

BRANNAN-ANDRUS LEVEE MAINTENANCE DISTRICT

Minutes of Thursday, June 13, 2013

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 and Frank Silva, Jr.
- Staff: Victoria Hale, Bookkeeper; Gilbert Labrie, Engineer and Debbie Phulpis, Secretary
- Guests: Dave Spensley and Kirk West

2. Agenda Setting. MSC (Giles / Silva) [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.

3. Financial - Victoria Hale

3.1 Balance Sheet and Unpaid Bills Detail were distributed and reviewed. Director Giles received copies of the April and May bank statements. The second installment of the Benefit Assessment billing was received from the County.

A. Balance Sheet Summary as of meeting date:

Total Checking / Savings	\$	777,020.75
Total Accounts Receivable	\$	31,666.91
Total Other Current Assets	\$	835,461.70
Total Fixed Assets	\$	649,320.46
Total Assets	\$	<u>2,293,469.82</u>
Total Current Liabilities	\$	487,695.58
Total Long Term Liabilities	\$	0.00
Equity	\$	<u>1,805,774.24</u>
Total Liabilities and Equity	\$	<u>2,293,469.82</u>

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

Applied Water Resources	127,052.28	Golden State Risk	6,214.00
AT&T Mobility	615.61	Payroll - PERS	1,972.83
California Waste Management	93.50	Payroll - Liabilities	1,284.32
Delta Bookkeeping	1,607.36	Ramos Oil	512.90
Downey Brand LLP	443.00	Rebero, Manuel	100.49
Frontier Communications	137.56	Reclamation 2067	330.00
Frontier Communications	48.11	Silva, Frank	100.49
Gardiner, Larry	100.39	Van De Maele, H. Denis	100.49
Giannini, Andy	2,090.80	Visa	<u>1,268.92</u>
Gilbert Labrie, AIA	29,185.76	Total	<u>172,695.58</u>
Giles, Gay	100.49		

MSC (Giles / Silva) authorizing payment of claims with (3) \$50,000 warrants and (1) \$25,000 warrant.

3.2 Audit Services FY2012-13. **MSC** (Silva / Rebero) to enter into a service agreement with Croce and Company to perform the audit covering FY2012-13 based on their proposal not-to-exceed \$5,850.

3.3 The proposal from Harold Bertholz to provide mineral rights valuation services for the coming 5 year period was reviewed. Prior years' services have been in the neighborhood of \$__xxx__. The Secretary was instructed to interface with Bertholz and request that the proposal include an estimated range for the fee per year, or a "not-to-exceed without prior authorization" annual limit. **MS** (Silva / Rebero) authorizing

the President to enter into such a modified agreement. **Carried** with one abstention (Director Giles due to earlier interface with Bertholz regarding similar services for Mountain House).

3.4 Financial Planning FY2013-14.

A. FY2013-14 Budget. **MSC** (Giles / Silva) adopting a FY2013-14 Budget as follows:

Expenditures

Administrative and Non-Subventions Qualifying	
Maintenance Staff (10%)	12,500
Administrative Office Expenses: phone, office, overhead, dues & association fees, web	12,000
Office Rent	3,960
Director Expenses and Fees	12,200
Professional Services:	
accounting	30,000
secretarial	14,000
legal	15,000
engineering	30,000
audit and assessment	8,000
Non-Payroll Taxes and Insurance	3,000
Equipment operation and maintenance	15,000
Superintendent Small Tools	5,000
Building Maintenance	500
Special Projects Cost Share Commitment	<u>20,000</u>
Sub-total Admin. and Non-Subventions	181,160

