

## BRANNAN-ANDRUS LEVEE MAINTENANCE DISTRICT

### Minutes of Thursday, February 9, 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 10:07 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: Joseph Schofield, Counsel; Victoria Hale, Bookkeeper; Gilbert Labrie, Engineer;  
Debbie Phulps, Secretary  
Guests: Maria Garcia-Adarve, John Bliss, Roland Paolinelli and Kirk West

**2. Agenda Setting. MSC** (Silva / Van De Maele) [MSC = Motion-Second-Carried unanimously unless otherwise noted] adopting the agenda as published.

**3. Commencement of Joint Session.** President Fran Silva (RD 2067) called their meeting from recess and Presidents Roland Paolinelli (RD 317) and Larry Gardiner (407) called their Boards to order at 10:09 a.m. for the presentations regarding benefit assessment processing services and NIMS-compliant emergency response certification.

3.1 Benefit Assessment Administrative Services. Maria Garcia-Adarve and John Bliss of SCI Consulting Group were called upon to explain their services. SCI is a public finance consulting firm based in Fairfield, California with over twenty-seven years of levy and assessment management. Vicki reviewed her current operating procedures which, following placement of the Call by the Boards, are to: advertise, review and update ownership and parcel information, prepare and transmit invoices, collect and deposit funds, and follow-up on delinquencies including processing liens through the County.

Discussion ensued as to how this would differ if SCI was utilized.

Step 1. SCI takes over once the Call notification is published. Their roll is to verify the parcels and ownership, prepare the data for inclusion in the County's annual billing process, and transmit same to the County and respond to any inquiries thereof.

Step 2. The County then places the assessments on their annual bill and additionally assumes the roll of collector (i.e. processing through lien and sale if necessary). The County's fee for this service is estimated at \$50 per account (agency) and \$0.44 per parcel. By assigning things to SCI, a district does not lose the ability to amend or forgive a tax bill. However, there is a minor County administrative fee involved (estimated at \$25 per request).

Step 3. Payment of the Call is forwarded to the district by the County in two parts, one in mid-January (estimated at 60% of the Call) and one in mid-May for the balance. The total to be forwarded to the district is based on the Call, not the timing or actual amount collected by the County.

If the County is not in the business of sending out tax bills to public agencies, such as the County issuing a bill to Caltrans, then SCI will generate a handbill to that agency. If the agency won't pay, then SCI comes to the district for direction as to how they want to proceed. Unfortunately, there is not a hammer for collection from public agencies.

SCI's service proposal would be based on the number of parcels, number of districts, quality of data from the County and relevant expertise. The proposal would probably be crafted into phases, the first and more expensive being getting the data current and blended into the County's system. It is their practice to invoice clients twice per year; and they are willing to work with districts in so far as timing and billing preferences.

The several entities requested that Ms. Adarve and Mr. Bliss provide them with formal proposals for their consideration. A second Joint Session was scheduled for 9:30 a.m. on Thursday, March 8, 2012 for the purpose of reviewing and acting on the requested service proposals. Brannan-Andrus Levee Maintenance District will convene its March Stated Meeting at 9:30 a.m. to accommodate the Joint Session. Ms. Adarve and Mr. Bliss retired from the meeting at the conclusion of their presentation.

3.2 NIMS Compliance. Gil Labrie relayed his exchange with Charlie Howell, NIMS consultant. All local agencies, to qualify for FEMA monies in the event of a disaster, must be able to evidence that they are

NIMS certified. In order to participate in Subventions, districts must remain eligible for FEMA emergency monies. Certification requires training and completion of online test and filing of the certificates. As a cost sharing measure, it was suggested that BALMD reach out to the neighboring districts to participate in a joint effort towards achieving compliance certification.

The Joint Session concluded at 11:14 a.m. with the adjournment of Reclamation Districts 317, 407 and 2067 by their respective Presidents. Roland Paolinelli retired from the meeting.

**4. Financial Report - Victoria Hale.** The Balance Sheet, Unpaid Bills Detail, and A/R Aging Detail were presented. Bank statement copies were provided to Director Giles.

