

**MINUTES**  
**MEETING OF THE CENTRAL VALLEY FLOOD PROTECTION BOARD**  
**July 25, 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 July 25, 2014, beginning at 9:04 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 (not present today)  
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  
Ms. Mitra Emami, Chief, Permitting Section  
Ms. Gary Lemon, Staff Engineer  
Ms. Nicole Rinke, Board Counsel  
Ms. Amber Woertink, Board Staff Assistant

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

Mr. Gary Bardini, Deputy Director  
Mr. Keith Swanson, Chief, Division of Flood Management  
Jon Ericson, Chief, Flood Maintenance Office  
Mr. Ricardo Pineda, Chief, Floodplain Risk Management Branch  
Mr. David Pesavento, Chief, Flood Project Inspection Section  
Mr. Michael Sabbaghian, Chief, Project Development Branch  
Ms. Gail Newton, Chief, FloodSAFE Environmental Stewardship and Statewide Resources Office (FESSRO)  
Ms. Terri Gaines, Program Manager II

**Also Present:**

Mr. John Carlon, River Partners  
Mr. Tom Engler, MBK Engineers  
Colonel Mike Farrell, United States Army Corps of Engineers (the Corps)  
Mr. Greg Kukas, the Corps  
Ms. Rachael Orellana, the Corps  
Mr. Jason Holley, California Department of Fish and Wildlife  
Mr. Gilbert Labrie  
Mr. Mike Moncrief, MBK Engineers  
Mr. Scott Shapiro, Downey Brand  
Mr. Jay Punia

**1. ROLL CALL**

As President Edgar was not present, Vice President Suarez served as Chair.

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

**2. APPROVAL OF MINUTES – May 9 and 23, 2014**

*Upon motion by Secretary Dolan, seconded by Board Member Macdonald, the Board unanimously approved the May 9 and 23, 2014 Meeting Minutes.*

**3. APPROVAL OF AGENDA**

Ms. Leslie Gallagher, Acting Executive Officer, noted the staff request that Item 8A be pulled from the Agenda; and that Items 13A and 13B, although agendized as Requested Actions, were actually Informational only.

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

**4. CONSENT**

**A. Permit No. 18920, Capitol Station, LLC**

**Consider approval of Permit No. 18920 to install vegetation, landscaping, and park features on the landside slope of the levee. (Sacramento County)**

**B. Permit No. 18943, Placer County Department of Public Works**

**Consider approval of Permit No. 18943 to replace the existing roadway bridge (No. 19C-0252) crossing Yankee Slough. (Placer County)**

**C. West Sacramento Area Flood Control Agency, West Sacramento Levee Improvement Program, The Rivers Phase 1 Erosion Control Project**

**Consider approval of Resolution No. 2014-26 to adopt Responsible Agency Findings on The Rivers Erosion Site Project pursuant to the California Environmental Quality Act.**

**This remediation project is designed to address waterside levee erosion resulting from construction of The Rivers Early Implementation Project under previously issued Board Permit No. 18313-2 (Yolo County).**

**D. Close Escrow # 602906-001 pursuant to the Land Exchange Agreement with the City of Rio Vista**

**Consider approval of authorization for the Executive Officer to issue escrow instructions to First American Title Guaranty Company to close Escrow # 602906-001 pursuant to the Land Exchange Agreement with the City of Rio Vista, pay final bill to First American of up to \$50,250 from the funds in escrow at Union Bank, and remit balance to the State General Fund.**

*Upon motion by Secretary Dolan, seconded by Board Member Macdonald, the Board unanimously approved the Consent Calendar.*

**5. RECOGNITION OF SERVICE - former Central Valley Flood Protection Board Executive Officer, Mr. Jay S. Punia**

Mr. Punia was recognized for his years of service as Executive Officer and was presented a Resolution of Appreciation from the Board. Board Members and other senior officials expressed their appreciation to Mr. Punia for his outstanding service to the Board and the people of California, remarking on his work to transition the organization from the Reclamation Board to the independent entity of the Central Valley Flood Protection Board. USACE Colonel Mike Farrell and DWR Deputy Director Gary Bardini offered comments and presented certificates of appreciation. Mr. Punia thanked them for their comments.

