

MINUTES
MEETING OF THE CENTRAL VALLEY FLOOD PROTECTION BOARD
March 28, 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 March 28, 2014, beginning at 9:02 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 (not present today)

The following members of the Board staff were present:

Mr. Jay Punia, Executive Officer
Mr. Len Marino, Chief Engineer
Ms. Leslie Gallagher, Chief Counsel
Ms. Andrea Buckley, Staff Environmental Scientist
Mr. Brian Cullum, Office Tech
Ms. Mitra Emami, Chief, Permitting Section
Mr. Martin Janolo, Staff Engineer
Ms. Nancy Moricz, Senior Engineer
Ms. Alison Tang, Acting Chief, Enforcement Section
Mr. Jon Tice, Staff Engineer
Mr. Michael Wright, Acting Chief, Permitting and Enforcement Branch

Department of Water Resources (DWR) staff present:

Mr. Ajala Ali, Staff Engineer
Ms. Kelly Briggs, Chief, Maintenance Environmental Support Branch
Mr. Marc Hoshovsky, Environmental Program Manager
Mr. Fred Gius, Senior Engineering Geologist
Mr. Dave Mraz, Senior Engineer

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

Ms. Gail Newton, Chief, FloodSAFE Environmental Stewardship and Statewide Resources Office (FESSRO)
Mr. Ricardo Pineda, Chief, Floodplain Risk Management Branch
Ms. Michael Sabbaghian, Chief, Project Development Branch
Mr. Kasey Schimke, Assistant Director
Mr. Jeff Schuette, Senior Environmental Scientist
Mr. Keith Swanson, Chief, Division of Flood Management

Also Present:

Ms. Paige Caldwell, United States Army Corps of Engineers (the Corps)
Mr. Gilbert Cosio, MBK Engineers
Mr. Darrell Davis, Pacific, Gas and Electric (PG&E)
Mr. Tom Engler, MBK Engineers
Mr. Pete Ghelfi, Sacramento Area Flood Control Association (SAFCA)
Ms. Frances Hofman
Mr. Jeff Leatherman, Sacramento County
Mr. Rick Poeppelman, the Corps
Mr. John Schoonover, CH2MHill
Mr. Ronald Stork, Friends of the River
Ms. Rita Sudman, Water Education Foundation
Ms. Melinda Terry, California Central Valley Flood Control Association

1. ROLL CALL

Prior to Roll Call, President Edgar introduced the Board's new Director of Administration, Ms. Lucy Montgomery. Mr. Jay Punia, Board Executive Officer, provided some specifics about Ms. Montgomery's background and noted that she will be handling the Board's budget, planning and other aspects.

Mr. Brian Cullum, Office Tech, called the roll and a quorum was achieved.

2. APPROVAL OF MINUTES – January 10 and January 24, 2014

Upon motion by Secretary Dolan, seconded by Board Member Macdonald, the Board unanimously approved the January 10 and January 24, 2014 Meeting Minutes.

3. APPROVAL OF AGENDA

Executive Officer Punia reviewed the Agenda and recommended that Agenda Item 8A be postponed. In addition, per President Edgar, Item 4B was removed from Consent.

Upon motion by Secretary Dolan, seconded by Board Member Macdonald, the Board unanimously approved the Agenda, including the changes referenced above.

4. CONSENT

A. West Sacramento, California Project General Reevaluation Report - Amendment No. 2 to the Feasibility Cost Share Agreement

Consider approval of Resolution No. 2014-05 to approve Feasibility Cost Share Agreement Amendment No. 2 from the U.S. Army Corps of Engineers to increase the total study cost.

Upon motion by Vice President Suarez, seconded by Board Member Countryman, the Board unanimously approved Item 4A.

B. Feasibility Cost Share Agreement for the American River Common Features General Reevaluation Report – *Removed from Consent*

Consider approval of Resolution No. 2014-03 to:

- 1. Approve the Feasibility Cost Share Agreement (FCSA) and Local Feasibility Cost Share Agreement (LFCSA) for the American River Common Features General Reevaluation Report between the Central Valley Flood Protection Board and the U.S. Army Corps of Engineers; and**
- 2. Delegate to the Central Valley Flood Protection Board President the authority to execute the FCSA and LFCSA.**

Mr. Ajali Ali, Board Water Resources Engineer, gave the presentation, concluded with the staff recommendation to approve the Resolution, and answered Board Member questions.