4.1 Balance Sheet Summary as of meeting date:

Total Checking / Savings .....	\$ 1,712,545.56
Total Accounts Receivable .....	\$ 52,102.74
Total Other Current Assets .....	\$ 91,371.04
Total Fixed Assets .....	\$ 554,485.28
Total Assets .....	<u>\$ 2,410,504.62</u>
Total Current Liabilities .....	\$ 45,552.35
Total Long Term Liabilities .....	\$ 39,431.68
Equity .....	\$ 2,325,520.59
Total Liabilities and Equity .....	<u>\$ 2,410,504.62</u>

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

California Waste Management .....	91.80	Payroll - PERS .....	1,840.04
DCC Engineering .....	36,660.48	Payroll - Taxes Federal .....	997.71
Delta Bookkeeping .....	1,972.02	Ramos Oil .....	356.26
Dolk Tractor .....	978.59	Rebero, Manuel .....	102.69
Frontier Communications .....	189.62	Reclamation Dist. 2067 .....	330.00
Frontier Communications .....	46.97	Silva, Frank .....	102.69
Gardiner, Larry .....	102.69	Stewart Industrial .....	22.74
Giannini, Andy .....	2,192.04	Van De Maele, H. Denis .....	102.69
Giles, Gay .....	102.69	VISA .....	914.96
Oilwell Materials .....	104.35	Total Claims .....	\$ 47,211.03

**MSC** (Giles / Rebero) authorizing issuance of a \$50,000 warrant for payment of the cited claims.

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

**5. Invitation to guests desiring to address the Board.** None responded.

**6. Old Business. MSC** (Silva / Van De Maele) that BALMD join in the coalition of reclamation and water districts (LAND) working to protect local interests as the Bay Delta Conservation Plan and Delta Plan are developed such as was the presentation by Osha Meserve and Erik Ringelberg at the Board's January meeting. The participation rate based on \$1 per acre.

**7. New Business - Encroachments.** President Gardiner presented a proposal by Superintendent Giannini for the installation of a gate and fence to restrict levee access at the west end of the Tyler Island Bridge interface. Design discussion ensued. Counsel and Engineer cautioning about permitting and construction restrictions involving the federal project levees. The proposal was referred back with a recommendation to modify the design keeping the construction out of the State's 10-foot from toe jurisdictional band.

**8. Staff Reports**

8.1 Secretary - Debbie Phulps. **MSC** (Giles / Silva) approving the minutes of January 12, 2012. Correspondence consisted of Notification from Dept. of Industrial Relations denying the District's application to continue using a previously-approved Labor Compliance Program in lieu of participation in the State's Construction Monitoring Unit.

8.2 Superintendent - Andy Giannini. Absent.

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

- A. Levee Program Financing. To follow up a previous report on the final developments of 2011, DWR has fine tuned documentation being prepared on the status of Delta levees for the Delta Stewardship Council (DSC). That document has now been submitted with a lengthy disclaimer regarding how the information should not be used. For Brannan-Andrus, DCCE was able to point out errors in DWR's original methodology, and have the map and data corrected to show that BALMD does meet the HMP standard. In total, this revised version of the Levee Classification summary paints a more accurate picture of the condition of the Delta levees and status of HMP compliance.

However, as DCCE previously reported, DWR has proposed to the DSC that HMP be the benchmark State goal, and that any levee improvement proposal, beyond this standard (to PL84-99), be subjected to an island by island, economic analysis before authorizing any State reimbursement. A higher priority will be given to projects that protect life safety, critical infrastructure and water quality, and benefit the ecosystem. Unfortunately, the PL84-99 information that is also included on the DWR spread sheet provided to the DSC with the HMP information, has not been adequately vetted with the local levee maintaining agency (LMA) representatives and is very misleading. BALMD is depicted as having more PL84-99 deficient levees than is actually the case. What criteria DWR used to make their assessment regarding PL 84-99 compliance is unknown.