Subventions Program Qualifying Expenditures

Maintenance Staff (90%)	112,950
Equipment (time and use)	30,000
Exterminate Rodents and Repair Damage	5,000
Shape Levee Crown	220,000
Repair Slipouts, Minor Erosion & Subsidence	15,000
Remove Berm Deposits	10,000
Control Seepage and Boils	25,000
Clean Ditches and Toe Drains	25,000
Control Vegetation	150,000
Restore Waterside Slope Protection	200,000
Plan for Flood Emergencies	10,000
Remove / Modify Encroachments	25,000
Levee Profiles and Cross Sections	30,000
Underwater Surveys	25,000
Engineering	250,000
Geotechnical Consulting	100,000
Patrol Road Access	1,500
Dredge Disposal and Mit. Site Permitting	25,000
Mitigation and Enhancement	120,000
Mitigation Site Maintenance	14,000
PL84-99: Crown Raising Projects	251,500
Bulletin 192 Projects:	
CalFed Levee Stability	275,000
Toe Ditch Removal and Blanket Drains	300,000
USACE Periodic Inspection Follow-Up	<u>300,000</u>
Sub-total Subventions Qualifying	2,520,000

Total Estimated Expenditures 2,701,160

Receipts

Permit Fees	1,200
Benefit Assessment Call 27	356,500
Mineral Rights Assessment Call 27	180,000

Estimated Subventions based on budgeted program level	<u>1,868,250</u>
Total Receipts	<u>2,405,950</u>
Operating Deficit	<u>295,210</u>

- B. Benefit Assessment Call 27. **MSC** (Giles / Rebero) establishing the rate for Call 27 at \$1.75 pre \$100 of assessed valuation and authorizing Victoria Hale to publish the same. It was noted that the last call increase occurred 12 years ago.

RESOLUTION NO. 2013-01

A Resolution Ordering the Continuation of the Levy of Assessments
For Brannan-Andrus Levee Maintenance District
(Assessment No. 27) for Fiscal Year 2013-14

WHEREAS, heretofore by order of the Board of Supervisors of Sacramento County, California, duly passed and adopted on October 6, 1987, a Benefit Assessment Roll for Brannan-Andrus Levee Maintenance District has duly and regularly fixed and approved, pursuant to the provisions of Section 51332.1 of the Water Code of the State of California, and which said Roll is now and at all times herein mentioned was in full force and effect; and

WHEREAS, in the opinion of the Board of Directors of said Brannan-Andrus Levee Maintenance District, it will be necessary to raise the assessment for fiscal year 2013-14 for maintenance, repair and operation of the levees, for the incidental expenses of said District, and for construction work supplemental thereto or in replacement thereof;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED THAT:

1. The public interest, convenience and necessity require that the levy be made. This Board hereby orders the continuation of the levy and collection of the assessment, to be known as "Assessment No. 27" based upon the said 1987 Benefit Assessment Roll of Brannan-Andrus Levee Maintenance District, Sacramento, California, for fiscal year 2013-14 for the purposes herein above set forth; and
2. The assessment, for fiscal year 2013-14 has been calculated at the rate of One Hundred Seventy-Five cents (\$1.75) on each One Hundred Dollars (\$100.00) of assessed valuation as shown on said Roll, with minimum levy of \$25.00 per each parcel of land (Water Code Section 51335.5). The total sum to be raised shall be adjusted to conform to the formula applicable to the valuation of mineral rights as set forth in the Assessment Roll approved by the Sacramento County Board of Supervisors; and
3. Where the County Assessment Roll combines several District Tracts into a single assessment parcel, all of which are assessed to the same ownership, all of such District Tracts shall be treated as single parcel for the purpose of applying the minimum of \$25.00 referred to in paragraph 2 above; and
4. The Secretary of the District is hereby directed for and on behalf of this Board and said Brannan-Andrus Levee Maintenance District, to cause a Supplemental Assessment List to be completed with respect to such levy by setting forth therein and endorsing thereon the total assessment and rate to be paid with respect to each parcel of real property shown on said Roll, and to set forth therein all other matters and things required by law in connection therewith, pursuant to the provisions of Section 51337 of the Water Code, and the same shall be deemed a part of said original Benefit Assessment Roll to the same extent and for the same proposes as if said rate and assessment had actually been inserted in said Assessment Roll; and
5. Said Supplemental Assessment list when so completed shall be filed by said Secretary in the office of the County Treasurer of Sacramento County, California; and