Mr. Jeff Leatherman, Sacramento County Director of Regional Parks, spoke in support of the Resolution and noted the County's willingness to participate in the various public processes as alternatives are being evaluated, and further remarked that his office is available to reach out to the local community as well.

Mr. Ronald Stork, Friends of the River, remarked that, as this is a State and federal wild and scenic river and a river parkway, it is a very sensitive natural area. He suggested that the non-federal sponsor urge the federal project leads to actually begin to engage the American River Task Force and not wait out a potentially interminable time for the U.S. Congress to consider an authorization of this rather programmatic project. He also answered Board Member questions.

President Edgar commented that one of the signature principles the Board has operated under is collaboration and working with the local community in trying to resolve disputes in a way that can be done locally and with appropriate input from all concerned. He reiterated that the Board is committed to that principle and it expects all its partners to work collaboratively with all the stakeholders.

Upon motion by Board Member Macdonald, seconded by Secretary Dolan, the Board unanimously approved the Resolution, with the understanding that there will be more community outreach.

5. RECOGNITION OF SERVICE: Ms. Rita Sudman, the Executive Director of the Water Education Foundation, is retiring.

President Edgar remarked that Ms. Sudman had built a good team at the Foundation that will surely be a success going forward, and wished her the very best on her retirement. Board Members and others also expressed their thanks for her outstanding service.

6. PUBLIC COMMENT

Ms. Enid Hofman, Hofman Ranch, discussed elements of the 1936 and 1942 easements on her ranch; easements held by Sacramento-San Joaquin Drainage District. She noted that she has spoken with different DWR and Board representatives but the situation remains unsettled. She acknowledged that the Board is not directly involved, but requested further clarification if possible.

President Edgar thanked her for her comments and pointed out that, as this is not an agenda item, the Board cannot take any action today. He instructed Board staff to review the matter, and if there is an item that should be discussed by the Board, they will agenda it at a future meeting.

Ms. Melinda Terry, California Central Valley Flood Control Association (CCVFCA) Executive Director, commented on aspects of the recent Board-sponsored tour of Yolo Bypass and the lack of specific discussion about the upcoming Fremont Weir project. She also encouraged the Board to figure out how best to talk to the local maintainers that are going to be impacted when the project is implemented.

7. ENFORCEMENT PROGRAM AND CHIEF COUNSEL PRESENTATION

Chief Counsel update and detailed presentation regarding implementation of the expanded enforcement authority created by the 2014 Water Code update and emergency regulations, including information on the pilot program rollout.

Ms. Leslie Gallagher, Board Chief Counsel, provided some of the background that led to the expanded enforcement authority, previously known as SB 753 and now called the Updated Enforcement Program.

Mr. Michael Wright, Board Permitting and Enforcement Branch Acting Chief, discussed the new authorities, the enforcement process, the encroachment prioritization, and the flood risk management fund.

Ms. Alison Tang, Board Enforcement Section Acting Chief, summarized the pilot program and discussed the timelines now in place to test the enforcement authority delegated to the Local Maintenance Areas (LMAs).

Mr. Martin Janolo, Board Staff Engineer, discussed what else the Board can do to ensure and promote the long-term success and effectiveness of the Updated Enforcement Program.

Board Members asked questions on elements of the new Program, offered additional suggestions, and expressed their appreciation for the impressive quality of the overall presentation.

President Edgar emphasized that this Program is not something that the Board can do by itself; it requires a partnership, a collaboration, among everyone involved, including the LMAs, DWR, the legal staffs, the Corps, and the other stakeholders. He added that it took 100 years to get where we are, and it's going to be difficult and time-consuming to bring everything back into place.

