

BRANNAN-ANDRUS LEVEE MAINTENANCE DISTRICT

Minutes of Thursday, January 12, 2012

The stated meeting of the Brannan-Andrus Levee Maintenance District's Board of Directors was called to order by presiding officer, Larry Gardiner, President, at 10:00 a.m. on the above cited date at the District Office, 310 Second Street, Isleton, California.

1. Roll Call indicated a quorum as follows:

Directors: Larry Gardiner, Gay Giles, Manuel Rebero, Frank Silva, Jr. and Denis Van De Maele
 Staff: Andy Giannini, Superintendent; Victoria Hale, Bookkeeper; Gilbert Labrie, Engineer; Debbie Phulps, Secretary
 Guests: Osha Meserve, Erik Ringleberg and Kirk West

2. Agenda Setting. MSC (Silva / Giles) [MSC = Motion-Second-Carried unanimously unless otherwise noted] adopting the agenda as amended to include discussion and action on the following items:

- DRW request for extension of Temporary Entry Permit.
- Signature authorization for transmittal of District's response to the Dept. of Finance draft audit report for Prop 84 funding of FY2007-08 and 2008-09 Subventions.
- Encroachment request by Applied Water Resources.
- Encroachment request by Duck Island RV Park.

3. Financial Report - Victoria Hale. The Balance Sheet and Unpaid Bills Detail were presented. Bank statement copies were provided to Director Giles. Drafts of the Annual Audit Report were made available.

3.1 Balance Sheet Summary as of meeting date:

Total Checking / Savings	\$ 1,723,917.19
Total Accounts Receivable	\$ 115,312.38
Total Other Current Assets	\$ 88,405.66
Total Fixed Assets	<u>\$ 554,485.28</u>
Total Assets	<u>\$ 2,482,120.51</u>
Total Current Liabilities	\$ 69,650.84
Total Long Term Liabilities	\$ 39,431.68
Equity	<u>\$ 2,373,037.99</u>
Total Liabilities and Equity	<u>\$ 2,482,120.51</u>

3.2 The following claims were submitted for payment approval. Invoices were available and those presented by DCC Engineering and Delta Bookkeeping were reviewed.

AT&T	136.59	Payroll - PERS	1,840.04
CCMI	1,976.59	Payroll - Taxes Federal	1,669.01
California Waste Management	91.80	Ramos Oil	405.00
Croce & Co.	5,450.00	Rebero, Manuel	102.68
DCC Engineering	40,158.66	Reclamation Dist. 2067	330.00
Delta Bookkeeping	2,191.14	Silva, Frank	102.68
Delta EcoFarm	6,875.05	Sprint	154.68
Downey-Brand	37.50	Stewart Industrial	151.08
Frontier Communications	193.29	Van De Maele, H. Denis	102.68
Gardiner, Larry	102.68	VISA	<u>304.81</u>
Giannini, Andy	2,192.04	Total Claims	\$ 71,627.43
Giles, Gay	102.68	Transfer to Emergency Fund	<u>1,000.00</u>
HART Restoration	6,941.20	Total Disbursements	<u>\$ 72,627.43</u>
Oilwell Materials	15.55		

MSC (Giles / Rebero) authorizing issuance of a \$70,000 warrant for payment of the cited claims.

3.3 Emergency Reserve Fund Policy. Tabled to the February meeting.

3.4 Assessment Billings and Collections. SCI has been scheduled to do a presentation at the February

meeting. Reclamation Districts 317, 407 and 554 will be invited to attend.

4. Invitation to guests desiring to address the Board. None responded.

5. Presentation. Osha Meserve and Erik Ringleberg were present representing LAND (Local Agencies of the North Delta), a coalition of reclamation and water districts working to protect local interests as the Bay Delta Conservation Plan and Delta Plan are developed. Proposed participation rate of \$1 per acre. Discussion ensued. The matter was tabled for consideration at the February stated meeting.

6. Business

6.1 Encroachments

- A. Duck Island RV Park Riprap Maintenance. Request authorization for riprap repair activities along the edge of the Duck Island RV Park berm. While the project is outside the District's area of jurisdiction, it does involve the levee berm, which further reduces the vulnerability of the main levee structure. Consequently, this private effort to maintain the berm benefits the Levee District and warrants the Board's endorsement. DCCE recommends the District facilitate the applicant's effort to process other required permits by assuming the role as lead agency, for the purpose of CEQA review, make a finding of no significant impact, and issue a categorical exemption for the project, as it involves minor repairs to an appurtenant structure to a levee dam and would not have any impact on the environment as long as construction is confined to the safe, in-water work window of August 1 to October 31. Additionally, DCCE suggests that it is not necessary for the Board to issue a separate encroachment permit, but rather endorse the Flood Protection Board application required of the Applicant.

