

BRANNAN-ANDRUS LEVEE MAINTENANCE DISTRICT

Minutes of Thursday, September 13, 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 with the following in attendance:

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: Mark Burns, Vince Chavier, Dave Spensley, Kirk West

2. Agenda Setting. (Giles / Rebero) [MSC = Motion-Second-Carried unanimously unless otherwise noted] adopting the agenda and suspending the rules to allow consideration of items out of sequence.

3. Financial Report - Victoria Hale. Balance Sheet and Unpaid Bills Detail were distributed. Director Giles was presented with copies of the July and August bank statements.

3.1 Balance Sheet Summary as of meeting date:

Total Checking / Savings	\$ 1,576,373.57
Total Accounts Receivable	\$ 25,259.61
Total Other Current Assets	\$ 88,972.10
Total Fixed Assets	\$ 530,489.22
Total Assets	<u>\$ 2,221,094.50</u>
Total Current Liabilities	\$ 67,332.65
Total Long Term Liabilities	\$ 39,431.68
Equity	\$ 2,114,330.17
Total Liabilities and Equity	<u>\$ 2,221,094.50</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 Wireless	144.31	Gornto Ditching	14,000.00
AT&T Wireless	141.38	MidCal Tractor	5,000.00
Burns Construction (Contract plus CO-1)	15,698.76	Oilwell Materials	22.52
Burns Construction	12,410.00	Payroll - PERS	1,840.60
California Waste Management	93.50	Payroll - Taxes	1,012.31
CCVFC	3,980.00	Ramos Oil	277.54
Crop Production Services	1,035.59	Rebero, Manuel	205.37
DCC Engineering	32,053.11	Reclamation District 2067	330.00
Delta Bookkeeping	2,976.78	S&W Tire	19.54
Dolk Tractor	859.46	SCI Consulting	3,548.55
Downey Brand LLP	1,161.00	Silva, Frank	102.68
Frontier Communications	135.24	Sprint	141.74
Frontier Communications	47.87	Sprint	131.04
Gardiner, Larry	205.37	Stewart Industrial	31.95
Giannini, Andy	2,192.04	Van De Maele, H. Denis	205.37
Giles, Gay	205.37	VISA	135.65
		Total Claims	<u>\$100,344.64</u>

MSC (Giles/Silva) authorizing payment of claims, following adjustment to the Burns' \$12,410 invoice decreasing it by 50% for a net invoice of \$6,205, and issuance of a \$100,000 warrant. Total claims authorized for payment: \$94,139.64.

3.3 Vicki report the status of the SCI transfer and that the records had been uploaded to the County. Amount of current call was \$302,020.66, which when combined with the delinquencies made a total of

\$328,916.36 entered into the County database for billing.

4. Invitation to Guests to Address the Board - Mr. Spensley inquired as to increased seepage at his property. Discussion ensued.

5. New Business

5.1 Encroachments: Chavier Irrigation Pipe Maintenance. Applicant requests authorization to encroach upon the Sacramento River levee for the purpose of replacing a portion of an existing, deteriorating, irrigation pipe. All work is confined to the land side of the levee, along the slope. Location: approximately opposite the Cliff Haus Marina and Restaurant. The levee at this location is oversized and the project does not involve an excavation across the levee. Consequently, there are no potential adverse impacts of concern to the District Engineer. **MSC** (Silva / Van De Maele) authorizing issuance of encroachment permit.

5.2 Mowing Equipment Acquisition and Personnel. President Gardiner reported that the equipment had been ordered and a \$5000 deposit, to be applied to purchase, paid. Delivery date still to be confirmed. A workshop was scheduled for Monday, October 1 convening at 8:00 a.m. at the District Office, to work on language for the Job Description and Staffing Advertisement. Larry Gardiner, Gay Giles and Debbie Phulps will be in attendance. Others interested in participating were invited as well.

6. Staff Reports

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

6.2 Superintendent - Andy Giannini. Andy has been researching job descriptions and hiring posting related to pursuit of additional maintenance staff. A workshop was scheduled for October 1 at 8:00 involving Gardiner, Giles, Giannini, and Phulps to work on the descriptions. An invitation was issued to anyone else wishing to contribute to that process. Other activities have involved rodent abatement along Sevenmile Slough, spot herbicide treatments, and slope mowing in anticipation of the October 24 inspection. He also discussed with Maddox about grazing the Mokelumne and San Joaquin. Discussion ensued regarding the Sevenmile Slough gates and operability. Andy reported that they are checked annually. 2 of the gates are working, 1 is frozen at the west end. There are flap gates at both ends and a screw gate at the west end. Andy will be off-duty, on vacation, from September 23 through 30.