At this juncture, there continues to be no change in the DWR projections of the Delta Levees Maintenance Subventions Program funding levels for FY10-11 and 11-12. As previously reported, a May DWR memo indicates that \$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. The emphasis on an "investment" decision making process guiding expenditures on Delta levees, could seriously impact PL84-99 funding assistance. The HMP emphasis, which is currently the subject of a \$50 million PSP that is on the street, is to retain eligibility for FEMA (federal dollars) to cover flood event costs that the State would otherwise have to pick up.

- B. 2010-11 Subventions Claim. As previously reported, the District's claim for FY2010-11 Subventions Program reimbursement totaling \$754,964.80 was submitted to DWR and State Fish & Game by the November 30, 2011 deadline. An onsite inspection of the claim items was conducted with DWR and Fish & Game representatives on January 3, 2012. There were no major problems. However, Fish & Game did call attention to the loss of the large tree at the Comstock drainage blanket site, as well as three trees at the B&W seepage management site undertaken in 2007. The prior habitat loss was set aside, unintentionally, giving the District some extra time to mitigate for the removal and thereby satisfy the "no net loss" mandate for Subventions Program eligibility. Fish & Game categorized the trees as riparian forest habitat and is requiring 3:1 mitigation for the loss. This has been calculated as a total acreage impact of 0.14 acres. Thus requiring 0.42 acres of mitigation. As in the recent past, DCCE contacted a local mitigation bank, Westervelt, that is approved by Fish & Game for this purpose, and requested a quote. Westervelt Ecological's quoted purchase price for this type of mitigation acreage is \$31,500.

Discussion ensued as to the use of the 100-acre site for program fulfillment. Gil was directed back to F&G about the District planting trees at the mitigation site rather than purchasing from Westervelt at this time.

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. The Flood Control Project Maintenance Inspection Report has been released and 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.

However, DCCE is not sure whether this rating by DWR carries any weight considering the negative result of the USACE Periodic Inspection, which has not been formally released to the District.

- D. 2011-2012 Subventions Program Projects. DCCE is still 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 crown raising project that was awarded to AM Stephens in October 2011, is complete.

DCCE has plans ready to go to bid on the toe ditch removal project for the Bettencourt site and is awaiting feedback from the owner before completing the bid package and requesting authorization to proceed. If the project is going to be undertaken it would be wise to get started before planting gets underway.

- 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 to acquaint District representatives and Flood Board staff with the deficiencies identified in the Fall 2011 inspection. Corps representatives also outlined the process the District must follow to respond to the Unacceptable points outlined, along with explaining the rating system and priorities it establishes for any response effort. Once the actual report is received, the District has a set period of time to respond to this first draft, with the opportunity to challenge 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. After that the report is finalized, and 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.
- F. 5-Year Plan. On December 30, 2011 DCCE transmitted a 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 originally extended deadline of December 31, 2011. DCCE anticipates receiving comments from DWR after they complete a first review of what was labeled a Draft Plan. To date, DCCE has not heard from DWR staff. That could be a good sign or just an indication that the review process is very slow. When questioned in a public meeting, DWR staff indicated that the review process should only take about four weeks.

As reported previously, 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. As submitted, the 5-Year Plan commences with the current 2011-12 Fiscal Year serving as the first year, with a projected expenditure level as indicated in the 2011-12 Subventions budget that was adopted by the Board.

- G. USACE/CALFED Levee Stability Project. DCCE is currently expecting a follow up 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) for this project. 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. Corps representatives did indicate, in a recent meeting that the expected call, mentioned above, was awaiting the transfer of the federal funds to the local Corps regional office. That meeting should lead to a contract proposal that the Board will have to consider if it wishes to proceed with this project. At the construction phase it will be funded 65% federal, 28% state, and 7% local.
- H. State Department of Finance Audit Report. As reported in January DCCE participated in an exit

