

BRANNAN-ANDRUS LEVEE MAINTENANCE DISTRICT

Minutes of Thursday, May 10, 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. President Gardiner declared the bid period closed.

1. Roll Call indicated a quorum with the following in attendance:

- Directors: Larry Gardiner, Gay Giles, Manuel Rebero and Denis Van De Maele (arrived at 10:50 during the Presentation)
- Staff: Andy Giannini, Superintendent; Victoria Hale, Bookkeeper; Gilbert Labrie, Engineer; Debbie Phulps, Secretary
- Guests: Ron Baldwin (Peterson, Brustad Inc.), Mark Burns (Robert Burns Construction) and Ashley Collier (Asta Construction)

2. Agenda Setting. (Giles / Rebero) [MSC = Motion-Second-Carried unanimously unless otherwise noted] adopting the agenda as published.

3. Bid Opening and Contracting: Job 7702.31 - Sacramento River Levee Arundo Removal Follow-Up. Two bid proposals were received and read: Asta Construction Co., Inc. at \$103,255.00 and Robert Burns Construction Company at \$86,045.00. **MSC** (Rebero / Giles) 1) awarding a contract to the apparent low bidder, Robert Burns Construction Company, pending the District Engineer's review and confirmation that the proposal is complete as to content and form; and 2) authorizing the District President or Vice President to execute the contract documents. President Gardiner expressed the Board's thanks to the contractors for their participation and attendance.

4. Financial Report - Victoria Hale. The Balance Sheet and Unpaid Bills Detail. An Accounts Receivable Aging was not provided given the transfer process being undertaken by SCI. Bank statement copies were provided to Director Giles.

4.1 Balance Sheet Summary as of meeting date:

Total Checking / Savings	\$ 1,499,379.14
Total Accounts Receivable	\$ 44,464.20
Total Other Current Assets	\$ 572,957.10
Total Fixed Assets	<u>\$ 525,489.22</u>
Total Assets	<u><u>\$ 2,642,289.66</u></u>
Total Current Liabilities	\$ 41,711.60
Total Long Term Liabilities	\$ 39,431.68
Equity	<u>\$ 2,561,146.38</u>
Total Liabilities and Equity	<u><u>\$ 2,642,289.66</u></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.

AT&T	189.37	Rebero, Manuel	102.69
Bank of Rio Vista	30.00	Reclamation District 2067	660.00
California Waste Management	91.80	S&W Tire	29.50
DCC Engineering	36,368.74	Silva, Frank	102.69
Delta Bookkeeping	1,614.85	Spalding Construction	1,144.50
Frontier Communications	189.72	Sprint	143.90
Gardiner, Larry	102.69	Stewart Industrial	2.24
Giannini, Andy	2,192.04	Van De Maele, H. Denis	102.69
Giles, Gay	102.69	VISA	102.43
Payroll - PERS	1,840.04	Westervelt Ecological	31,500.00
Payroll - Taxes	1,070.81	Transfer to Emer.Account	<u>1,000.00</u>
Ramos Oil	516.36	Total Claims	<u>\$ 79,199.75</u>

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

5. Invitation to guests desiring to address the Board: Presentation by Ronald Baldwin of Peterson, Brustad, Inc. seeking District endorsement of support for the Sacramento-San Joaquin Delta Regional Flood Response Project grant application being prepared by Mr. Baldwin in concert with the Delta Protection Commission staff. **MSC** (Giles/Rebero) authorizing correspondence of support for the grant effort.

6. Old Business

6.1 Reserve Fund Policy and Emergency Reserve Fund. **MSC** (Giles / Van De Maele) to adopt policy and establish reserve:

RESOLUTION 2012-01 Reserve Funds Policy and Emergency Reserve Fund

The purpose of Brannan-Andrus Levee Maintenance District's (the District) Reserve Funds Policy is to insure that the District will always have sufficient monies available to meet its operation, capital, and debt service cost obligations. Reserves will be managed in a manner that allows the District to cover costs consistent with long-term plans while avoiding significant rate fluctuations due to changes in cash flow requirements. The following establishes the policies governing reserve funds so appropriated including use of monies in the reserve and target funding levels.