6. The Secretary of the District shall give notice of the time and place of payment of said assessment in the manner provided by Section 51519 of the Water Code by publishing said notice two (2) times, once a week for two (2) consecutive weeks in "The River News Herald and Isleton Journal" a newspaper of general circulation within the District, devoted to the publishing of general news, published in Solano County, California, there being no newspaper of general circulation published within Brannan-Andrus Levee Maintenance District; and
7. A copy of this resolution and order certified by the Secretary of this District shall be filed with the County Treasurer of Sacramento County for insertion in Benefit Assessment Roll of said District; and
8. Immediately upon the adoption of this resolution, but in no event later than August 10 following such adoption, the Secretary of the District shall file a certified copy of this resolution with the Auditor of the County of Sacramento. Upon such filing, the County Auditor shall enter on the County assessment roll opposite each lot or parcel of land the amount of assessment thereupon as shown in the assessment. The assessments shall be collected at the same time and in the same manner as County taxes are collected and all laws providing for the collection and enforcement of County taxes shall apply to the collection and enforcement of the assessments, After collection by the County, the net amount of the assessments, after deduction of any compensation due the County for collection, shall be paid to the Brannan-Andrus Levee Maintenance District; and
9. The moneys representing assessments collected by Sacramento County shall be deposited in the District Treasury to the credit of the assessment fund previously established under the distinctive designation of the Brannan-Andrus Levee Maintenance District. Moneys in the assessment fund shall be expended only for the purposes herein above set forth of the Brannan-Andrus Levee Maintenance District.

(End of Resolution 2013-01)

3.5 FY2013-14 Subventions Program

- A. **MSC** (Silva / Rebero) authorizing: 1) the District's participation in the FY2013-14 Delta Levees Subventions Program as outlined in the previously approved budget; 2) Resolution No 2013-02 relative to such participation; and 3) authorizing the President or Vice-President to execute all program documents relative thereto.

RESOLUTION NO. 2013-02

Authorization for Execution of 2013-14 Subventions Program Documents

WHEREAS, it is the desire of the Brannan-Andrus Levee Maintenance District to participate in the 2013-2014 Delta Levee Subventions Program; and

WHEREAS, program participation includes the preparation and submittal of an Application to Participate (with budget), execution of a Work Agreement, and subsequent preparation of a Claim for Reimbursement at year end, and

WHEREAS, the documents necessary for financial participation must be executed by an authorized member of the Board of Directors acting on behalf of Brannan-Andrus Levee Maintenance District;

NOW THEREFORE BE IT RESOLVED, that the Board hereby authorizes President, Larry L. Gardiner, or Vice President, Denis Van De Maele, to execute said documents on behalf of the District.

[End of Resolution 2013-02]

4. Invitation to Guests to Address the Board. Dave Spensley was welcomed back. He reported as to some sheep and goats, apparently unmonitored, roaming in the vicinity of the Korth property. Andy will be

asked to follow-up with Mattos; and if the owner is not apparent, advise the property owner to contact County Animal Control.

5. Business

5.1 Personnel Search - Maintenance Worker I / Equipment Operator I. The Personnel Search Committee met on Wednesday, May 15 for the purpose of reviewing the submittals. Director Silva reported that they arrived at a consensus to follow-up with two candidates. Those persons were called in for interviews at a meeting conducted in advance of this Stated Meeting. Prior to this meeting, word was received as to the withdrawal of one of the candidates, having accepted an employment offer elsewhere. The Committee met with the remaining candidate, for whom they report favorably. It is their recommendation that the District pursue an employment agreement with that candidate. MSC (Giles / Silva) concurring with the Committee's recommendation to present an employment offer to Russell Klipfel. The Personnel Search Committee will meet on June 18, 2013 at 4:30 p.m. for the purpose of developing the compensation package terms.

5.2 Delta Conservancy Volunteer Clean-Up Effort for Delta Levees. The District Engineer reported on a presentation to Walnut Grove Rotary, and his subsequent interface with the presenters, as to locations where a volunteer effort could be mounted. The site downstream of the Rio Vista Bridge which has been the subject of littering and vandalism by fisherman was proffered. The group inquired whether the District would be receptive to participation in the project through the donation of 1 or 2 dumpsters for the debris. The Board was in concurrence.

