

MINUTES
MEETING OF THE CENTRAL VALLEY FLOOD PROTECTION BOARD
August 22, 2014

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 August 22, 2014, 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:

Ms. Leslie Gallagher, Acting Executive Officer and Chief Counsel
Mr. Len Marino, Chief Engineer
Mr. Eric Butler, Chief, Projects and Environmental Branch
Ms. Mitra Emami, Chief, Permitting Section
Ms. Alison Tang, Acting Chief, Enforcement Section
Mr. Michael Wright, Acting Chief, Operations Branch
Ms. Gary Lemon, Staff Engineer
Ms. Nancy Moricz, Senior Engineer
Ms. Nicole Rinke, Board Counsel
Ms. Amber Woertink, Board Analyst

Department of Water Resources (DWR) staff present:

Ms. Terri Gaines, FESSRO Environmental Program Manager
Mr. David Parker, Chief, California Data Exchange Center
Mr. Keith Swanson, Chief, Division of Flood Management
Mr. David Pesavento, Chief, Flood Project Inspection Section
Mr. Darren Suen, FloodSAFE Communications Lead

Also Present:

Mr. John Cain, American Rivers
Mr. David Dickson, Reclamation District 765
Ms. Tracey Ferguson, Atkins Global
Ms. Melinda Terry, California Central Valley Flood Control Association
Ms. Colleen Flannery, California Central Valley Flood Control Association
Ms. Kellie Jacobs, Merced County Public Works
Dr. René Henery, Trout Unlimited
Ms. Meghan Hertel, Audubon Society
Mr. Jacob Katz, California Trout
Mr. Ryan Larson, United States Army Corps of Engineers (the Corps)
Ms. Rachael Orellana, the Corps
Ms. Meegan Nagy, the Corps
Mr. John Maguire, San Joaquin County
Mr. Steven Mello, Reclamation District 563
Mr. Chris Neudeck, Reclamation District 501 & 563
Mr. Al Sawyer, Sutter County Public Works
Mr. Monty Schmitt, Natural Resources Defense Council
Mr. Dan Welsh, United States Fish and Wildlife Service
Dr. David Zezulak, California Department of Fish and Wildlife

1. ROLL CALL

Mr. Bill Edgar, Board President, acknowledged the great work of the Legislature and the Brown Administration in putting together a \$7.5 billion water bond to be placed on the November ballot, which includes \$375 million earmarked for flood management. He noted that the Board is obviously pleased about this and looks forward to the new bond officially passing into law in November.

Vice President Suarez echoed President Edgar's comments and also congratulated the Senate for confirming the reappointments of three Board Members—President Edgar, Secretary Dolan, and Member Villines.

Ms. Amber Woertink, Board Analyst, called the roll and a quorum was achieved.

2. APPROVAL OF MINUTES – June 27, 2014

Secretary Dolan remarked that Board Engineer Nancy Moricz is listed incorrectly as a DWR Engineer on Page 3 of the June 27 Minutes, and this will be corrected.

*Upon **motion** by Secretary Dolan, seconded by Board Member Macdonald, the Board unanimously approved the June 27, 2014 Meeting Minutes, with the correction listed above.*

3. APPROVAL OF AGENDA

Ms. Leslie Gallagher, Acting Executive Officer, stated that there will be no Closed Session today. Also, it has been requested that Item 11A, the formation of Maintenance Area 19-Huffs Corner, be removed from the Agenda and re-noticed at a later date.

Upon motion by Secretary Dolan, seconded by Board Member Macdonald, the Board unanimously approved the Agenda, as modified above.

4. CONSENT

A. Permit No. 18967, Epick Inc.

Consider approval of Permit No. 18967 to construct an overflow weir with a grouted rock splash apron and a 24-inch diameter pipe and slide gate to drain the storm water treatment pond along the left (south) bank of the Sycamore Creek South Fork. (Butte County)

Upon motion by Secretary Dolan, seconded by Board Members Countryman and Macdonald, the Board unanimously approved the Consent Calendar.

