

MINUTES
MEETING OF THE CENTRAL VALLEY FLOOD PROTECTION BOARD
September 13, 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 September 13, 2013, beginning at 9:01 a.m. in The Sacramento City Hall First Floor Council Chambers, 915 I 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
Mr. Clyde Macdonald
Mr. Tim Ramirez
Mr. Mike Villines

The following members of the Board staff were present:

Mr. Jay Punia, Executive Officer
Mr. Len Marino, Chief Engineer
Mr. Eric Butler, Chief, Projects and Environmental Branch
Ms. Nancy Moricz, Senior Engineer
Ms. Nicole Rinke, Legal Counsel
Ms. Amber Woertink, Staff Assistant
Mr. Michael Wright, Chief, Enforcement Section

Department of Water Resources (DWR) staff present:

Mr. Jeremy Arrich, Chief, Central Valley Flood Planning Office
Ms. Amy Bindra, Staff Engineer
Ms. Robin Brewer, Senior Staff Counsel
Ms. Sandra Maxwell, Senior Staff Engineer
Mr. Keith Swanson, Chief, Division of Flood Management

Also Present:

Mr. Greg Fabun, City of West Sacramento, West Sacramento Area Flood Control Agency (WSAFCA)

Also Present (continued):

Ms. Kim Floyd, Kim Floyd Communications
Mr. Ryan Larson, United States Army Corps of Engineers (the Corps)
Mr. Scott Shapiro, WSAFCA
Ms. Victoria Yokoyama, Yokoyama Farms

1. ROLL CALL

President Edgar welcomed the meeting participants and noted that access to Board Meetings is now available through a link on the Board's website.

Staff Assistant Amber Woertink called the roll and a quorum was achieved.

2. APPROVAL OF AGENDA

Executive Officer Punia stated that Agenda Item 8--Hearings and Decisions, Cease and Desist Order number 2009-33, Mr. Jesse Castellon--has been settled; thus, the staff recommendation that the Item be removed from the Agenda.

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

3. PUBLIC COMMENT-None

4. REPORT OF THE ACTIVITIES OF THE DEPARTMENT OF WATER RESOURCES

Mr. Keith Swanson, DWR Division of Flood Management Chief, began the Report and answered Board Member questions. Some highlights:

- Mr. Swanson extended DWR's invitation to the Board and Board staff for the annual DFM picnic on September 26.
- DWR is currently developing a State Water Action Plan and a draft document will be shared with the Board in the coming weeks. The overall effort is to provide improved management over operational issues associated with water transfers, water conservation, conservation and development grants, the operation of both the State Water Project and the Central Valley Project, and groundwater transfer impact assessments.
- The House recently passed its version of the Water Resources Development Act (WRDA bill). DWR plans to send a general support letter with some inferences that, during conference to resolve differences between the House and the Senate versions, it would like to work to strengthen crediting and the vegetation oversight, and streamline the Corps' 408 process.

- DWR has been working to develop Urban Level of Protection (ULOP) criteria; the process is coming to an end and the last work group meeting is scheduled for September 20th.
- Sutter Buttes Flood Control Agency (SBFCA): a September 5th meeting was fairly effective in resolving some of the questions that Corps headquarters raised relative to 408 approval.
- The Civil Works Review Board was scheduled for September 18th but subsequently cancelled. It was hoped that the Corps would engage with DWR in consultation with the Resource Agency about how the system is managed.
- The National Marine Fisheries sent a letter to the Corps outlining concerns about the adequacy of the biological assessment that was developed for the feasibility study.
- The statewide Emergency Preparedness Grant Program Director recently agreed to DWR's proposal on how to distribute \$5 million in grant money around the state (much of the money is Central Valley specific). DWR is actively engaged with developing funding agreements with the various applicants and getting into the actual delivery of the work. It's a situation where people are coming together and talking about how emergencies will be responded to in a collective manner.

Ms. Amy Bindra, DWR Staff Engineer, provided information on the upcoming Basin-wide Feasibility Studies and Conservation Strategy and the Technical Workshop scheduled for October 23-24, at the City of West Sacramento City Hall. She related the goals of the workshop and agenda and answered Board Member questions. Board Members also made suggestions regarding specific topics for workshop discussion.

Mr. Jeremy Arrich, DWR Central Valley Flood Planning Office Chief, clarified some elements of the workshop and answered Board Member questions.