6. Staff Reports

6.1 Secretary - Debbie Phulps.

- A. **MSC** (Rebero / Gardiner) approving the minutes of May 9, 2013.
- B. Secretary will follow-up on the professional services proposal provided by Bertholz.
- C. Correspondence consisted of:
 1. California Special Districts Association call for nominations to fill Seat B vacancy. Director Giles recommended Gil Albiani. It was the Board's consensus to submit their ballot in favor of Gil Albiani.
 2. Special Projects Agreement BA-09-2.0. Authorized President Gardiner to execute Change Order document extending the agreement thru December 2014.

6.2 Superintendent - Andy Giannini. Excused due to family emergency.

6.3 Engineer - Gilbert Labrie. The District Engineer (DE) presented his report. Discussion points in the course thereof are noted by the use of inset paragraphs.

- A. Levee Program Financing. As previously reported, the biggest issue of local agency concern involving DWR's financial commitment to the Levee Subventions Program involved the 2012 \$50 million HMP levee improvement effort that was halted, by the State, when FEMA cancelled the HMP MOU agreement. At the time, projects had been selected for State funding assistance, based on a careful review and State prescribed selection-prioritizing process. Additionally, at the time everything was put on indefinite hold, a number of those selected projects were virtually ready for the districts involved to advertise for bids and get construction underway.

Subsequently, a concerted effort has been underway, spearheaded by a number of local reclamation districts in the Central Delta, to stress the importance of the projects that had been selected, in terms of addressing critical problems confronting the most vulnerable levees in the Delta. Emphasizing that the importance and benefit from the proposed levee improvements, that were halted, with or without the HMP justification. At the most recent Delta Levees and Habitat Advisory Committee Meeting, held on June 7, DWR staff announced that the Director had reached a decision to proceed with the \$50 million critical levee improvement program with some re-evaluation of the approved scope of some of the approved projects because of the federal cessation of the HMP requirements. This could mean that construction of all-weather access improvements or minor rip-rap repairs might not get funded unless critical to reducing the flood risk for a LMA.

Meanwhile, CalEMA, DWR and FEMA are supposed to be crafting a new MOU to provide assurance of FEMA assistance in the event of a declared disaster, in exchange for a State and local commitment to a higher levee standard for geometry and maintenance, in order to reduce the risks to flooding. That effort has gotten mired down because the USACE has been invited to the table and is pushing for its broader range of standards, some of which conflict with State guidelines, for instance vegetation.

Without a new MOU the standards that have to be met by a LMA looking for disaster assistance after an "incident" (this has replaced event) can be found in the Stafford Act, otherwise referred as 44CFR. Incorporation of all the PL 84-99 standards into a new MOU would reinforce the speculation that FEMA wants to shift any levee disaster repair responsibility on to the Corps of Engineers, which would only repair PL 84-99 certified levees after a flood incident. Yet, given the Corp standards for PL 84-99 levees, periodic inspections and its rating system is currently rendering most project levees in the Delta ineligible for flood damage assistance. Obviously, upgraded non-project levees would not be able to fare any better under the Corps criteria for maintenance.

Coming in full circle and as previously reported, currently all of the State levee repair evaluation programs seem to be focused more on levees within the State Plan of Flood Control, namely Project Levees. This is in spite of the fact that, in the Delta, the non-project levees are the weakest rural levee link. Clearly, there needs to be some standard repair templates and criteria developed to upgrade the system as a whole but recognize that the standard needs to be different for non-project levees.

- B. Project Levee Inspections. As an example of the current focus on project levees, last months report recalled a visit to the District Engineer's office a team of engineers from DWR and URS. Its purpose was to go over a Field Reconnaissance Report prepared by URS for DWR as part of a Flood System Repair Program (FSRP) that the State has embarked upon. The FSRP report covers all the same levees within RD 556 and encompassing BALMD that were included in the Periodic inspection. However, the District's non-project levees are also covered, except for the 7-Mile Slough levee between the dams. The FSRP reviewed past performance records to identify and categorize repair sites, as critical or serious.

