

# BRANNAN-ANDRUS LEVEE MAINTENANCE DISTRICT

## Minutes of Thursday, August 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 10:09 a.m. on the above cited date at the District Office, 310 Second Street, Isleton, California.

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

Directors: Larry Gardiner, Gay Giles, Manuel Rebero and Frank Silva, Jr.  
Staff: Andy Giannini, Superintendent; Victoria Hale, Bookkeeper; Gilbert Labrie, Engineer;  
Debbie Phulps, Secretary  
Guests: None

**2. Agenda Setting.** (Silva / Rebero) [MSC = Motion-Second-Carried unanimously unless otherwise noted] adopting the agenda, as amended, and suspending the rules to allow consideration of items out of sequence. The amendments were to allow consideration of encroachment requests by Phillips (reconstruction of ramp at former Paul Maddox residence) and Pacific Gas & Electric (pole maintenance / replacement at Cliff Haus).

**3. Old Business**

3.1 District Maintenance Staffing. President Gardiner, Superintendent Giannini and Assistant Secretary Hale reported back as to their investigation into hiring additional maintenance personnel. There was concurrence by the Board that a full-time position would be the most desirable in order to attract more qualified applicant's, as well as enable the most flexibility to schedule District work. Discussion ensued regarding salary, benefit and insurance elements. The Board concurred that it wanted to continue pursuit of additional staff. Larry, Andy and Vicki will continue to investigate costs and prepare a proposed qualifications listing, job description and salary package for the Board's review, preparatory to advertising.

3.2 Benefit Assessment Update Status. Draft copies of the Commissioner's Report were distributed and Gil reviewed some of the analysis that went into deriving the basis for the Proposed Update to the Benefit Assessment Roll. Directors were asked to review and address comments or inquiries to Gil.

3.3 Unauthorized Fill Placement at Arundo Project Site [2011-2012 Subventions Program Projects]. At the May meeting, the District received proposals for a small construction project involving three arundo removal sites located on the land side of the Sacramento River levee. Robert Burns Construction, Inc. was the low bidder at \$86,045. This phase of the arundo project included 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.

Construction began the last week of May and, according to the contractor, was complete on July 17. That is, with the exception a 600 cubic yard pile of dirt and concrete rubble remaining in the middle of the field at Site No. 1, the largest of the three project sites. The contractor is denying any responsibility for spoiling the material on the site. Consequently, it has not been removed. The contractor has estimated that removal would involve 25 truck loads to dispose of the material, at a cost of approximately \$1,000 per load, including the cost of loading. DCCE has discussed the matter with the occupant of the nearby residence, who described a questionable weekend dumping regimen. However, DCCE finds it hard to believe that the amount of material involved could show up without the contractor being aware until the *unauthorized* dumping was complete. This was followed by a failure to verify the dumping operation in a timely fashion, but rather waiting to the end of the project. DCCE contends that the contractor is responsible for conditions at the job sites, per the contract conditions, and should have contacted the District Engineer or a District representative immediately to address the situation. DCCE believes that the unauthorized stockpiling of material on the property adjoining the levee needs to be dealt with by the Board, with the contractor in the room. It should be noted that there is a \$1,000 per day penalty for going past the completion date, without a contract extension. If imposed, that penalty would amount to approximately \$25,000. That is roughly the contractor estimate of the cost of removing the stockpiled material from the site.

A Special Meeting was called for Tuesday, August 14, 2012 commencing at 9:00 a.m., to which the

Contractor will be requested to appear to discuss the outstanding issue(s) and close-out of the project.

[Director Silva retired from the meeting due to a schedule conflict.]

**4. Financial Report - Victoria Hale.** Balance Sheet, Unpaid Bills Detail and AR Aging were presented. Bank statements were provided to Director Giles.

4.1 Balance Sheet Summary as of meeting date:

Total Checking / Savings .....	\$	1,621,355.70
Total Accounts Receivable .....	\$	25,333.41
Total Other Current Assets .....	\$	88,972.10
Total Fixed Assets .....	\$	<u>525,489.22</u>
Total Assets .....	\$	<u><u>2,261,150.43</u></u>
Total Current Liabilities .....	\$	37,412.54
Total Long Term Liabilities .....	\$	39,431.68
Equity .....	\$	<u>2,184,306.21</u>
Total Liabilities and Equity .....	\$	<u><u>2,261,150.43</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.