5. REPORT OF THE ACTIVITIES OF THE EXECUTIVE OFFICER

Board Executive Officer Jay Punia gave the report and answered Board Member questions. Some highlights:

- As previously mentioned, Item 8 has been settled. DWR Senior Staff Counsel Robin Brewer briefed the Board on the settlement specifics.
- He discussed two personnel issues:
 1. Sam Brandon will be hired as a retired annuitant in the Permitting Section; he has more than 35 years of experience, much of it directly working with the Board.

2. Jennifer Bingaman has declared her intention to retire after 28 years of state service. A process to hire her replacement has been launched.
- He provided updates on the recent ULOP and Rural Levee Repair Criteria Meetings.
 - West Sacramento Area Flood Control Agency, Southport Levee Improvement Project: staff will ask the Board to approve the letter that engages the Corps on the project.
 - Levee District One (LD1), Sutter: the project has been completed, and staff continues preparations to bring a requested action to the Board to formally turn the project back to LD1 for operation and maintenance.
 - Sacramento Area Flood Control Agency (SAFCA): a small project--as part of the Natomas Levee Improvement Project—is underway, for construction of three drainage swales.
 - San Joaquin Area Flood Control Agency (SJAFCA): the assessment for the Smith Canal gates was approved by a vote of 59-41. Also, Board staff continues working with SJAFCA to bring closure to a number of projects initiated in the mid-nineties, so the work can be turned back to the locals.
 - Sutter Buttes Flood Control Agency (SBFCA): the Feather River West Levee Project is eagerly awaiting the Corps' Letter of Permission and Record of Decision for the remaining 13 miles of Area C.
 - Three Rivers Levee Improvement Project (TRLIA): staff is working with the consultant to close out work done on the Yuba River and the east levee of the Feather River. Cache Creek, four setback levee projects, will also be moving to closure soon.
 - Sutter Bypass two-dimensional hydraulic model: staff held a preliminary meeting with DWR and their consultant, GEI, and will eventually ask DWR and GEI to give a briefing to the full Board.
 - San Joaquin River Restoration Program: staff had a discussion with Reggie Hill and the U.S. Bureau of Reclamation, and they are proposing a tour and briefing for the full Board on October 11th. Mr. Len Marino, Board Chief Engineer, provided additional information on this program.
 - Staff had a pre-meeting in August with the Streamkeepers, Lower Putah Creek and Solano County Water Agency on an upcoming restoration project on the Lower Putah Creek.

- Staff has been working on simplifying the bridge encroachment permit process. Currently there are six applications in active review and another six waiting on further information prior to completing their applications.
- Mr. Punia delineated the proposed new Board Meeting schedule for the next several months. President Edgar asked that the proposed new schedule be added as a Consent Calendar Item at the September 27th Board Meeting.

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

Ms. Kim Floyd, Kim Floyd Communications, briefed the Board and answered Board Member questions. Highlights included:

- The most recent Coordinating Committee meeting, on August 28th, had the highest attendance to date. The primary focus was an opportunity for representatives of non-governmental organizations (NGOs) to expand upon and clarify a letter that was sent by a group of them to the state regarding the process for developing conservation strategy objectives for regional and system-wide planning.

The next meeting is scheduled for September 25th in West Sacramento. No meeting will be held in October, as they are allocating their time toward the feasibility studies workshop.

- Regarding the *Regions*:
 - *Lower Sacramento and Delta North* have finalized a draft problem definition report, which is currently online; comments are still being accepted. They also met with their joint Coordinating Committee from the east and west sides to talk about prioritization of projects. They have initiated the first draft of their regional improvements report.
 - *Feather River* will have a draft plan ready for public review in October, followed by a public workshop. They are planning on finalizing the entire plan by the early part of 2014.
 - *San Joaquin Delta South and Lower San Joaquin* are still working on the draft regional setting and flood hazard chapters, and are starting the emergency response portion of their plans.
 - *Upper and Mid San Joaquin* are focusing specifically on O&M and emergency response chapters, and then planning for some of the issues they see as a concern. The next Mid-San Joaquin Meeting is scheduled for September 26th.

- *Mid and Upper Sacramento* had a steering committee meeting in Colusa that was attended by 80 people, a phenomenal number for a steering committee meeting. Word is getting out, the interest is growing, and they will next meet in Chico in October. In the meantime, they are working on their regional setting chapters and starting the problem identification portion of their plan.

6. REQUESTED ACTIONS

A. 2013-14 Delta Levees Maintenance Subventions Program

Consider approval of the staff recommended funding allocation plan under the Delta Levee Maintenance Subventions Program for FY 2013-14.

Ms. Sandra Maxwell, DWR Senior Engineer, gave the presentation and concluded with the staff recommendation to approve the funding plan of \$12 million for FY 2013-14, and to authorize the preparation and circulation of the Subventions Program work agreements.