**6. PUBLIC COMMENTS - *None***

**7. U.S. ARMY CORPS OF ENGINEERS (THE CORPS) BRIEFING**

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

- 1. RD 0817 and RD 2103 - City of Wheatland (Yuba County)**
- 2. RD 2103 - Grasshopper Slough (Yuba County)**
- 3. RD 0551, RD 0755, RD 554, and RD 369 - Pierson District (Sacramento County)**

4. **RD 0003 - Grand Island (Sacramento County)**
5. **Feather River - Hamilton - northeast of Afterbay (Butte County)**
6. **Feather River - Nelson Bend West Levee (Sutter County)**
7. **Bear Creek - Units 7 west and 21 (San Joaquin County)**

Ms. Rachael Orellana, the Corps Flood Protection and Navigation Section Acting Chief, gave the presentation and answered Board Member questions.

She remarked that the first six systems (listed above) were all rated as unacceptable and thus inactive under PL 84-99 guidelines.

However, for Bear Creek (no. 7 above), the Corps did not identify any issues that it believes are likely to prevent performance during the next flood event. Some remaining issues have exceeded their timeline for correction but locals have approached the Corps and are working with them to put together a Letter Of Intent (LOI) to apply for a System-Wide Improvement Framework (SWIF). It is hoped that, by the next inspection, the system will continue to remain active in PL 84-99, as it is now.

Mr. David Pesavento, DWR Flood Project Inspection Section Chief, further clarified the inspection processes and the complexities involved.

Mr. Len Marino, Board Chief Engineer, remarked that Board staff is in the process of scheduling site visits to the underperforming reclamation districts and levee districts. They are also looking into the existence of assurance agreements with the Board, and have discovered that some districts have no such agreements. He added that the basis for the obligation to maintain the levees is not only from assurance agreements but also resides in state law.

Mr. Mike Moncrief and Mr. Tom Engler, MBK Engineers; and Mr. Gilbert Labrie discussed some of the difficulties local districts face in implementing maintenance in their local areas, as well as their potential response process to the unacceptable ratings.

**B. Central Valley Flood Protection Board Hydraulic Screening and Analysis Needed for U.S. Army Corps of Engineers Review**

Mr. Greg Kukas, Corps Hydrology and Hydraulics Branch Chief, Sacramento District, gave the presentation and answered Board Member questions.

**8. HEARINGS AND DECISIONS**

**A. Permit No. 18934, Oakstone Investments, LLC - *Postponed***

**Consider approval of Permit No. 18934 as a programmatic permit that establishes consistent dwelling setbacks, a uniform maximum building footprint, construction limitations and Central Valley Flood Protection**

**Board recordation for 36 lots in The Rivers residential development adjacent to the waterside levee crown of the right (west) bank of the Sacramento River. The Rivers development (originally known as Lighthouse Marina) was initially approved under Permit No. 14389 with the infrastructure for 51 single residential lots being approved under Permit No. 14389-A. (Yolo County)**

This item is continued. Board members and a representative of the applicant expressed an interest in scheduling a publically noticed workshop on the site to obtain information and further understanding of this complex permit. The Executive Officer will seek to schedule this workshop.

**9. CLOSED SESSION**

- 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. REPORT OF THE ACTIVITIES OF THE DEPARTMENT OF WATER RESOURCES**

**- Division of Flood Management Activities/Updates**

Mr. Michael Sabbaghian, DWR Project Development Branch Chief, discussed the Urban Flood Risk Reduction guidelines, which were recently posted for public review and comment. Comments are due back to DWR by September 2. Current funding is at \$155 million.

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

- DWR Deputy Director Gary Bardini will travel to Washington D.C., on behalf of DWR, to receive the Corps' Silver Jacket Team of the Year award. The Silver Jacket is a program to reduce flood risk through increased communications, coordination and cooperation between federal, State, tribal, and local agencies.

- The Yolo Bypass is becoming a focus for many agencies and DWR is forming a Yolo Bypass implementation team in response. Mr. Jeremy Arrich will head the team.
  - Progress is being made on modifying the regional planning funding agreements to extend them out another two and a half years. Associated with that, annual task orders will be negotiated. Encroachment management and real estate issues continue to be referenced as major problems.
  - There is an effort to establish a Sacramento regional organizational management group which, in concept, would represent the Board, DWR, the Corps, the Sacramento Area Flood Control Agency (SAFCA) and West SAFCA.
- 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 report and answered Board Member questions.

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

Ms. Gail Newton, FESSRO Chief, updated the Board. She remarked that the Delta Levees PSP special projects solicitation received 26 responses for over \$187 million; and the Subventions Program solicitation 68 applications for over \$46 million. FESSRO staff is currently reviewing these concept proposals and determining who to invite back for a full proposal.