Interview with a State Department of Finance auditor and supervisor regarding the Subventions Program audit that covered the District's 2007-08 and 2008-09 Final Claims. That was followed by the issuance of a draft report on January 18, 2012. The District was given 10 days to respond to the findings presented. The financial issues were previously mentioned to the Board, and include an accounting error and payment on projects in excess of contract amounts, either as bid or amended. The accounting error did result in a State over-payment of \$35,389, which will be debited from the District's 2010-11 Subventions reimbursement. The contract overpayment, actually involves five contracts for projects undertaken in 2007, 2008 and 2009. Because of the way these contracts are referenced in the Finance Audit report, it took some time to identify the ones singled out in the audit. With the exception of the first mowing projects, undertaken to get into compliance with State vegetation standards, the overages were less than 10% of the total project cost. In a response letter to President Gardiner, DCCE pointed out the unit price bid procedure that the District follows, in order to recognize that the quantity estimates provided in the bid schedule recognize that actual site conditions often vary from hard line drawings and unknowns do occur. The project with an overage that was reference in the DCCE letter was the Bettencourt French drain project that was ultimately amended to include a slope drainage blanket through its length. While project Change Orders were issued for the project, as it progressed, a Change Order for some additional quantity increases relating to hydro seeding, imported fill, and monitoring risers, was not issued. That change totaled \$39,996 and amounts to less than 7% of the total project cost. With respect to the two mowing projects in 2008, the Board may recall that it was difficult for DCCE to estimate the time requirements for the principal tasks involved: mechanical mowing, manual clearing and trimming, and traffic control. Because of that learning curve and the deferred amount of trimming and brushing work involved, both the bids for the Sacramento River levees and Georgiana Slough, were exceeded, considerably.

The Finance Audit report recommendation has left the resolution of the excess contracted amount over payment issue up to the Department of Water Resources. DCCE has discussed the issue with DWR staff and is preparing project Change Orders to cover the overages on each of the projects identified in the draft report. As a corrective measure, a more conscientious issuance of project change orders and amendments, where necessary, will satisfy the criticism about unit price contracts where quantity estimates are exceeded. The other items in the draft report are process and project management related, call for more administrative cross checking and DCCE's engineering contract to be updated.

**MSC** (Silva / Rebero) authorizing President Gardiner to execute the following project change orders:

Job 7002.99 - Sevenmile Slough Crown Work 2007, Change Order No. 1 in the amount of \$1,756.69 for a new contract price of \$89,065.35;

Job 7002.88 - Terminous / B&W Levee Seepage Management System, Change Order No. 2 in the amount of \$35,856.35 for a new contract price of \$314,316.35;

Job 7702.01 - Georgiana Slough Levee Toe Ditch Removal Project, Change Order No. 3 in the amount of \$39,965.87 for a new contract price of \$493,491.87;

Job 7002.01-A - Sacramento River Levee Vegetation Maintenance, Change Order No. 1 in the amount of \$87,315.00 for a new contract price of \$192,595.00;

Job 7002.01-B - Georgiana Slough Levee Vegetation Maintenance, Change Order No. 1 in the amount of \$30,687.50 for a new contract price of \$57,787.50.

Director Silva retired from the meeting.

8.4 Counsel - Joe Schofield. Joe requested District support on correspondence he has drafted for the Delta Protection Commission related to region-wide emergency preparedness and flood response planning. The Board will consider action at the next meeting. Joe also noted that current BCDP documents have part of the "chunnel" going through north Andrus Island. If plans indicate part of the project coming into BALMD, then a sit-down would be in order to extract terms for how, when, and where, as well as dealing with the costs involved.

## 9. Director's Reports

9.1 Gardiner - No report.

- 9.2 Giles - No report.
- 9.3 Rebero - No report.
- 9.4 Van De Maele - No report.

**10. Adjournment:** The meeting was adjourned by President Gardiner at 12:36 p.m. with those present invited to join the Board for lunch at Peter B's in Isleton. Those accepting the invitation were Gay Giles, Gil Labrie, Debbie Phulps and Kirk West.

Respectfully submitted,

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

Date Approved: March 8, 2012  
MSC: Giles / Rebero