5. PUBLIC COMMENTS - None

6. U.S. ARMY CORPS OF ENGINEERS (THE CORPS) BRIEFING

A. U.S. Army Corps of Engineers Levee Inspection Results

- 1. Merced Stream Group - Black Rascal - Unit 1 (Merced County)**
- 2. Merced Stream Group - Black Rascal - Unit 2 (Merced County)**
- 3. Merced Stream Group - Owens Creek - Unit 1 (Merced County)**
- 4. Merced Stream Group - Owens Creek - Unit 2 (Merced County)**

Mr. Ryan Larson, the Corps, gave the presentation and answered Board Member questions. He noted that all four levee systems were found to be unacceptable and inactive in the Rehabilitation Program due to encroachments, erosion bank caving, and animal control issues. Also, there is currently no Letter of Intent (LOI) or System-Wide Improvement Framework (SWIF) in place for any of the four systems.

Ms. Kellie Jacobs, Merced County Public Works, acting today as representative for the Merced Streams Group partnership, clarified that the partnership has completed repairs on the animal control portion of the inspection results and will continue with repair of the other deficiencies as they are able to.

Mr. Michael Wright, Board Operations Branch Acting Chief, reported that 78 systems are currently inactive for PL 84-99 (which represents 67 percent of the entire system).

B. Policy and Procedural Guidance for Processing Requests to Alter US Army Corps of Engineers Civil Works Projects Pursuant to 33 USC 408, EC 1165-2-216

Ms. Meegan Nagy, the Corps, presented the Briefing and answered Board Member and Board staff questions. She noted that 33 USC 408 is a law that provides the Secretary of the Army authority to grant permission to alter a Corps civil works project That includes, not only your projects, but that authority covers a wider range of Army Corps of Engineers projects, include our dams -- our own dams, navigation. There's two primary questions within that law. We have to ensure that the alteration does not impair the usefulness of the project, and that the alteration is not injurious to the public interest. They also wanted to clarify decision level, where the District has the authority to approve something versus where Headquarters needs to approve something. The policy makes it very clear that our permit decisions are federal actions, and that all environmental compliance is required.

President Edgar remarked that it is important for the public and the Board to understand that this Guidance is an engineering circular and thus there is now a two-year period for interested parties to comment on whether or not the proposed changes require adjustment before officially converting to new regulation.

7. INFORMATIONAL BRIEFINGS

A. Permit database and program process enhancements

Ms. Mitra Emami, Board Permitting Section Chief; Mr. David Parker, DWR California Data Exchange Center Chief; Mr. David Pesavento, DWR Flood Project Inspection Section Chief; and Ms. Rachael Orellana, the Corps, provided the joint presentation and answered Board Member questions.

B. Conservation Strategy Update

Ms. Terri Gaines, DWR Environmental Program Manager, provided the Update of the administrative draft of the Conservation Strategy and answered Board Member questions.

Several speakers commented on the Strategy Update and responded to Board Members' clarifying questions, including Mr. Dan Welsh, U.S. Fish and Wildlife Service; Dr. René Henery, Trout Unlimited; Mr. Monty Schmitt, Natural Resources Defense Council; Ms. Meghan Hertel, Audubon Society of California; Dr. David Zezulak, California Department of Fish and Wildlife Water Branch and Ecosystem Restoration Program,

representing Deputy Director of Fish and Wildlife Sandra Maury; Mr. John Cain, American River Partners; and Ms. Melinda Terry, California Central Valley Flood Control Association.

Board Members deliberated on several aspects of the Update, including possible next steps in the process, including consideration of forming an advisory committee.

C. Update on effort to notify Local Maintaining Agencies of unacceptable operation and maintenance activities as reported by the Department of Water Resources Flood Projects Integrity and Inspection Branch.

Mr. Michael Wright, Board Operations Branch Acting Chief, gave the presentation and answered Board Member questions.