Ms. Terri Gaines, DWR Environmental Program Manager, discussed elements of the conservation strategy administrative draft, which has been released to the Interagency Advisory Committee and other targeted stakeholders for comment. The comment period ends August 25.

Ms. Gaines also noted that the salmonid mitigation bank project has been approved and the first few phases funded.

## **12. HEARINGS AND DECISIONS (continued)**

### **A. Permit No. 18882, CA Department of Fish and Wildlife**

**Consider approval of 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)**

Board Member Countryman recused himself from this Item.

Mr. Gary Lemon, Board Staff Engineer, gave the presentation and concluded with the staff recommendation that the Board adopt the Permit, in substantially the form provided in Draft Resolution 2014-25, including the CEQA findings and Water Code 8610.5 considerations; approve in substantially the form provided in Draft Permit 18882; direct the Executive Officer to take the necessary actions to prepare and execute Permit 18882; and to file a Notice of Determination pursuant to CEQA with the State Clearinghouse.

Mr. Jason Holley, California Department of Fish and Wildlife Supervising Wildlife Biologist discussed some of the special conditions in the Permit; asked the Board to consider modification, removal or clarity on seven of those conditions; and answered Board Member questions.

Board Members deliberated on several aspects of the proposed Permit, especially concerning themselves with clarity of permit conditions and to the reference to exhibits as incorporated into permit conditions that may result in redundancy, inconsistency and inappropriate delegation of Board authority within the Permit language. Vice President Suarez remarked that the Board Members were in agreement that there should be one permit with all conditions captured.

Mr. John Carlon, River Partners, commented that today's deliberations were an example of a much bigger problem that relates to other permits that have the same types of conditions.

Acting Executive Officer Gallagher suggested that it may make sense to direct the Executive Director, counsel, and staff to review and rewrite the permit conditions into the permit and bring the recommended action back to the Board at the August meeting.

*Upon motion by Vice President Suarez, seconded by Board Member Macdonald, the Board unanimously agreed to continue the matter to the August Board Meeting, and directed the Executive Officer, legal counsel and senior managers to rewrite the permit with conditions that are statutorily and legally appropriate.*

**13. INFORMATIONAL BRIEFINGS  
(PREVIOUSLY AGENDIZED AS REQUESTED ACTIONS)**

- A. Biannual confirmation of Board meeting schedule and member assignments**
- B. Biannual review and update of the Board's Strategic Plan/Action Plan**

Mr. Len Marino, Board Chief Engineer, provided the Briefings.

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

Vice President Suarez commented that she has continued her work on the Executive Committee as well as participating in the Mid Upper Sacramento Regional Management Planning Process.

Board Member Macdonald remarked that he has been continuing his work on the Lower Sacramento Delta North and on the integration of issues in the Yolo Bypass.

Board Member Ramirez commented that he also has been working on issues related to the Bypass, as well as with the San Joaquin River. He also serves as Board designee for the Conservation Strategy.

Board Member Villines remarked that he has continued work on what's going on in the Legislature with water bonds and other water issues and how that relates to the Board. He also attended the recent Delta Conservancy Meeting.

Board Member Countryman commented that he has been working with the Corps and DWR regarding the entirety of the concepts built around the 1957 flood profiles, what they mean today, and how they can actually be used since they are based on old technology that's really not relevant anymore.

Secretary Dolan remarked that she continues her work with the Executive Committee and is working with the Acting Executive Officer on multiple issues to continue to improve and strengthen the organization, including how to approach the selection of an Executive Officer and finally achieving the 2013-14 Budget Change Proposals. She has also been active in attending meetings and reviewing the drafts of the Mid Upper Sac and Feather River Draft Regional Flood Management Plans.

#### **15. FUTURE AGENDA**

Acting Executive Officer Gallagher remarked that it is quite possible that one or more of the hearings scheduled for the August 22 meeting will end up being continued or moved and they are closely monitoring those situations.

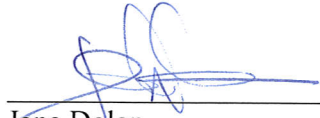
#### **16. ADJOURN-REGULAR BOARD MEETING**

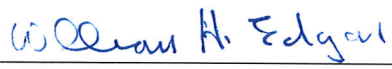
The Board unanimously adjourned the Open Session at 3:14 p.m.



Dated: October 24, 2014

The foregoing Minutes were approved:

  
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Jane Dolan  
Secretary

  
\_\_\_\_\_  
William H. Edgar  
President