DWR Senior Staff Counsel Brewer clarified language in the Water Code regarding the program.

Upon motion by Vice President Suarez, seconded by Board Member Countryman, the Board unanimously approved the funding, with the understanding that the Board will receive a report on the "ability to pay" issue from Mr. Punia in the near future.

B. Application No. 18313-3, The Southport Project, West Sacramento Area Flood Control Agency (WSAFCA)

Consider approval of a letter to the U.S. Army Corps of Engineers requesting 33 U.S. Code Section 408 approval to alter approximately six (6) miles of State Plan of Flood Control project levee along the Sacramento River right (west) bank.

Ms. Nancy Moricz, Board Senior Engineer, gave the presentation and staff recommendation for approval, and answered Board Member questions. She noted that the approval is simply to initiate the review process with the Corps for the proposed project alteration.

Mr. Greg Fabun, City of West Sacramento and WSAFCA Flood Protection Manager, spoke in support of the Board staff recommendation for approval.

Ms. Victoria Yokoyama, Yokoyama Farms, expressed her objections to the proposal and advocated instead for an adjacent levee and berm, and answered Board Member questions.

Mr. Ryan Larson, the Corps, further clarified the Corps' participation in the process.

Mr. Scott Shapiro, WSAFCA co-program manager for the program, also clarified elements of the process.

Upon motion by Vice President Suarez, seconded by Board Member Macdonald, the Board unanimously approved the letter to the Corps to begin the 408 process.

C. Senate Bill 753, An Act to Amend the Water Code Relating to Flood Protection

Consider the status of, modifications to, and other actions related to legislation approved by the Board for the legislature's consideration to broaden the Board's authority, primarily related to encroachment permitting and enforcement including the authority to issue administrative fines for uncorrected code violations.

President Edgar remarked that the bill passed on the Assembly floor on August 26th, by a vote of 52-25; and subsequently on the Senate floor on August 30th, by a 32-6 vote. He thanked the members of the Assembly for their vote, particularly Senator Steinberg for his willingness to be the author and leader for the bill in the Senate, and Assemblyman Dickinson and Dr. Fan for being the co-authors and taking leadership responsibility in the Assembly. A letter has been sent to the Governor giving him the background on the bill and respectfully asking for his signature on it.

D. Implementation of the Board's Strategic Plan

Consider proposal by LRI Senior Partner Eric Douglas for helping the Central Valley Flood Protection Board translate its new Strategic Plan into an implementation plan.

Mr. Punia summarized the Strategic Plan and stated the staff recommendation that the Board authorize the Executive Officer to work in conjunction with DWR in execution of a contract hiring LRI to translate the Board's strategic plan into an implementation plan.

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

7. CLOSED SESSION

- To discuss the evaluation, selection, employment, and other personnel matters related to the Board's interviewing of candidates and hiring for the position of Board Counsel pursuant to Govt. Code Section 11126(a)(1).

- To discuss litigation (Hardesty et. al. v. Sacramento Metropolitan Air Quality Management District et. al; United States District Court, Eastern

District of California - Sacramento Division Case No. 2:10-cv-02414-GEB-JFM) pursuant to Govt. Code section 11126(e)(1).

- To discuss litigation (Central Valley Flood Protection Board v. Lino Catabran, Sacramento Superior Court Case No. 34-2013-142003) pursuant to Govt. Code section 11126(e)(1).

- To discuss litigation (Fay Island Reclamation District v. California Department Fish and Game, et. al; California Superior Court, County of San Joaquin, Case No. 39-2009-00228660-CU-BC-STK) pursuant to Govt. Code section 11126(e)(1).

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

8. HEARINGS AND DECISIONS

A. Cease and Desist Order 2009-33 – Mr. Jesse Castellon - *Removed*

Conduct public hearing to consider adoption of a Cease and Desist Order that would authorize the abatement of existing code violations located on the Bear Creek Project Levee in Stockton, California for which the Respondent has waived his right to a hearing and has failed to remove code violations.

9. FUTURE AGENDA

Executive Officer Punia read the draft Agenda for the September 25th Executive Committee and September 27th Board Meetings and answered Board Member questions.

10. ADJOURN-REGULAR BOARD MEETING

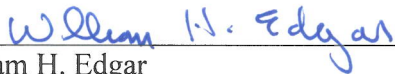
The Board unanimously adjourned the Open Session at 1:17 p.m.

Dated: 11-22-2013

The foregoing Minutes were approved:



Jane Dolan
Secretary



William H. Edgar
President