  
Mr. Tim Ramirez  
Mr. Mike Villines (absent today)

**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  
Ms. Nancy Moricz, Staff Engineer  
Ms. Nicole Rinke, Legal Counsel  
Ms. Alison Tang, Staff Engineer  
Mr. Dave Williams, Senior Engineer  
Ms. Amber Woertink, Staff Assistant  
Mr. Michael Wright, Senior Engineer

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

Mr. Michael Sabbaghian, Chief, Project Development Branch

**Also Present:**

Ms. Paige Caldwell, United States Army Corps of Engineers (the Corps)

**Also Present (continued):**

Ms. Kim Floyd, Kim Floyd Communications  
Ms. Alicia Kirchner, the Corps  
Ms. Meegan Nagy, the Corps  
Ms. Melinda Terry, California Central Valley Flood Control Association (CCVFCA)

**1. ROLL CALL**

Executive Officer Punia called the roll and a quorum was achieved (Board Members Countryman and Villines were absent from today's meeting).

**2. APPROVAL OF MINUTES – December 21, 2012**

*Upon motion by Secretary Dolan, seconded by Board Member Macdonald, the Board unanimously approved the December 21, 2012 Meeting Minutes.*

**3. APPROVAL OF AGENDA**

Executive Officer Punia read the day's Agenda and gave the staff recommendation that Item 7A, Permit Number 1526-1, Goose Club Farms North, be postponed to a future date, as requested by the Applicant.

*Upon motion by Secretary Dolan, seconded by Board Member Ramirez, the Board unanimously approved the staff recommendation.*

**4. PUBLIC COMMENTS**

Ms. Melinda Terry, California Central Valley Flood Control Association (CCVFCA) Executive Director, discussed various issues of concern to the Association and stressed the need for improved communication between the Corps and Association members.

**5. U.S. ARMY CORPS OF ENGINEERS (the Corps) REPORT**

Ms. Alicia Kirchner, Chief, the Corps Planning Division, gave the Report and answered Board Member questions, which ranged from inquiries about elements of planning and financing to project scope and implementation dates. Some highlights:

- Ms. Kirchner began by noting that Planning Division has responsibility for developing Corps decision documents. She noted that the Corps has initiated a process called planning modernization, designed to implement planning in a more efficient and timely manner.

- The planning modernization process is nicknamed “3X3X3”--the Corps will intend to plan studies under \$3 million in total project cost, to be completed in three years’ time or less, and to include three levels of vertical integration/vertical teaming--the Corps’ Sacramento District, Corps Regional Headquarters for the South Pacific Division in San Francisco, and Corps Headquarters in Washington, D.C. In addition, it is expected that the final report will fit in a three-inch binder.
- Studies will be completed in a more reasonable amount of time, be shorter, and cost significantly less. Documents will retain their high quality and the Corps, its partners, and Congress will have increased confidence in the remaining active civil works study portfolios at the national level.
- Projects in the planning process, many of which are in partnership with the CVFPB, include:
  - Sutter Feasibility Study--the Corps’ Sacramento District working with the Sutter Buttes Flood Control Association (SBFCA);
  - Lower Cache Creek Feasibility Study for the Woodland area;
  - Lower San Joaquin River Feasibility Study for the greater Stockton area, including Lathrop and Manteca;
  - Orestimba Creek Study, in collaboration with the City of Newman;
  - Delta Islands and Levee Feasibility Study (a cost share with DWR);
  - American River Common Features, in West Sacramento;
  - Sacramento River Bank Protection Project; and
  - Yuba River Basin Investigation.
- The Corps develops pre- and post-authorization investigation studies. Post-authorization studies come into play when the Corps has a project already authorized by Congress for construction that, as a result of the ongoing nature of the investigative process, requires project changes.

Ms Paige Caldwell, the Corps Emergency Manager, provided an update on the willow pole planting project on the Sacramento River.