The Board concurred with the recommendation of the District Engineer that a separate, District permit was not required. **MSC** (Silva / Van De Maele) to 1) act a Lead Agency with regards to CEQA; 2) make a finding of no significant impact with regards to execution of a Notice of Exemption; and 3) authorize endorsement on the project's Flood Board application incorporating the District's Standard Conditions.

- B. Applied Water Resources Sampling Borings. Since Applied Water Resources is acting as the District's contractor for performance of the work, it was decided that the District did not need to issue itself a permit. However it was **MSC** (Van De Maele / Silva) authorizing endorsement on the project's Flood Board application incorporating the District's Standard Conditions.

7. Staff Reports

7.1 Secretary - Debbie Phulps. **MSC** (Silva / Van De Maele) approving the minutes of December 15, 2011. Communications included:

- FIO request from the Attorney General as to dredging history for the District. This was forwarded to the District Engineer and a response has been transmitted.
- DWR request for extension of the Temporary Entry Permit of the Headquarters Property to allow data collection related to vegetation. **MSC** (Silva / Giles) denying the request citing that sufficient time was previously granted, and the Board did not see how a vegetation survey was pertinent to the intent and purpose of the original entry permit.
- LAFCO request for nominations for membership on the Special District Advisory Committee (SDAC). The Board declined to act.
- Distribution of a flood agencies emergency contact list from DWR.
- E-mail notification to the District as to the pending release of the draft audit report by the Dept. of Finance regarding Prop 84 funds and Subvention claim years 2007-08 and 2008-09. Once transmitted, the District will have ten days to submit a formal response to any matters contained therein which will be distributed as part of the final report. **MSC** (Giles / Van De Maele) authorizing President Gardiner to execute the response transmittal on behalf of the District.

7.2 Superintendent - Andy Giannini. A batch of electronic waste was transferred to the disposal station. Levee clean-up and mowing continue in concert with grazing efforts. New squirrel infestations were discovered and fumigants applied.

7.3 Engineer - Gilbert Labrie. The District Engineer presented his report. Discussion items in the course thereof are noted by the use of inset paragraphs.

- A. Levee Program Financing. To recap the final developments of 2011, DCCE previously reported that DWR is preparing documentation on the status of Delta levees for the Delta Stewardship Council (DSC), which is responsible for adopting a Long Range Plan for the Delta, by July 1, 2012. DCCE noted that DWR has proposed a policy shift that could affect Subventions, and which is contained in a draft document released to the Council in early 2011 entitled *"A Framework for Department of Water Resources Investments in Delta Integrated Flood Management"*.

The document characterizes any State assistance with Delta levee maintenance and rehabilitation, as "investments". Additionally, DWR has proposed to the DSC that HMP be the benchmark State goal; and that any levee improvement proposal, beyond this standard (PL84-99), be subjected to an economic analysis on an island by island basis before authorizing any State reimbursement. A higher priority will be given to projects that protect life safety, critical infrastructure and water quality, and benefits the ecosystem. The result is a Delta Levee Subventions Program separated into two funding components: 1) routine maintenance and rehabilitation, and 2) selected special projects falling into four categories (HMP, PL84-99, Delta Aqueduct, and Habitat). To date, Special Project grants, favoring some islands over others, have been made in two of the four categories.

DWR has issued a Project Solicitation Proposal (PSP) for habitat bank projects; and it has been announced that a PSP will be forthcoming, shortly, for HMP projects. Any proposal in the later category will have to bring an entire island into compliance and a maximum project size of \$2.0 million has been set. DWR's goal is to award up to \$50 million in grants before July 1, 2012. Meanwhile, the traditional Subventions Program continues to be limited to a \$15 million level for 68 districts (LMAs) in spite of the fact that it is, by far, the most cost efficient levee program. Experience to date clearly indicates that the new Special Projects Program approach is adding considerable cost and time to undertake a project because of the additional Stewardship Council and DWR oversight.

At this juncture, there continues to be no change in DWR's projections of the Delta Levees Maintenance Subventions Program funding levels for FY2010-11 and 2011-12. According to a May DWR memo, \$15 million per year is committed for 2009-10 and 2010-11, and \$12 million is budgeted for 2011-12. The Governor's Budget for 2012-13 currently has \$15 million proposed for Delta levee maintenance. That could change as the Stewardship Council reviews the final draft of the 5-Year Delta Plan and water interests press for more of the bond monies. The emphasis on an "investment" decision making process guiding expenditures on Delta levees, could seriously impact PL 84-99 funding assistance. The HMP emphasis is to retain eligibility for FEMA (federal dollars) to cover flood event costs.