Ms. Colleen Flannery, California Central Valley Flood Control Association, offered suggestions on how to approach enforcement efforts.

Mr. Chris Neudeck, Reclamation Districts (RD) 563 and 501, discussed the history of his RD's contacts before the Board, issues related to the levee inspection criteria, responding to the Corps delinquency letter and the options presented, and recommendations moving forward. He also further clarified the situation RDs face in attempting to become compliant and answered Board Member questions.

Mr. Steven Mello, Tyler Island RD 563 Board of Trustees President, detailed some of the history and challenges his District has faced.

Mr. Stephen Heringer, RD 999; Ms. Kellie Jacobs, Merced County Public Works; and Mr. David Dickson, RD 765, delineated some of the challenges they face in addressing the delinquencies cited.

8. REQUESTED ACTIONS

A. San Joaquin County Flood Control & Water Conservation District Letter of Intent (LOI)

Consider approval to transmit an LOI to the Corps to develop and implement a System-Wide Improvement Framework (SWIF) for the nine Bear Creek and five Mormon Slough levee systems on behalf of the San Joaquin County Flood Control & Water Conservation District (San Joaquin County).

Ms. Alison Tang, Board Enforcement Section Acting Chief, gave the presentation and concluded with the staff recommendation that the Board authorize the Acting Executive Officer to finalize the letter of transmittal to the Corps and forward it with the LOI to the Corps.

Mr. John Maguire, San Joaquin County, spoke in support of the LOI.

Upon motion by Vice President Suarez, seconded by Secretary Dolan, the Board unanimously approved the staff recommendation.

9. CLOSED SESSION - *None*

- A. 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).**
- B. 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).**
- C. 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.**

10. CLOSED SESSION REPORT - *None*

11. INFORMATIONAL BRIEFINGS (Continued)

- A. Formation of Maintenance Area 19, Huffs Corner - *Postponed***
- B. Water Resources Reform and Development Act of 2014 Briefing - *Postponed***

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

- Division of Flood Management Activities/Updates

Mr. Keith Swanson, DWR Division of Flood Management Chief, reported on various activities within the Division and answered Board Member questions. Some highlights:

- Mr. Swanson, acting as DWR Deputy Director Bardini's substitute, went to Washington D.C. and accepted an award from the Corps for the 2014 Silver Jacket Team of the Year. He reported on some of his discussions with Corps personnel on relevant issues between DWR and the Corps. He remarked that the Corps is realizing that they need to be more engaged in the discussion about how to manage for public safety and public trust.

- On August 15 he and Vice President Suarez visited the West Feather River Repair Project and observed a tremendous amount of activity there. The estimate for construction billing in August alone will be more than \$15 million.
- The Urban Flood Risk Reduction Program guidelines are out for review and receiving comments.
- A number of pre-season flood coordination meetings are scheduled through November.
- DWR's legislatively-mandated flood risk notifications for properties protected by the State Plan of Flood Control facilities are scheduled to be mailed out before September 1.

Mr. Darren Suen, DWR DFM FloodSAFE Program Lead, presented an overview of the Water Quality Supply and Infrastructure Improvement Act of 2014 and answered Board Member questions.

- Guidance on General Plan Amendments for Addressing Flood Risk

Ms. Tracey Ferguson, Atkins Global, gave the presentation and answered Board Member questions.

13. HEARINGS AND DECISIONS

A. Permit No. 18971, Sutter County

Consider approval of Permit No. 18971 to replace three (3) failed corrugated metal arch pipe culverts in kind to the existing crossing and add rock slope protection on both sides of the crossing to minimize the potential for scour and future failure. The project is in Rio Oso and is located slightly south of the intersection of Hicks and Brewer Roads and approximately five (5) miles east of State Route 99. Pursuant to California Code of Regulations, Title 23, Sections 11(b) and 13.3, this application requires a hearing due to the requested variance from Section 128(a)(10)(A) of the Board's technical standards.