Emergency Reserve Fund

Background and Need: The District must continually monitor its levee protection system and facilities for signs of distress, and must be prepared to respond immediately to emergencies. The District desires to establish a reserve fund account to insure that the necessary funds are available to handle an immediate response effort.

Establishment: The District hereby creates the "Emergency Reserve Fund" to meet the specified District goals and responsibilities in a fiscally prudent manner.

Qualifying Uses: The Emergency Reserve Fund may be used for all costs associated with the District's response to an emergency including, but not limited to, the following:

- Labor, equipment and materials to repair damaged District facilities;
- Equipment rentals necessary to effect repairs;
- Consulting services including, but not limited to, design, survey, geotechnical and construction management;
- Damage survey and other assessments to submit for potential federal or other disaster assistance;
- Overhead, management and other consultant costs associated with negotiating an agreement with the U.S. Army Corps of Engineers or other appropriate federal or state agency, and then managing the work thereafter; and
- Any other purpose as approved by the Board of Directors.

Target Funding Level: A target funding level of Five Hundred Thousand Dollars (\$500,000) was established by action of the Board of Directors on March 8, 2012. This target may be amended at any time by subsequent action of said Board.

[End of Resolution 2012-01]

6.2 Encroachment Enforcement - Dang Xan Unauthorized Fill. At the April meeting the Board approved a draft of a Cease and Desist letter, to be finalized for President Gardiner signature, to address unauthorized fill activity on a parcel, owned by Mr. Dang Xan, fronting on the Sacramento River levee just downstream of Duck Island. The letter was mailed to Mr. Xan's Oakland on April 20, 2012. It was sent certified in order to track and receive some verification of receipt. The letter has not been picked up. Obviously, there has been no response from Mr. Xan.

At this point the Board could try another method to communicate officially with Mr. Xan or refer the matter to Legal Counsel for consultation regarding other enforcement options. From DCCE's perspective, as

noted in the April Report, while the violation is within the District's Area of Jurisdiction, it is well away from the structural toe of an oversized levee section, as defined by the Flood Protection Board. Therefore, it does not represent a serious threat to the integrity of the levee structure. If it did, a bulldozer could alleviate the problem very quickly. To send a message, the Board might want to consider the bulldozer option. However, importing fill material along the levee toe is called stability berm construction elsewhere, and is considered beneficial. It was decided to send a copy of the correspondence to the site address.

7. Staff Reports

7.1 Secretary - **MSC** (Giles/Rebero) approving the minutes of April 12, 2012.

7.2 Superintendent - Andy Giannini. Activities have addressed repairs to small engines, pump tests, and baiting and fumigating small rodents. Need to mow weeds at the pump station to allow welder to work on deck. Sheep are at the Marsh property. Sevenmile grazing is complete. The Sacramento vegetation is the next to be undertaken with the mower.

7.3 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. In April DCCE reported on the proposed levee policy documents emanating from DWR for the Delta Stewardship Council's (DSC) consideration in preparing the Central Valley Flood Protection Plan. One of the significant draft documents is the "*Framework for DWR Investments in Delta Integrated Flood Management*" (*Framework*). A companion document called the "*Background Reference Memorandum*" (*BRM*), identifies the key considerations and statewide implications of the *Framework* proposal. DWR is responding to comments received from circulation of a second draft of the *BRM*, which included editorial comments from DCC Engineering. The *BRM* is important to the planning process because it sets the stage for the policy document, *Framework for DWR Investments*, that will guide State Legislature budgeting decisions and DWR management of levee maintenance and rehabilitation funding assistance.

In its present draft form, DCCE believes the *BRM* sets the stage for prioritizing islands for any expenditures beyond routine maintenance and rehabilitation to an HMP levee standard benchmark as the State's goal for the Levee Program. Any levee improvement proposal beyond this standard (to PL84-99), could be subjected to an excessive, time consuming and expensive, scrutiny process before receiving approval for any State reimbursement. Given how the Subventions Special Projects program (where this type of funding would have to come from) has been implemented, it is clear that a higher priority will be given to projects that protect life safety, critical infrastructure and water quality, and benefit the ecosystem. The Delta's levee engineers believe that establishing the HMP levee profile as the State's standard is the most critical levee policy decision faced by the DSC.