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 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. 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 sought comments from stakeholders in response to the circulation of a second draft of the *BRM*. A revised version was released for discussion at the September Delta Levees and Habitat Advisory Committee meeting.

As drafted and presented at that meeting, the *BRM* continued to emphasize the investment approach for future DWR levee funding decisions and set the stage for prioritizing islands for expenditures beyond routine maintenance and rehabilitation to the HMP levee standard. While DWR has agreed to apply its prioritization strategy when allocating funds under the Special Projects element of the Levee Subventions Program, the document has the ability to limit the level of state support for the less restrictive maintenance and rehabilitation portion of the program and is tending, more and more, to limit the types of acceptable expenditures in that program.

Key Delta representatives have been strongly arguing that establishing the HMP requirements as a minimum State standard misrepresents the level of flood protection being provided, as it is not an engineering standard. As reported by DCCE in August, a meeting organized by Supervisor Nottoli, was held with key DSC staff, DWR staff, and local agency representatives to go over a DSC staff recommended revision to the Prioritization Policy outline in the draft Flood Protection Plan. The 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.

After the presentation of the revised *BRM* at the Habitat Advisory Committee meeting it was recommended that a similar editing session would be helpful to address concerns raised by the same Delta representatives. These included the negative picture of the Delta levees being presented in the text of the document and incorrect assertions being made about some crucial Delta features and levee issues. DWR staff agreed to hold up the executive review process, finalizing the *BRM* to allow for such a work session to take place. However, there was no commitment that all new edits would make it to the final printing. A marathon session was held on Wednesday, September 12, in Stockton, to hammer out the concerns of Delta stakeholder representatives and the effort proved to be very productive. It remains to be seen whether some of the changes stand up under the policy influence of the Water Contractors, who seem to hold the trump card with DWR management.

- B. Vegetation Management - Project Levee Inspections. As previously reported, a total of 60 items in the USACE Periodic Inspection Report, along both Georgiana Slough and the Sacramento River levees, have to be corrected before the next flood season and a re-inspection needs to be conducted. DCCE is moving forward to address these identified deficiencies and has prepared some documents to guide an effort in the field to assist that effort. The response involves dealing with some slope erosion, bank caving, and perceived slope stability issues. It also 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. As discussed with the Board in August, DCCE has contacted a local contractor, Bruce Gornto, to carry out the various repair projects comprised of the 60 individual items.

As DCCE cautioned in the August report, regarding vegetation maintenance, steps need to be taken to get caught up. DWR's Fall 2012 Levee Inspection is scheduled for October 25. At this moment the District's Sacramento River levee is badly in need of the type of mowing effort historically contracted at this time of year. DCCE reported in August that a Stockton-area contractor is gearing up to do the levee mowing that Sun Harvest use to do. Having a licensed, insured and bonded contractor doing the mowing that has to be done from the State Highway or County Road may be the wisest option for that limited, but specialized, mowing task. DCCE suggests the District advertise for bids to at least take care of the Sacramento River levee, as soon as possible. DCCE would use the same bid format as in the past, so the bid documents could be assembled quickly.

MSC (Silva / Van De Maele) authorizing the District Engineer to proceed to bid for the recommended vegetation maintenance, and calling a Special Meeting for Thursday, September 27, 2012 at 9:00 to receive bids for "Job 7702.34 ~ 2012 Sacramento River Vegetation Management" and award a contract; and to consider going to bid for "Job 7002.94 ~ 2012 Sacramento River Revetment Restoration".

[Ed.note: A quorum was not obtained on 09/27/12. Therefore the Special Meeting was rescheduled for Monday, October 1, 2012 at 8:00 a.m. for the same purposes, in order to get job 7702.34 underway to make the October 24 inspection date.]

- C. 2011-2012 Subventions Program Projects. One hold over project that began in the 2011-12 Fiscal Year is the relatively small construction project involving three arundo removal sites on the land side of the Sacramento River levee. In May 2012, Robert Burns Construction, Inc. was the low bidder at \$86,045. Construction began the last week of May and, according to the contractor, was complete on July 17. However, during the construction period a 600 cubic yard pile of dirt and concrete rubble was hauled in from off-site, without authorization. The contractor claimed he had no knowledge as to the source of the material, which is possible, since there were extended periods when no construction activity was taking place at this location.