## **6. REPORT OF ACTIVITIES OF THE EXECUTIVE OFFICER**

### **Briefing by Kim Floyd about the status of regional flood management planning activities**



Ms. Floyd, Kim Floyd Communications, briefed the Board. Highlights included:

- The Coordinating Committee will meet on February 27 at its new venue in the City of West Sacramento. The Committee began meeting there last month and much positive feedback was received. Committee attendance is growing each month.
- At the meeting on the 27<sup>th</sup> there will be a presentation of the draft guidelines for the Flood System Repair Program, as well as discussion on the coordination and engagement for the basin-wide feasibility studies and conservation strategy.
- As discussed previously, meetings will be scheduled--at least once per quarter--outside the Sacramento region. The first will be on April 24 at the Lower San Joaquin River Levee District in Dos Palos. Among other things, the Mid-San Joaquin Region will present the scope of work for its regional planning process.
- The Committee website is now live at [RFMPCC.com](http://RFMPCC.com). The site will serve as the repository for meeting announcements and agendas and will contain links and resources for system-wide and regional planning and relevant contact information. It will also have a calendar feature denoting the various meetings.
- The Coordinating Committee is quickly becoming the venue for integration of all the different programs and plans at the State level.
- Three of the six Regions –Lower Sacramento Delta North, Feather River, and Mid- and Upper-Sacramento-- have received their Letters of Commitment and work has started in earnest. They are currently developing their stakeholder databases to ensure they are inclusive and open. They are also starting to schedule small group meetings in some areas; kick-off meetings are being planned in other areas in March. As the meeting dates and locations become available, that information will be sent to the Board.
- DWR expects to issue letters for Mid-San Joaquin and Lower San Joaquin, Delta South Regions in the next week; and review of the Upper San Joaquin Region application is completed.

President Edgar commented that the Committee has gone public, people are attending the meetings, there's a lot on the agenda, and it's working. The Committee's increased activity helps state the philosophy of the Board and how it wants to approach the issues—by working together and solving problems together.

Executive Officer Punia reported the following:

- A link to the Coordinating Committee website has been established on the Board's website, on the right-hand side.
- Regarding personnel - Amber Woertink has been promoted to Staff Services Analyst. She will assume many of the responsibilities of Lorraine Pendlebury (Ms. Pendlebury is retiring from state service). Ms. Lee Mikee Green has also been promoted to Staff Services Analyst and will doing budget, training and administrative work, along with Jennifer Bingaman, in the Administration section.
- Mr. Mike Mirmazaheri will retire from DWR at the end of February, after 28 years of dedicated service.
- Board staff is working to hire a standby consulting firm in case big applicants ask the Board to develop the CEQA requirement. The Board previously received authority to receive money from potential applicants if they are asked to do the applicant's CEQA work. The Board will hire the consultant to do the CEQA work, the applicant will pay the Board, and the Board in turn will pay the consultant.
- Staff met with Bay Delta Conservation Plan (BDCP) and Corps personnel to clarify the Section 408 process and how it might work; some of BDCP's proposed items will require them to work with the Board and the Corps in altering the existing flood control project.
- There was a recent meeting with the Corps, Pacific Gas and Electric (PG&E), and Board staffs. The Corps has put PG&E on notice that their telephone poles on the levees are not acceptable and meeting participants discussed how to resolve this issue.
- Board staff is coordinating a three-party lease on property near Rio Vista that is owned concurrently by the Sacramento-San Joaquin Drainage District, DWR, and the ASTA Incorporation, which has a month-to-month lease with the Board. ASTA has mining rights and a mining permit there and want to have a long-term lease. Recently, PG&E found that area to be very desirable for storing pressurized air. Staff is working on a three-party arrangement—the Board will have the lease, ASTA can continue their mining operation, and PG&E can store its compressed air.
- Levee improvement projects:
  - West SAFCA and SAFCA are considering merging their West Sacramento and American River Common Features Studies, respectively, thus becoming, under Corps terminology, a "mega" project designation, which may have higher priority and visibility to Corps leadership.