The HMP profile is not an engineering standard and is not based on the latest 100-year flood stage elevations developed by the Corps of Engineers. Meeting the old standard only helps insure that FEMA will provide disaster assistance for non-project levees. It is not a guarantee of FEMA assistance, as FEMA may find some other reason to deny claims because of the Federal Government's own deficit problem.

According to DWR the final versions of the *BRM* and *Framework* will be subjected to a public review process before being incorporated by the DSC into the "*Central Valley Flood Protection Plan*" (*CVFPP*), which is scheduled for adoption in 2013.

In terms of current Subventions funding, there has been no indication, from DWR, of any change in the budgeted amounts for FY10-11 and 11-12. In fact, BALMD should receive a reimbursement check for FY10-11 (approx \$483,750) by the end of this month. What still may be in jeopardy is the Governor's Budget for 2012-13, which currently has \$15 million proposed for Delta levee maintenance. There is now plenty of press indicating that the May Revise Budget, which is to be released May 14, will include some budget reductions. DWR has already played the HMP card and has tied up \$50 million in Proposition 1E monies with the recent release of a PSP (Project Solicitation Proposal) for that purpose. DWR plans to award the grants for qualifying projects before the end of this fiscal year. What is uncertain is the type of projects that will qualify since proposals were submitted for rip-rap repairs and all-weather surfacing, in addition to levee geometry upgrades. Additionally, to qualify, a project has to bring and entire island system up to the HMP standard.

- B. Vegetation Management - Project Levee Inspections. As previously reported, the "USACE Periodic Inspection Report", based on a detailed inspection conducted in early 2011 gives BALMD an Unacceptable rating. In a December 2011 Out-briefing, a summary document was presented identifying a total of 587 Unacceptable items covering both Georgiana Slough and the Sacramento River levees. 60 of those items have to be corrected before the next flood season. Others have to be addressed with a corrective time table, while some have up to two years grace period. DCCE has focused on the 60 high priority items and has organized the information into a format that facilitates on-site inspections in order to develop a project, or projects to fix them and call for a re-inspection.

In terms of ultimately receiving an Acceptable rating, the big issue DCCE presented to the Board in April is the problem posed by the linkage with RD 556 that the Corps is recognizing in establishing the rating for each district. In order to separate the two districts for rating purposes, BALMD would need to show the two are hydraulically separable. A worst case levee break in RD 556 cannot impact BALMD and vice-a-versa. Further, the non-project levee separation would need to become part of the Corps' Non-federal Levee Program. The dry cross levee would have to perform as a flood protection feature.

DCCE presented for discussed the option and costs associated with raising the cross levee separating the two districts, as well as the concept of adding the RD 556 levee maintenance function to BALMD's scope of responsibility, in the April Engineering Report to the Board. At the time, neither seemed acceptable to any Board member because of feasibility and/or cost. Consequently, DCCE suggested that the only other option for BALMD to consider involved addressing the real critical levee deficiencies identified in the USACE Periodic Inspection Report and just live with the Unacceptable USACE rating. This would mean addressing deficiencies identified as likely to prevent performance in the next flood event: encroachments into the levee section, erosion and bank caving, and slope stability. The remaining items on the list primarily involve vegetation deficiencies, because of the conflict between the State interim standard and the Corps' standard. There is a chance that conflict could get resolved in the State's favor, when the CVFPP is adopted.

After reviewing the levee inspection deficiency focus documents prepared by DCCE staff, it is difficult to agree with the Corp's consultant that the items identified rise to the level of flood protection performance impediments. However, a failure to address the items identified as Critical in the report may lead to repercussions by DWR through the Subventions Program, because of the potential for losing future Federal disaster assistance and repair funding.

- C. 2011-2012 Subventions Program Projects. The contract for the toe ditch removal project at the Bettencourt site was awarded to Warren E Gomes Excavating, Inc. which submitted the low bid of \$152,562. A total of four bids were received, with a high bid of \$225,720. DCCE's engineering estimate was higher than either bid, based on prior District projects and unit costs for materials. Construction began on the project the beginning of this month and should be completed before the end of the month.

In April DCCE proposed the District call for bids on one more small construction project to be included in the Subvention Program claim for the current fiscal year. It involves completion of the three arundo removal sites located on the land side of the Sacramento River levee.