The rubble remained on site, while discussions were underway to assign responsibility, until the first weekend of this month when it was hauled off and disposed of by Burns. At the time, no commitment was made to Burns regarding any reimbursement by the District for the cost of removal. Prior to the actual removal, the contractor had estimated that removal would involve 25 truck loads at a cost of approximately \$1,000 per load, including the cost of loading.

Initially, DCCE contended that the contractor was responsible for conditions at the job sites, per the contract conditions, and should have contacted the engineer or a District representative immediately to address the situation. However, a memo from the District's legal counsel, Joseph Schofield, concluded that there is no remedy against Burns, under the contract, nor would the property owner have a case against the District.

At this juncture the job needs to be closed out. The contractor has \$12,261.41 remaining under the original contract plus a \$3,437.35 change order for the removal of the cactus at the Silva ranch. Additionally, there is the issue of the cost of the rubble removal. DCCE has pointed out in the past 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. However, the contract provision is intended to cover any monetary damages the District might be subject to if the contract is not completed on time. Such is clearly not the case with this project. Taking into consideration the memo prepared by Mr. Schofield, DCCE suggests the Board consider sharing the responsibility for the actual cost of removal with the contractor and approve a change order for \$6,205, which is half the invoiced cost.

Contractor Burns was present to respond. Discussion ensued. **MS** (Silva / Giles) and **Carried** (4 Yes, 1 No): authorizing payment of the balance of the contract with the change order; and agreeing to split the cost of the debris removal with the contractor based on the contractor's invoice of \$12410. Net authorized by the District \$15,698.76 plus \$12410 @ 50% equals \$21,903.76.

- D. Five-Year Plan. As previously reported, the District was recently notified that the final version of the Five-Year Plan document, revised by DCCE, was acceptable to DWR. The revised and accepted Five-Year Plan and budget, eliminates any costs and funding assistance from the USACE for the levee stability project, discussed below. Instead, DCCE proposed moving forward to accomplish as much of the original project as possible utilizing local and State resources available through the Subventions Program and a Special Project Agreement that the District already has with the State for this effort. DCCE is working with Raney Geotechnical to develop a levee evaluation strategy for the two stability berm sites, in order to develop an acceptable engineering solution that will increase levee stability.
- E. USACE/CALFED Levee Stability Project. As noted above, USACE participation in a BALMD Levee Stability Project, as originally contemplated and authorized several years ago, has evaporated. As a result, DCCE met with DWR to verify the State's continued commitment of \$800,000 to the project, and suggested the District move ahead with geotechnical engineering and project design with Subventions Maintenance Program funding assistance and utilize the \$800,000 for construction. DWR was amenable to that approach.

To get the most mileage out of available funding resources, DCCE previously reported about the availability of suitable fill material from an on-island source, specifically the Machado property behind the Delta Bay resort. Based the evaluation of an updated survey, there appears to be approximately 130,000 cubic yards of material that will be graded off the Machado site, and available to the District. DCCE would suggest stockpiling the material on the District's property, which is immediately adjacent. 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. Through discussions with Mr. Machado's contractor DCCE has arrived at a royalty price of \$1.50 per cubic yard, and a price to stockpile the material on the District's property of \$4.00 per cubic yard. Converting this to a price per ton of \$3.00. Up to recently, DCCE has been estimating a cost of \$15.00 per ton for imported fill material, in place on a job site.

- F. BALMD 2012-13 Subventions Projects. As reported in August, DCCE is preparing construction documents to undertake some PL 84-99 crown raising on the Mokelumne, near Pirates Lair; a levee slope enhancement project on Sevenmile Slough, between the dams; and the 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.

7. Director's Reports

7.1 Gardiner - No report.

7.2 Giles - Joe McDowell had advised her that the french drain between his property and Sonny McDowell's was not functioning properly. Andy was directed to investigate.

7.3 Rebero - No report.

7.4 Silva - No report. Frank Silva, President of RD2067, reported that the RD2067 Board would be meeting to review and discuss the Superintendent's retirement plan. An invitation to attend was extended to the Boards of BALMD, RD317 and RD407.

7.5 Van De Maele - No report.

Adjournment: The meeting was adjourned by President Gardiner at 11:41 a.m. with those present invited to join the Board for lunch at Rogelio's in Isleton. Those accepting the invitation were Gay Giles, Gil Labrie, Debbie Phulps and Dave Spensley.

Respectfully submitted,

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

Date Approved: October 11, 2012
MSC: Giles / Van De Maele