California Waste Management .....	93.50	LAFCO .....	129.00
Contractors Compliance MI .....	2,236.46	Oilwell Materials .....	19.32
DCC Engineering .....	28,119.39	Payroll - PERS .....	1,840.60
Delta Bookkeeping .....	1,610.97	Payroll - Taxes .....	997.61
Downey Brand LLP .....	757.50	Ramos Oil .....	355.72
Frontier Communications .....	120.26	Rebero, Manuel .....	102.68
Frontier Communications .....	48.15	Reclamation District 2067 .....	330.00
Gardiner, Larry .....	223.37	Silva, Frank .....	102.68
Giannini, Andy .....	2,192.04	Van De Maele, H. Denis .....	<u>102.68</u>
Giles, Gay .....	102.68	Total Claims .....	<u><u>\$ 39,484.61</u></u>

**MSC** (Silva / Giles) authorizing payment of presented claims and issuance of a \$45,000 warrant.

4.3 Vicki report the status of the SCI transfer. Records are about ready to submit to the County.

**5. New Business**

5.1 Encroachments

- A. Phillips Ramp Repair. This item comes to the Board by means of an enforcement discussion between Andy and the new property owner, who was in the process of conducting the repairs. Owner requests authorization to continue with repair of the surface of an existing levee access ramp at 17211 Terminous Road. The golf-cart-sized ramp, similar to those constructed on other properties along Terminous Road, was constructed by the previous owner, Paul Maddox. A District permit was issued for a private recreational dock, as well as, the building pad at the location. However, it is unclear whether the access ramp was previously permitted. For the record, DCCE recommends the Board issue a permit for the existing ramp and approve the repair, concurrently. As previously noted, the ramp is sized and configured similar to other ramps in the vicinity, with a minimal retaining wall on the uphill side of the minor slope cut to control sloughing. Impact on the levee slope is minimal and the design has not caused problems elsewhere. Bringing the encroachment under permit will also help the Board address encroachment deficiencies noted in the USACE Inspection Report. **MSC** (Giles/Rebero) amending existing permit to include ramp and incorporating the District's current Standard Conditions, and authorizing the maintenance activity.
- B. Pacific Gas and Electric Utility Pole Replacement adjacent to former Cliff Haus adjacent to State Highway 160. Applicant requests authorization to remove and replace an existing, deteriorated utility pole located just off the levee crown, and containing the main service transformer for the Cliff Haus Resort. New pole will be placed in the same location as the

existing, utilizing the same hole. Cement slurry will be used to fill the gap between the new pole and the existing hole, instead of imported backfill material. To keep things simple, DCCE recommends that the Board respond by providing an endorsement to the Applicant's Central Valley Flood Protection Board application. **MSC** (Giles/Rebero) authoring endorsement on the Applicant's Central Valley Flood Board encroachment application.

5.2 Mowing Equipment Acquisition. President Gardiner and Superintendent Giannini reported on the proposed equipment purchase. There was agreement that a purchase decision was in order. The matter was tabled to the Special Meeting called for Tuesday, August 14, 2012, for further discussion, review of proposals, and purchase action consideration.

## 6. Staff Reports

6.1 Secretary - Debbie Phulps. **MSC** (Giles / Rebero) approving the minutes of July 12, 2012.

6.2 Superintendent - Andy Giannini. Motor was replaced on the spray equipment. Herbicides have been applied, and mowing and tree trimming has been undertaken along Sevenmile Slough. Encroachment follow-up and discussion occurred with the new owners of the parcel previously owned by Maddox. Referral was made to the District's Engineer.

6.3 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. Previously DCCE has reported on the levee program implications emanating from levee policy documents prepared by DWR for consideration by the Delta Stewardship Council (DSC), for inclusion in the Central Valley Flood Protection Plan. Those documents, which are the backbone of Chapter 7 of the Delta Plan, were on the July agenda of the DSC, for adoption. While the DSC did take action, it is DCCE's understanding that the Delta Plan is still considered a draft document, with a seventh version due to be released.

The two significant documents that will affect administration of the Delta Levee Program are: the *Framework for DWR Investments in Delta Integrated Flood Management (Framework)* and a companion document called the *Background Reference Memorandum (BRM)*. DWR is still preparing responses to comments received from circulation of a second draft of the *BRM*, and plans to release a revised version for discussion at the September Delta Levees and Habitat Advisory Committee meeting.

As drafted, the *BRM* set the stage for prioritizing islands for any expenditures beyond routine maintenance and rehabilitation to the HMP levee standard. DWR would then have had considerable flexibility to micro-manage all Program expenditures beyond that standard. Any major levee improvement proposal to achieve the PL84-99 or Bulletin 192-82 standards, could have failed to qualify for State funding assistance. However, key Delta representatives strongly argued that establishing the HMP requirements as a minimum State standard misrepresents the level of flood protection being provided, as HMP it is not an engineering standard. The HMP was only an interim goal to raise the bar for everyone, following a flood event, in order to obtain FEMA assistance.

A meeting, organized by Supervisor Nottoli, was held in Sacramento on Tuesday, July 10, with key DSC staff, DWR staff, and local agency representatives to go over a DSC staff recommended revision to the Prioritization Policy outlined in the Draft Plan set for adoption by the DSC. The purpose of the meeting was to try and address the HMP issue and the fate of the Subventions Program. Wording in the staff proposed revision was collectively edited to clarify how the prioritization strategy would work in the interim (until 2015) so that the Levee Subventions Program could continue to be administered as it has been. It is DCCE's understanding that the DSC has moved away from setting a levee design standard for the Delta Levee Program.

In terms of current Subventions funding, DWR has provided no indication of any change in the budgeted amounts for FY 2012-13, now that the Governor's Budget has been approved by the Legislature.