- SAFCA Early Implementation Projects--Natomas Cross Canal and the Sacramento River East Levee--are almost 100% complete.
- SBFCA anticipates filing its permit for their proposed Project Area C.
- Three Rivers Levee Improvement Authority (TRLIA) is almost 100% complete; staff is coordinating final reviews of addendum operation and maintenance manuals.
- West Sacramento Area Flood Control Agency--both the California Highway Patrol Academy and the Rivers Projects are completed, as is the Sacramento River setback levee. The South Levee Project is underway--the 60 percent design is submitted and under staff review.
- Marysville Ring Levee Project is almost 95 percent complete. Paving of the crown road is scheduled for spring 2013.
- Several Caltrans bridge projects and local agency bridge projects are underway.
- The California High-Speed Rail permit applications have not been received as yet, but staff has been notified that several bridge applications will be submitted soon.
- Regarding Delta mercury issues related to the Cache Creek Settling Basin--staff is collaborating with DWR, California Regional Water Quality Control Board, DWR, the Corps, the U.S. Bureau of Reclamation, and the California State Lands Commission. All parties have equal responsibility to put together a workplan for mercury abatement in the open waters of the Delta. The workplan is due in April.

Ms. Alison Tang, Board Enforcement Section, gave a status update on enforcement Letters of Intent, the periodic inspections, and other enforcement activities, and answered Board Member questions.

Ms. Melinda Terry, CCVFCA Executive Director, commented on enforcement distinctions between large and small FCAs and LMAs, and asked for SWIF compliance clarifications. Ms. Meegan Nagy, the Corps, responded to her concerns.

## **7. CONSENT CALENDAR**

- A. Permit No. 15526-1, Goose Club Farms North – *postponed***
- B. Permit No. 18725, Pacific Gas and Electric Company (PG&E)**
- C. Permit No. 18812, Southern California Edison**



*Upon **motion** by Secretary Dolan, seconded by Board Member Macdonald, the Board unanimously approved Consent Calendar Items 7B and 7C (Member Villines abstained from Item 7B).*

## **8. REQUESTED ACTIONS**

### **A. Legislation to Broaden the Board's Enforcement Authority**

President Edgar stated that the Board was able to get Senator Darrell Steinberg to agree to be an author of the bill to increase the Board's enforcement authority. There was also a meeting with Ms. Terry and the CCVFCA, who agreed to help the Board. Many wording issues need to be resolved, as well as the search for bill co-authors (suggested by Senator Steinberg), and introduction of the bill itself. As discussed previously, the initial bill language will reflect on the problems the Board has been having notifying people of enforcement actions and how those actions might still proceed should notification problems persist.

President Edgar remarked that it is critically important that the Board state clearly and concisely why it is introducing the bill. He cited four major reasons:

1. Public safety.
2. State liability.
3. Ineligibility of the state and local levee for federal monies if the enforcement programs aren't fixed.
4. Inability to get a Provisionally Accredited Levee (PAL) if there are continuing enforcement problems, which could subject the levee area to higher FEMA rates.

Board Member Macdonald discussed further the meeting with CCVFCA, and added that there were four main discussion items pertaining to bill language:

1. The existing language is convoluted and difficult to understand; it needs to be clarified.
2. CCVFCA suggested that the Board use the San Francisco Bay Conservation Development Commission enforcement authority language as a baseline to work from.
3. Consideration of giving the LMAs some authority to provide a Notice of Violation if needed.
4. Consideration of having separate processes for encroachment permits and levee improvement permits; currently there is one process for both.

CCVFCA and the Board will come up with draft language to share with interested parties.

Once the initial bill is introduced it will sit for 30 days without amendment. During that time the Board will need to buckle down and formulate specific bill language, and then circulate it to the Board and other stakeholders. The resulting refined language would then go back to legislative counsel, who will write the official language. The initial bill then gets amended, is referred to the appropriate Senate Committee, eventually goes to the Senate Appropriations Committee, then to the Senate floor; and then to the Assembly, where the process continues.