The first phase of the arundo project was brought to a conclusion the end of 2011. This next phase is to address the land side levee slope eradication sites by removing the fabric cover and tie down system, scarifying the vegetated area to remove the more loose organic matter, and covering the area with an 18-inch layer of imported fill. DCCE estimated the project will require approximately 3000 tons of imported fill and involve approximately 600 lineal feet of levee slope. The engineer's estimate for this project is a range from \$100,000 to \$125,000. The Board concurred with DCCE's recommendation and bids were scheduled to be received at the May meeting.

- D. 5-Year Plan. As reported in April, BALMD finally received some comments from DWR staff. DCCE has been working to make the necessary minor revisions in the draft submitted by the December 2011 deadline. All that remains is a more significant revision to address the extended delay in Federal funding of the CALFED/USACE levee stability project, involving the proposed stability berms on the Mokelumne and Sevenmile Slough.

The original Plan, prepared by DCCE, envisioned 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. For planning purposes, it was assumed that major funding assistance through the Delta Levee Subventions Program and Corps of Engineers Early Implementation Program would continue. At this juncture, those key assumptions seem to be in jeopardy. As noted earlier, the Governor's May Revise Budget could result in Subventions Program funding changes, and the Federal funds needed to support an aggressive Corps Levee Stability Program are not anticipated before Federal Fiscal 2016. Consequently, DCCE is revising the schedule and anticipated funding for the levee stability project, in the 5-year Plan, to eliminate any costs and funding assistance from the Corps. After discussing the turn of events involving the Federal Levee Stability Program with DWR, DCCE suggested the District move forward to accomplish as much of the original project as possible utilizing State and local resources available through the Subventions Program and Special Projects grant. Taking the Corps out of the picture will significantly shorten the time frame and reduce administrative and environmental costs, as well as simplify the engineering and design process. Once the 5-Year Plan schedule and budget are revised to reflect this change, the document should be ready for re-submittal.

The State funding deadline for completion of the 5-Year Plans is June 30, 2012.

- E. USACE/CALFED Levee Stability Project. For months DCCE has been 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. Such would have set in motion a 16-month plus Corps' process, at the end of which a fully designed and permitted project would have been ready for the preparation of a final bid package. The District has a Subventions Special Projects grant to move that process forward. Additionally, as previously reported, the District has the opportunity to stockpile the needed fill material for the proposed stability berms.

However, as discussed above, Congress has not provided any additional funds to support the Levee Stability Program, as contemplated and authorized several years ago. It is not even expected that the situation will improve until Fiscal 2016 or later. The impact of that reality is affecting two other projects that are nearing completion of the PIR's but have no Federal construction funding in the pipeline. The next projects in the queue, which include the BALMD project, are being forced into a holding pattern with no assurance that Federal funding will ever be forthcoming. This development has given DCCE cause to consider a strategy of moving forward with the project without Corps' participation.

As a result, DCCE recently opened up a dialogue with DWR, since the State has already committed \$800,000 to the project on Brannan-Andrus, for engineering and design. DCCE suggested the District move ahead with geotechnical engineering and project design with Subventions Maintenance Program funding assistance and utilize the \$800,000 for construction. Additionally, the District could acquire the 100,000 cy of material from the Machado site and stockpile the material on the District's property to utilize for various levee maintenance and rehabilitation projects, including levee toe stability enhancements such as berm construction. DWR seemed receptive to this approach. At this time it is difficult for DCCE to make a recommendation as to the timing of the acquisition of the borrow material that will be available since the fate of the 2012-13 Subventions Program budget allocation level is unknown. Based on an initial conversation with another levee engineering firm about the Subventions 2011-12 expected claim level, and consideration of the anticipated BALMD claim amount, it seems advisable to budget for the borrow material acquisition in 2012-13.

7.4 Counsel - Joe Schofield. No report.

8. Director's Reports

8.1 Gardiner - Advised Superintendent Giannini that he had instructed Warren Gomes Excavating to blade the cross levee patrol road while they were working in the vicinity.

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 12:08 p.m. with those present invited to join the Board for lunch at Pineapple's in Isleton. Those accepting the invitation were Andy Giannini, Gay Giles, Gil Labrie, Debbie Phulps and Manuel Rebero.

Respectfully submitted,

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

Date Approved: June 14, 2012
MSC: Giles / Van De Maele