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

A. Levee Inspection Results:

1. RD 0501 – Ryer Island (Solano County) - *Postponed*

B. Interim Policy for Determining Eligibility Status of Flood Risk Management Projects for the Rehabilitation Program Pursuant to Public Law (PL) 84-99 [Follow up from USACE Headquarters November 25, 2013 Memo: Determination of Public Law (PL) 84-99 Status for Flood Risk Management Projects Update]

Ms. Paige Caldwell, The Corps' Sacramento District Emergency Manager, provided the Briefing. Mr. Rick Poepelman, Corps Sacramento District Chief of Engineering, further clarified the Policy. Both answered Board Member questions.

Mr. Stork, Friends of the River, remarked that all the parties seem to be in the same position, all attempting to figure out what the new policy actually means. There are

unresolved issues that require further attention, locally and in Washington. He and other Board Members speculated on some possible ramifications of the new Policy.

9. REPORT OF ACTIVITIES OF THE DEPARTMENT OF WATER RESOURCES (DWR)

Division of Flood Management (DFM) Activities/ Updates

Mr. Keith Swanson, DWR DFM Chief, provided the Report. Highlights included:

- DWR personnel attended the Central Valley Flood Control Association annual meeting. There was a good discussion on water management finance needs. The question of how the remaining bond funds should be spent also came up.
- One State objective to keep in mind is the legacy capacity issues associated with the deepwater ship channel being constructed into the footprint.
- We need to remember the increased capacity for upstream improvements, like Folsom, and the hardening of the levees upstream.
- Climate change cannot be forgotten.
- There are plans for water management and waterfowl improvements.
- A critically important issue is that we've got to change the existing paradigm; where it's viewed that individual proponents have to get through the regulatory gauntlet, whether it's the public safety regulatory requirements or the environmental regulatory requirements.

Somehow, we've got to come together for a vision that we all agree with, and then somehow get everybody working to resolve the challenges that exist. And the State is going to need to provide funding to help support these efforts.

- It is my hope that we can use the Yolo Bypass as a model as we move forward, and that we can use the Coordinating Committee as a forum for the open and honest discussions that bring people together.
- I'm hopeful that the Corps is willing to participate in the discussions about overall system management. We need to talk about the long-term operation and maintenance and we've got to have the Corps as a partner.
- DWR is now fully engaged with the pilot program in Maintenance Area 9.

- Overall, I'm optimistic that we're going to make progress, and DWR is behind the Board on this and will continue to resource it as appropriate.

Comparison of the new Urban Flood Risk Reduction Projects (UFRRP) and the Early Implementation Projects (EIP)

Mr. Michael Sabbaghian, DWR Project Development Branch Chief, gave the presentation.

Quarterly progress report and scheduled update on deliverables and processes pursuant to Board Resolution No. 2012-25, RESOLVED 11(y), regarding the Central Valley Flood Protection Plan implementation

Mr. Ricardo Pineda, DWR Floodplain Risk Management Branch Chief, gave the quarterly report.

Legislative Update

Mr. Kasey Schimke, DWR Legislative Director, provided the Update and answered Board Member questions.

FloodSAFE Environmental Stewardship and Statewide Resources Office (FESSRO) Activities/Updates

Ms. Gail Newton, FESSRO Chief, provided the presentation.

Mr. Dave Mraz, DWR Senior Engineer, discussed drought response efforts and the effects on the Delta levee system, and answered Board Member questions.

Ms. Melinda Terry, CCVFCA, and Manager of the North Delta Water Agency, commented on the apparently conflicting information from DWR regarding implementation of the salt water control barriers and the request for more outreach and communication with local agencies.

Mr. Gilbert Cosio, MBK Engineers, further urged DWR to take the barrier permitting very seriously, as the districts are concerned with not just how the barriers will affect the ability to maintain the levee but also their ramifications, especially in the North Delta.

10. CLOSED SESSION – *None*

- 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).

- 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.

- Public Employee Performance Evaluation, pursuant to Govt. Code section 11126(a)(1); Title: Executive Officer.