Board Legal Counsel Nicole Rinke remarked that her office has not taken a position for or against the bill, although she is providing assistance in terms of drafting language to make sure it's legally sound and reflects the Board's policy objectives.

Ms. Melinda Terry, CCVFCA Executive Director, expressed her Association's absolute support for the Board's effort to seek legislation for improvements to its enforcement authority and that the Association looks forward to working on it with the Board.

Vice President Suarez discussed the importance of outreach and inclusion of stakeholder feedback in the process, and suggested that the Farm Bureau and the environmental community be included among the stakeholders.

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

President Edgar commented that he has been spending considerable time on the proposed enforcement activity legislation, as well as working with the Coordinating Committee.

He worked with Vice President Suarez, Secretary Dolan, and Eric Douglas on the strategic planning process. There will be a meeting on March 15 to further that process, which will be brought before the Board on April 5 for Board review.

He, Secretary Dolan, Executive Officer Punia and Board staff will be touring Sacramento City Hall facilities in hopes of finding a better venue for future Board meetings.

He continues to attend meetings with DWR and Board staff on resolving the issues pertaining to SWIF language.

Board Member Villines continues working with President Edgar and Board Member Countryman on the pending legislation.

He attended a meeting with the Waterfowl Association, and a couple of receptions.

Vice President Suarez commented that she, along with Executive Officer Punia and Chief Engineer Marino, participated on a conference call with the Corps regarding their Levee



Safety Inspection Program. The purpose of the call was to have a discussion on what could be done better, on how the Corps can better work with local entities and partners on communicating levee safety risks.

Secretary Dolan commented on her continuing work with the Executive Committee.

She is continuing to work with strategic planning consultant Douglas on the logistics of the strategic planning workshops, to ensure they are effective.

She is working with President Edgar on finding a better venue for Board meetings.

She attended the California Agricultural Leadership reception, which was well attended by the agriculture community and State government department heads, as well as members of farm organizations from around the State.

She attended the Chico State College of Agriculture Leadership breakfast, which is associated with the Colusa Farm Show.

Board Member Macdonald commented that he has been working on the enforcement legislation, as well as on the Coordinating Committee.

He attended the Interagency Flood Management Collaborative Program Management Group reception.

He attended the IAC Regional Permitting Subcommittee meeting.

Board Member Ramirez commented that he has been working on the response to the USBR letter received in December re: notification of experimental release of water from Friant Dam to the San Joaquin River under the Friant/NRDC settlement as required by the SWRCB.

He has been tracking the potential conflict with State law (California Endangered Species Act) and the Corps' vegetation policies, and what the California Department of Fish and Wildlife (CDFW) might end up doing in terms of permitting. He talked with Mike Inamine, CDFW, and with U.S. Fish and Wildlife personnel about what's going on with the CEQA document relating to vegetation policies, to help ensure that people were communicating with each other about (hopefully) avoiding conflicts down the road in terms of CDFW's role of permitting the project, and the CEQA document itself, which they would have to lean on for their permitting.

## **10. FUTURE AGENDA**

Executive Officer Punia read the proposed Agenda Items for the March 8 and March 22 Board meetings and responded to Board Member questions about particular Items.

**11. CLOSED SESSION**

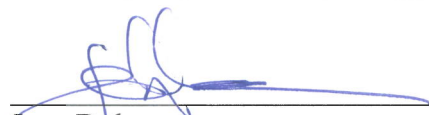
**Pursuant to the authority of Government Code section 11126, subdivisions (e)(1), (e)(2)(B)(i), and (e)(2)(C)(i), the Board will meet in Closed Session to consider potential litigation involving the Board.**

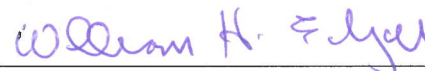
**12. ADJOURN**

*Upon motion by Board Member Macdonald, seconded by Board Member Ramirez, the Board unanimously adjourned the Open Session at 1:21 p.m.*

Dated: April 26, 2013

The foregoing Minutes were approved:

  
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Jane Dolan  
Secretary

  
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William H. Edgar  
President