- B. Vegetation Management - Project Levee Inspections. The USACE Periodic Inspection Report identified a total of 587 Unacceptable items along both Georgiana Slough and the Sacramento River levees. A total of 60 items has to be corrected before the next flood season and a

reinspection needs to be conducted.

DCCE is moving forward to address the really critical levee deficiencies identified in the USACE periodic inspection report. This will mean dealing with erosion, bank caving, and slope stability issues, and eventually the encroachments into the levee section identified in the USACE Report, as well as getting the District's vegetation maintenance program back on track. The first priority is to address several sites on the Sacramento River and Georgiana Slough levees singled out because of slope instability indications which includes sloughing, cracking, rutting and surface erosion. The sites are spread out and do not all require the same type of repair, and of course, do not all have the same access considerations. In short, it is difficult to craft a project that can be put out to bid, let alone develop a cost estimate for reference.

The identified deficiencies that are even more problematic are some of the encroachments into the levee structure. The question of whether or not to remove, and who undertakes the removal, are key policy decisions for the Board. While there is more time allotted to address these items, a strategy needs to be adopted. Again, if the Board undertakes this effort, creating a package to bid will be challenging.

In terms of vegetation maintenance, steps need to be taken to get caught up. At this moment the District's Sacramento River levee is badly in need of the type of mowing effort that has historically been contracted at this time of year. At the July meeting the Board discussed the option of purchasing a specialized piece of equipment and hiring an operator. DCCE believes this is a serious problem that needs a timely solution so the District can continue to strive to comply with State and Federal vegetation management requirements on its levees. DCCE has been made aware of a contractor who is gearing up to do the levee mowing that Sun Harvest use to do; but has some misgivings about getting the same kind of efficient performance. At any rate, having a licensed, insured and bonded contractor doing the mowing that has to be performed from the State Highway or County Road may be the wisest option for that limited, but specialized, mowing task.

- C. Five-Year Plan. DCCE met the deadline for submittal of a final version of the District's Five-Year Plan, which initially was going to be a DWR pre-requisite for participation in the Special Projects segment of the Levee Subventions Program. The District's final Plan included a significant revision of the first draft, in order 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 District was recently notified that the final report was acceptable to DWR.

The revised Five-Year Plan and budget, that was accepted, eliminates any costs and funding assistance from the Corps for the levee stability project. Instead, DCCE proposes moving forward to accomplish as much of the original project as possible utilizing local and State resources available through the Subventions Program and Special Projects. This approach is anticipated to result in a significantly shorter pre-project time frame, reduced administrative and environmental costs, and a simplified engineering and design process.

- D. USACE/CALFED Levee Stability Project. As alluded to above, Congress has not provided any additional funds to support the Levee Stability Program, as contemplated and authorized several years ago, so the Corps has no funds to proceed, even with project planning and engineering. As a result, DCCE met with DWR to verify the State's continued commitment of \$800,000 to the project on Brannan-Andrus, and suggested that the District move ahead with geotechnical engineering and project design utilizing Subventions Maintenance Program funding assistance and maintain the \$800,000 for construction.

To get the most mileage out of available funding resources, DCCE previously reported about the availability of the necessary fill material from an on-island source, specifically the Machado property, behind the Delta Bay resort. There appears to be more than 100,000 cubic yards of suitable material that will be available. DCCE has been meeting with the contractor that will be involved in re-grading the Machado site and removing the sandy top layer and is currently contemplating stockpiling the material on the District's immediately adjacent property. DCCE has a call into DWR to determine how to undertake this effort and insure State funding assistance. It would be more cost effect to be able to move the material directly to the project areas but the geotechnical study and final engineering effort, permitting, and Special Project

administrative requirements to release the \$800,000, will not allow the construction to take place any sooner than late next year. The Subventions Program will reimburse \$1.00 per cubic yard, for the cost of the material, and up to 75% of the cost to stockpile it.

District Engineer Labrie received the Board's concurrence that he should continue negotiations with the owner and contractor to enable a price and terms proposal to return to the Board for consideration.

- E. BALMD 2012-13 Subventions. DCCE is preparing construction documents to undertake some PL 84-99 crown raising on the Mokelumne, near Pirates Lair, and levee slope enhancement project on Sevenmile Slough, between the dams, to address an area with a very narrow crown and steep landside embankment. Additionally, DCCE will be preparing bid documents for some rip-rap repair along the Sacramento River and Georgiana Slough levees. This will be work that can be accomplished under the limitations of the Corps of Engineers, Regional General Permit covering rip-rap repair. A more involved erosion repair project involving several major sites, that DCCE is planning, will require separate permitting and mitigation. DCCE has begun that process by consulting with State Fish & Game representatives and intends to present the repair scheme, with on-site mitigation, to the Corps of Engineers and other environmental control agencies at a pre-submittal meeting.

## 7. Director's Reports

7.1 Gardiner - No report.

7.2 Giles - No report.

7.3 Rebero - No report.

**8. Adjournment:** The meeting was adjourned by President Gardiner at 12:10 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 Manual Rebero.

Respectfully submitted,

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

Date Approved: September 13, 2012  
MSC: Giles / Rebero  
[4Yes-0No-1Abstain(VDM)]