11. CLOSED SESSION REPORT - *None*

12. HEARINGS AND DECISIONS

A. Permit No. 18906, Union Pacific Railroad Company (UPR)

Consider approval of Permit No. 18906 to authorize replacement of an existing bridge (No. 165.89) over Yankee Slough. (Sutter County)

Ms. Nancy Moricz, Board Senior Engineer, gave the presentation and concluded with the staff recommendation that the Board adopt the CEQA findings, approve draft Encroachment Permit 18906 in substantially the form provided, and direct the Executive Officer to take the necessary actions to execute the permit and file a Notice of Exemption pursuant to CEQA with the State Clearinghouse. She then answered Board Member questions.

Mr. Tom Engler, MBK Engineers (representing Reclamation District 1001), and Mr. John Schoonover, CH2MHill (representing UPR), further clarified some of the issues involved and answered Board Member questions.

Upon motion by Board Member Countryman, seconded by Board Member Ramirez, the Board unanimously approved the Permit.

B. Permit No. 18912, Pacific Gas and Electric Company (PG&E)

Consider approval of Permit No. 18912 to replace an existing pipeline that crosses the levee of the Feather River. The existing gas pipeline will be removed through Permit No. 18793-1. (Sutter County)

Ms. Nancy Moricz, Board Senior Engineer, gave the presentation and concluded with the staff recommendation that the Board approve the requested variance to Title 23, subsection 123(d)(7) pursuant to subsection 11(a) and (b); the draft Encroachment Permit No. 18912 in substantially the form provided, conditioned upon receipt of the Corps District Engineer Letter indicating that the district engineer has no objections to the

project, subject to conditions; and direct the Executive Officer to take the necessary actions to execute the permit and file a Notice of Determination pursuant to CEQA with the State Clearinghouse. She then answered Board Member questions.

Upon motion by Board Member Macdonald, seconded by Board Member Countryman, the Board unanimously approved the Permit.

13. REQUESTED ACTIONS

A. Department of Water Resources Small Erosion Repair Program (SERP)

Consider approval of Resolution NO. 2014-04 to adopt the Responsible Agency Findings on the SERP Program Environmental Impact Report (EIR) pursuant to the California Environmental Quality Act (CEQA).

Ms. Andrea Buckley, Staff Environmental Scientist, gave the presentation and concluded with the staff recommendation that the Board adopt Resolution 2014-04, which will adopt responsible agency findings pursuant to CEQA, direct the Executive Officer to take necessary actions to prepare and file a Notice of Determination pursuant to CEQA for the SERP; and to reaffirm the prior direction to Board staff, pursuant to Resolution 2012-20, to review the sites, authorize and reject sites as needed, and then report back to the Board annually. She also answered Board Member questions.

Mr. Jeff Schuette, DWR Senior Environmental Scientist, further clarified the program and answered Board Member questions.

Ms. Melinda Terry, CCVFCA Executive Director, spoke in support of the program.

Upon motion by Board Member Ramirez seconded by Secretary Dolan, the Board unanimously approved the Resolution.

14. INFORMATIONAL BRIEFINGS

A. Concepts for the implementation of advanced mitigation within the Board's jurisdiction in the Central Valley

Ms. Nancy Moricz, Staff Senior Engineer, provided the Briefing, which identified some of the challenges associated with establishing and maintaining advanced mitigation in the floodway; discussed a possible path forward that may be agreeable to Board staff, DWR, and the wildlife resource agencies; and discussed next steps in the process. She and Mr. Marc Hoshovsky, DWR Environmental Program Manager, answered Board Member questions.

15. BOARD COMMENTS AND TASK LEADER REPORTS - *Postponed*

16. FUTURE AGENDA

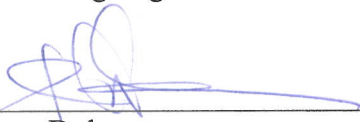
Executive Officer Punia read the draft Agenda for the April 25th Board Meeting and answered Board Member queries.

17. ADJOURN-REGULAR BOARD MEETING

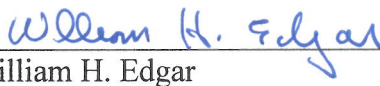
The Board unanimously adjourned the Open Session at 4:28 p.m.

Dated: 5-23-2014

The foregoing Minutes were approved:



Jane Dolan
Secretary



William H. Edgar
President