- B. 2010-11 Subventions Claim. As previously reported, the District's claim submittal for Subventions Program reimbursement for Fiscal 2010-11, totaling \$754,964.80, was submitted to DWR and State Fish & Game, by the November 30, 2011 deadline. An on-site inspection of the claim items was conducted with DWR and Fish & Game representatives on January 3, 2012, and there were no problems. Once the F&G approval letter is sent to DWR, it takes 6 to 8 weeks before a check will be sent out. DCC has not received any correspondence from DWR indicating what claim items are being declared ineligible; but there has been some indication that there will not be any state reimbursement for Department of Finance audit costs, as it is considered an administrative expense. That DWR announcement was made at the most recent Delta Levees and Habitat Advisory meeting and was met with considerable negative responses. There was some discussion among Delta representatives about the need to elevate this issue to upper management, such as the Flood Board or even a legislator.

Any expenditures on approved Special Projects, such as the 5-Year Plan and the Engineering and Beneficial Reuse Study, are not covered under the traditional Levee Subventions reimbursement claim process. The District has received State advances for two of these projects, with the 5-Year Plan effort fully funded up to a total of \$50,000 and the Beneficial Reuse Study approved with an 80% reimbursement commitment.

- C. Vegetation Management - Project Levee Inspections. As reported in November, the District's

Fall Project Levee Inspection was conducted by DWR in mid-October 2011. The interim vegetation standards published by DWR served as the maintenance criteria to which BALMD was being evaluated during that tour. Utilizing the methodology previously adopted by Flood Inspection, calls for multiplying the U (Unacceptable) miles by 4 and adding to the M (Minimally Acceptable) miles, then determining the percentage of deficient miles for a particular unit. A percentage that exceeds 20% would result in an Overall U rating. In its November 2011 engineering report, DCCE predicted that, given the extent of the M rated sites that have been addressed with the recent mowing and trimming effort, there was a possibility that the District would qualify for an overall M rating, even with the erosion deficiencies included in the calculation. With the release of the Flood Control Project Maintenance Inspection Report, that Overall System Rating prediction was realized; but it took the combined ratings for both Georgiana Slough and the Sacramento River to stay under the 20% threshold. Two erosion sites, just west of Isleton, received an Unacceptable rating and resulted in the District's Sacramento River levee unit getting an Overall Unit rating of Unacceptable. Georgiana Slough's lower, M rated mileage, was enough to offset the U rating penalty on the Sacramento River.

DCCE is not sure whether this rating by DWR carries any weight considering the negative result of the USACE Periodic inspection.

- D. 2011-2012 Subventions Program Projects. DCCE is waiting for a final estimate from Bruce Gornto to repair the on-site drainage collection system that is supposed to carry the drainage water at the Comstock seepage site across the County road and eventually into the RD 317 canal system. The culvert needs to be lowered on the Comstock (east) side so the collection ditch can be sloped to carry the seepage water into the culvert. DCCE has met on the site with County representatives to discuss the situation; and has asked Bruce Gornto for a cost estimate to replace the culvert at a lower elevation. DCCE has prepared a construction drawing to guide that effort; it has also followed up with the County to establish responsibility, but any response has been slow in coming.

The crown raising project awarded to AM Stephens in October 2011 is now complete. The project involved two levee reaches. One along the Mokelumne River levee, near Perry's island, involves about 5,000 lineal feet of levee road; and the other along Sevenmile Slough, between the dams, involves about 4,800 lineal feet of levee at various locations. A.M. Stephens bid was \$395,318.30 and work began on the project on November 3, 2011.

In November DCCE reported on the material specification modification recommended by the contractor and the need to increase the estimated quantity of asphalt paving because of on site conditions not addressed in the bid schedule. A project change order was prepared to reflect these adjustments. The net effect of the changes was an increase in the final contract price of \$756.

- E. 2011 USACE Periodic Inspection Report. In December 2012, DCCE reported on the negative inspection results communicated in an out-briefing presented by the Corps of Engineers. This meeting was to acquaint District representatives and Flood Board staff with the deficiencies identified in the Fall 2011 inspection, outline the process districts must follow to respond to the Unacceptable points, and explain the rating system and priorities it establishes for any response effort. To recap, the District has a set period of time to respond to the draft report, once it arrives, with challenges to any of the points noted or provide more current information about any repairs or changes that have taken place since the inspection was conducted in late January, 2011. Once the report is finalized, the District has until the next flood season to correct the highest priority items, but only 90 days to respond with a plan and time table for corrective action, to be reviewed by the USACE. The lowest priority items have to be addressed within two years. A corrective response is necessary if the District wants to retain its eligibility for PL 84-99 repairs after a Federally declared emergency.