Only two site on BALMD levees are identified as critical. Another 13 sites are labeled serious. The two critical sites involve the non-project levees along the Mokelumne and San Joaquin Rivers and are labeled as stability issues. The Mokelumne site is the location of the slope failure in 1998 that was addressed by the USACE. The San Joaquin site is the crown subsidence area on the San Joaquin, at Delta Bay Resort, that the District is currently monitoring. Two seepage areas on the Mokelumne are labeled as serious and are within the scope of the District's stability berm project. The remaining 11 sites are erosion areas on the Sacramento River levee. Many of the these are within the scope of a major, multi-year erosion repair effort that need the necessary permits for the in-water fill work required to construct a stable embankment. According to the engineers in the DE office meeting, only the critical repair sites on the State Plan of Flood Control levees are eligible for funding assistance under this program. So the District's only sites, labeled critical and located on a non-project levee, are ineligible. Additionally, the serious erosion sites on the District's Sacramento River levee are too large to fit in the eligibility criteria establish for the program, according to the engineering team. The goal for the FSRP is to ultimately provide local levee maintaining agencies with funding assistance to undertake the repairs. This arrangement would be similar to the emergency erosion repair project undertaken in 2007 across from Rio Vista. However, the scale of the repairs would be much smaller and the emergency label would not be there to facilitate the permitting effort required. This seems like just another wasted State effort that will not address the real repair needs on the most deficient levees in the system, the non-project.

- C. Levee Stability Project. As previously reported, this office is working with Raney Geotechnical to get a geotechnical testing strategy scoped out for the two miles of levee that constitutes the two proposed stability berm sites. It is anticipated that the boring and testing efforts will get underway in late July or early August.

In preparation for this stability berm project a total of 155,720 cubic yards of suitable spoil material, for berm construction, has been acquired from an on-island source adjacent to the District's 100-acre parcel. The material is sand that was deposited on top of good farming

ground during the flood of 1972. All of the material has been relocated to the District site. The final quantity cited is based on a post grading survey that was conducted on May 17, 2013 by Farley's Surveying.

As a precaution, this office has been monitoring the adjacent levees for any movement or shifting that might be triggered by the fill loading on the District site. To date there has been no sign of any movement.

- D. 2013-14 Subventions. As reported previously, due to the current focus on the stability berm project pre-preparations, the DE's long range project planning for the District included shifting the crown raising efforts on the Mokelumne River and Sevenmile Slough to late summer or this fall, and budget for those costs in the 2013-14 Fiscal Year Subventions Budget. Additionally, construction documents to continue the toe-ditch removal efforts involving the Georgiana Slough levee are being developed to address a 2600 lineal foot section that starts where the Bettencourt project stopped and proceeds downstream to the railroad approach ramp that separates the Gardiner and Van De Maele properties. This element is consistent with the District's 5-Year plan.

As noted above, preliminary design documents for erosion repairs along the Sacramento River levee between Cache Slough and the Isleton Bridge, have been prepared for consideration by the USACE, DWR and the environmental control agencies, preparatory to a formal submittal for permits. The plan is to schedule such a pre-application meeting near the end of the summer.

- E. Levee Monitoring. As previously reported this office has made arrangements to gather additional information in the water-side area bordering the section of Georgiana Slough levee that is being monitored with an inclinometer, as well as along the levee at Delta Bay Resort , which is exhibiting some signs of instability. Additionally, a hydrographic monitoring survey will also be conducted along the reach of the Mokelumne River, between Perry's Harbor and Rancho Marina, where the oversized rip-rap was placed in 1992. That effort got underway this week with Environmental Data Solutions conducting the survey. Survey point data obtained from this effort will be used by DCCE to create cross sections for geotechnical and engineering evaluation.
- F. Benefit Assessment Roll Update. As previously reported The *Valuation Assessment Commissioners Report* has been officially endorsed by all the Commissioners and was formally adopted by the Sacramento County Board of Supervisors on April 13, 2013. The major differences between this report and the previous one issued in 1987, involve the addition of more land use types, a more defensible apportionment of the relative values of the special benefits provided by maintenance of the levee protection system, and the elimination of a benefit valuation reduction for parcels located above sea level.