Ms. Nancy Moricz, Board Senior Engineer, gave the presentation and concluded with the staff recommendation that the Board adopt the CEQA findings; approve the requested variance to Title 23, Section 128(a)(10)(A) pursuant to Section 11 (b) as summarized in the staff report Section 7.4; approve draft Permit 18971 in substantially the form provided; and direct the Board's Acting Executive Officer to execute the Permit and file a Notice of Determination pursuant to CEQA with the State Clearinghouse.

Mr. Al Sawyer, Sutter County Public Works, stated that Board staff had been very cooperative on this project.

Upon motion by Vice President Suarez, seconded by Secretary Dolan, the Board unanimously approved the staff recommendation.

B. Permit No. 18882, CA Department of Fish and Wildlife (Continued from July 25, 2014 Board Meeting)

Consider approval Resolution No. 2014-25 to approve Permit No. 18882 to remove invasive vegetation from 96-acres and plant 17,341 native riparian plants on 150-acres of the 439-acre Abbott Lake Unit of the Feather River Wildlife Area on the right (west) overflow bank of the Feather River near River mile 20. (Sutter County)

President Edgar remarked that Item 13B is a continued hearing. It was opened and closed and then reopened again, but not closed, at a previous Board meeting. Further, he was not present for the first meeting on this subject but has watched the tape of that previous meeting and read the staff report, and he is prepared to discuss the item today and take action.

Board Member Countryman recused himself.

Acting Executive Officer Gallagher noted that the current draft permit is substantially different from the one seen in July and, after a difficult process, all parties have agreed to the conditions presented in the current draft permit.

Upon motion by Secretary Dolan, seconded by Board Member Macdonald, the Board voted 6-0 to approve the Permit (Recused-Countryman).

14. BOARD COMMENTS AND TASK LEADER REPORTS

Board Member Macdonald commented that he continues to follow the activities of the Lower Sac North Delta, which put their most recent public hearing report on the Web.

He thoroughly read the Conservation Strategy and he and President Edgar met with FESSRO staff to discuss it.

Board Member Ramirez continues to work on integration strategies.

He and President Edgar met with DWR Deputy Director Bardini.

He will participate in a September 10 conference call with Corps and DWR personnel to discuss WRRDA requirements and the reconsideration of federal policy on levees.

He attended David Sandino's presentation on Paterno.

Secretary Dolan continues her meetings and discussions concerning the Executive Committee and the Mid Upper Sac Regional Flood Management Plan. Their draft Plan is out and comments are being collected.

She toured the construction site of the Sutter Butte Flood Control Agency's West Levee Project with project staff.

She participated in the Feather River Regional Permitting Program work group.

Board Member Ramirez continues to track the release of the conservation strategy and its aftermath.

Board Member Villines spent significant time on the groundwater and water bond work going on in the Legislature.

He toured three or four different subsidence spots in his local area, and has been watching some of the recent statewide reports on subsidence and other issues.

President Edgar has been spending much of his time on the various integration efforts. He has been working with Acting Executive Officer Gallagher on potentially using the Yolo Bypass as a pilot project for integration efforts.

Vice President Suarez continues her work related to the Executive and Coordination Committees and the regional planning process.

She and Board Member Ramirez had an opportunity to discuss the 408 policy with the Corps; she will continue with additional research and background work on that.

15. FUTURE AGENDA

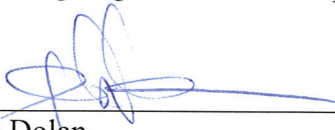
The Board discussed possible changes to future Agendas.

16. ADJOURN-REGULAR BOARD MEETING

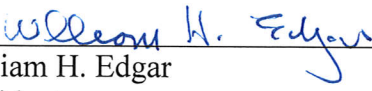
The Board unanimously adjourned the Open Session at 4:19 p.m.

Dated: October 24, 2014

The foregoing Minutes were approved:



Jane Dolan
Secretary



William H. Edgar
President