There are 11 pages of Unacceptable points summarized, with a total of 209 listed for the lower 6-miles of Georgiana Slough, and 354 listed for the 10-mile reach of Sacramento River levee maintained by the District. Once DCCE receives the formal draft report, with photographs of all the listed deficiencies, it will be easier to understand the evaluation criteria that was employed to make an unfavorable determination and evaluate validity and determine an appropriate response. As of this writing, DCCE has not received the draft report document.

- F. 5-Year Plan. On December 30, 2011, DCCE transmitted the 5-Year plan to DWR, pursuant to the Project Funding Agreement No. BA-09-1.0 signed 12-14-09 by DWR. DCCE made a concerted effort and final push during the month of December to complete the Plan by the extended deadline of December 31, 2011. Subsequently, on January 3, 2012, a letter was received from DWR granting a final extension of the submittal due date to June 30, 2012, along with termination of the Project Funding Agreement. Under that agreement, the State is committed to reimbursing 100% of the first \$50,000 expended for preparation of the Plan, and 75% of any overage, up to a maximum project cost of \$100,000. According to DWR it takes a month for the agency to review the document and determine if it is complete per the requirements transmitted to all the participating local districts.

In summary, the Plan prepared by DCCE envisions major project emphasis, over the next four fiscal years, on the USACE/CALFED stability berm project, erosion repairs on the Sacramento River levee, and continued drainage blanket/French drain projects to contain seepage and improve levee stability by removing open toe drains. Major construction spending would occur in the later three years of the Plan, commencing in the 2013-14 Fiscal Year. For planning purposes, it was assumed that there would continue to be major funding assistance through the Delta Levee Subventions Program. At this juncture the 5-Year document is only a desirable goal, with the current 2011-12 Fiscal Year serving as the first year of the five, and with an expenditure level as indicated in the Subventions budget adopted by the Board.

- G. USACE/CALFED Levee Stability Project. DCCE recently received a call from the Corps of Engineers consultant, managing this program effort, indicating a readiness to move ahead with the preparation of the Project Implementation Report (PIR). BALMD has received a Special Project grant of \$800,000 to assist with preparation of the PIR, which calls for a 50/50 funding match with the local sponsor.

BALMD is the local sponsor and the Special Project Funding agreement, signed by DWR on 6-14-11, commits the State to paying up to 80% of the local cost. DCCE has a meeting with the Corps and DWR next Wednesday, January 18, 2012 to get the engineering, environmental and permitting effort moving. At the end of this 16-month process, a fully designed and permitted project could be ready for the preparation of a final bid package. At this juncture there is federal funding to proceed with the PIR phase, but there is no construction in the 2013 Congressional budget. The construction phase of this program would be funded with a 65/35 (federal/local) match. DCCE has been approached about the availability of 95,000 cubic yards of fill material that could offset some of the local match and has given some indication that the District could be interested. If this project does not move ahead, the proposed material price could still benefit the District considerably in proceeding with its own stability berm projects.

- H. State Department of Finance Audit Report. On Wednesday, January 11, 2012, DCCE participated in an Exit Interview with the Dept. of Finance auditor and supervisor regarding the Subventions Program audit covering the District's 2007-08 and 2008-09 Subventions Reimbursement Claims, which were reimbursed with bond fund monies. A draft report will be issued by the end of the week and the District will have 10 days to respond to the findings presented. These were reviewed in the interview with DCCE and include a couple of the items previously mentioned to the Board. Namely, an accounting error and projects exceeding the contracted amounts. The accounting error has resulted in a State over-payment of \$35,389, which will be debited from the District's 2010-11 Subventions reimbursement. A conscientious issuance of project change orders and amendments, where necessary, should satisfy the criticism about unit price contracts where quantity estimates are exceeded. The other items are process and project management related and seem to call for more administrative cross checking.

Director Silva retired from the meeting.

7.4 Counsel - Joe Schofield. No report.

8. Director's Reports

8.1 Gardiner - No report.

8.2 Giles - No report.

8.3 Rebero - No report.

8.4 Van De Maele - No report.

9. Adjournment: The meeting was adjourned by President Gardiner at 12:20 p.m. with those present invited to join the Board for lunch at Pineapples in Isleton. Those accepting the invitation were Gay Giles, Gil Labrie, Debbie Phulps and Denis Van De Maele.

Respectfully submitted,

[ORIGINAL SIGNED]

Debbie Phulps, District Secretary
DCC Engineering Co., Inc.

Date Approved: February 9, 2012
MSC: Giles / Silva