The next step for this process, is to conduct a Proposition 218 election to apply the new benefit valuation methodology, set the rate and seek approval for a range in which to operate, similar to the elections held for RD 407 and RD 2067. This office has been preparing the template for the informational letter that will go to each landowner with the individual ballot mailings for the 218 election.

- G. 2013-14 Subventions Budget. The 2013-14 Subventions Budget that this office has prepared for Board consideration is 54% larger than adopted for the current 2012-13 fiscal year. It represents a proposal to address some levee improvement projects that were deferred to enable the District to take advantage of the opportunity to purchase and stockpile the sandy over-burden material that was generated by a local land owners desire to improve the farm-ability of some acreage that was inundated when the levee broke in 1972. Those projects include some PL 84-99 crown raising on the Mokelumne River and crown widening at several locations along Sevenmile Slough, between the dams. Also being resumed is a continuation of the blanket drain/toe ditch removal program involving Georgiana Slough and more follow responses to items in the USACE Periodic Inspection Report, along with the geotechnical and design effort required to develop the construction documents for the stability berm project.

The routine maintenance portion of the proposed 2013-14 budget is 16% larger than adopted in 2012-13 and 70% larger than estimated expenditures. This is largely due to the deferral of

the Sevenmile Slough crown shaping project and an anticipated increased geotechnical engineering effort.

In numeric terms, the proposed 2013-14 Subventions Budget that is being presented for Board consideration totals \$2,520,000. That compares to \$1,632,000 which was adopted for 2012-13. Actual expenditures for 2012-13 are estimated to be \$1,658,062. The amount by which the State approved budget amount is exceeded when the final claim is submitted is considered to be non-qualifying for reimbursement, under the program. That approach represents a policy change from earlier years when the Reclamation Board would consider requests to revise an approved Work Agreement with an LMA in order to accommodate an unanticipated increase in expenditures.

- H. Spoil Site Fence Separating Rivers Edge Resort. In response to some encroachment issues and as directed by the Board, this office has communicated with the owners of the River's Edge Marina and Resort, that shares two property lines with the District's 100-acre parcel, regarding the District's plan to install a security fence. That effort led to the consideration of adjusting the property lines to facilitate installation of the fence and give the resort some more room along its south border, to partially offset the setback along the main drainage canal, and create a more compact configuration in this corner of the District's site. In exchange the extension of the parcel along the drainage canal would be shortened so that the net effect would be no change in acreage for either party. Such a property line re-alignment would make installation of the fence simpler and address a problem the resort has along its south boundary, accommodating its customers and tenants. A boundary line adjustment would need to be processed through Sacramento to facilitate such a shift. The resort owners have agreed to bear all the costs associated with such a boundary adjustment. In the ensuing period, while the County process is pursued, the fence could be installed if the appropriate legal documents covering the intent and providing for reciprocal, temporary use easements, could be prepared and signed, to protect the District and Rivers Edge. Since the Rivers Edge owners will be financially responsible for obtaining the Sacramento County boundary line adjustment process and final document recording, this office is suggesting that the BALMD counsel be authorized to assist with the interim use legal documents.

MSC (Giles / Rebero) authorizing the District Engineer to interface with District Counsel for the preparation of an interim Memo of Understanding to facilitate the installation of the fence while the formal Boundary Line Adjustment request is being processed.

7. Director Reports

- 7.1 Gardiner - No report.
- 7.2 Giles - No report.
- 7.3 Rebero - No report.
- 7.4 Silva - No report.

8. Adjournment: The meeting was adjourned by President Gardiner at 12:10 p.m. Those present were invited to join the Board for lunch at Rogelio's in Isleton. 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: July 11, 2013
MSC: Giles / Silva