

**BRANNAN-ANDRUS LEVEE MAINTENANCE DISTRICT**

**Minutes of Thursday, October 10, 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 Denis Van De Maele
- Staff: Andy Giannini, Superintendent; Victoria Hale, Bookkeeper; Gilbert Labrie, Engineer; and Debbie Phulps, Secretary
- Guests: Dave Spensley, Kirk West

**2. Agenda Setting. MSC** (Giles / Van De Maele) [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. Amended to include consideration of nominations to the Delta Protection Commission.

**3. Financial - Victoria Hale**

3.1 Balance Sheet and Unpaid Bills Detail were distributed and reviewed. Director Giles received copies of the bank statement.

A. Balance Sheet Summary as of meeting date:

Total Checking / Savings .....	\$	984,409.78
Total Accounts Receivable .....	\$	371,745.22
Total Other Current Assets .....	\$	6,641.50
Total Fixed Assets .....	\$	649,320.46
Total Assets .....	\$	<u>2,012,116.96</u>
Total Current Liabilities .....	\$	59,662.22
Equity .....	\$	<u>1,952,454.74</u>
Total Liabilities and Equity .....	\$	<u>2,012,116.96</u>

B. 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 .....	243.84	Payroll - PERS .....	3,871.32
California Waste Management ..	704.22	Payroll - Liabilities .....	2,135.38
Delta Bookkeeping .....	1,610.12	RAM Welding .....	5,092.88
Dolk Tractor .....	328.96	Ramos Oil .....	2,193.26
Downey Brand .....	408.00	Rebero, Manuel .....	100.49
Farwest Safety .....	4,300.00	Reclamation 2067 .....	330.00
Frontier Communications .....	90.15	River News Herald .....	32.85
Frontier Communications .....	49.08	S&W Tire .....	1,156.03
Gardiner, Larry .....	100.48	SCI Consulting .....	36.82
Giannini, Andy .....	2,214.96	Silva, Frank .....	100.49
Gilbert Labrie, AIA .....	35,989.45	Stewart Industrial .....	122.87
Giles, Gay .....	100.48	Van De Maele, H. Denis ....	100.49
Klipfel, Russel .....	2,116.44	VISA .....	<u>1,107.35</u>
Oilwell Materials .....	204.57	Total .....	<u>\$ 64,840.98</u>

**MSC** (Giles / Van De Maele) authorizing payment of claims with \$65,000 of warrants, (1)

\$50,000 and (1) \$15,000 denomination.

**4. Invitation to Guests to Address the Board.** None responded.

**5. Business**

5.1 LAFCO Election of Special District Commissioner (Office No. 7) and Alternate Special District Commissioner (Offices No. 6 & 7). **MSC** (Giles / Van De Maele) casting the District's ballot for Jones for Commissioner Office No. 7, and **MSC** (Van De Maele / Giles) McKinis for Alternate.

5.2 Delta Bay Revetment Placement. **MSC** (Giles / Rebero) authorizing project for bid; scheduling a Special Meeting on Thursday, October 24, 2013 at 9:00 a.m. to receive bids and act to award said project.

5.3 Action on entering into an agreement with SCI for Proposition 218 ballot services was tabled pending receipt of proposal.

5.4 Encroachments: Vino Farms Irrigation Pipe Replacement. Applicant requests authorization to extend an irrigation line to a new vineyard irrigation filter system. Proposed construction includes exposing existing steel pipe and installing new 12-inch steel pipe with 30 inches of cover to the inlet of the new booster pump at filter station. No work is contemplated in the levee other than to connect to an existing pipe at the levee toe and trench, perpendicular to the levee, from there to a new filter station. The 12-inch intake line that does cross the levee and extend down the slope was installed by Caltrans when the highway intersection was moved and re-constructed and the new access ramps were connected to the levee roads. The proposed new line will be buried and should not pose a problem for levee maintenance or impact levee integrity. Consequently, it is likely that the work is outside of the standard Project Levee profile and beyond the jurisdictional toe setback imposed by the State or USACE. Applicant also requests the District act in the capacity of Lead Agency for filing of a Notice of Exemption for the proposed work. Applicant: Lodi Irrigation as agent for Vino Farms. Location: Highway 160, 0.4 mile north of Highway 12 intersection (APN 157-0290-005). Project has been reviewed by the District Engineer, who recommends approval via issuance of permit with standard conditions, and filing of a Notice of Exemption. **MSC** (Rebero / Van De Maele) concurring with the recommendation of the District Engineer.

**6. Staff Reports**

6.1 Secretary - Debbie Phulps

- A. Correspondence not requiring action was placed on file; and correspondence requiring action was taken care of under the proper order of business.
- B. **MSC** (Van De Maele / Rebero) approving the minutes of September 12, 2013.

6.2 Superintendent - Andy Giannini. Mowing activities on the Sacramento have been completed. Caltrans assisted with traffic control. Farwest was engaged for those areas not handled by Caltrans. Vegetation management activities include the berries on the non-project sections; and a second mowing pass on Georgiana Slough in advance of the DWR Fall Inspection. DWR staff is undertaking a preliminary review today. The Aebi has been repaired and Russel will be training on it next. Everything should be addressed before the rains.

The Delta Waterway Clean-Up by the Nature Conservancy volunteers took place with 1.68 tons of debris removed from the area near the old Souza Dairy. Boating and Waterways is being asked to assist with removal of some of the larger obstacles encountered in the clean-up effort. Director Rebero expressed his on-going concern and frustrations with the number of people parking on the posted levee sections and the quantities of debris they leave behind. Andy empathized, noting that due to Sheriff Department shortages, we are not seeing the patrols and enforcement effort that we have seen in the past.

President Gardiner asked for the Board's input about allowing the three reclamation districts

(RD317, RD2067, and RD407) to rent the District's mowing equipment for clearing around the pump stations. Such could be accomplished through a District policy, MOU, or rental agreement whereby the equipment with operator could be utilized and the District costs recovered. There appeared to be a general agreement regarding the matter, which will be discussed at a future Board meeting.

6.3 Legal Counsel - Schofield. The Board was apprised of Joe Schofield's pending departure from Downey Brand. He will be leaving on October 20 for a position with the Sacramento Municipal Utility District. Downey Brand has noted that Scott Shapiro will be resuming as District Counsel. General discussion ensued regarding the District's representation.

6.4 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 Subventions Program Issues Overview. In September it was reported that, in spite of the abrupt FEMA HMP MOU policy shift, DWR is moving forward with the \$50 million effort to assist some LMA's with critical improvements that were originally tied to achieving the minimum standards spelled out in the HMP MOU. The entire \$50 million effort was put on hold for months until the current administration became convinced that the expenditure for levee improvements was still a good "investment". However, construction is not likely to get underway until next year, given the extra administrative steps incorporated into the Special Projects program, which now includes a determination and sign off by the Delta Stewardship Council regarding "covered actions".

As of last Friday Cal OES, DWR and FEMA have still not been successful negotiating a new MOU in order to provide some assurance of FEMA assistance in the event of a declared disaster. OES is still comfortable with the MOU that was worked out with FEMA and then abruptly terminated. Whereas a new FEMA version is calling for an ultimate sign off by USACE and certification to PL 84-99 standards. Such an approach would relieve FEMA of any disaster assistance responsibility for levees in compliance, because it is not obligated to repair Corps Certified levees after a flood event. Of course, to bring non-project levees into compliance with Corps standards is not possible because of vegetation and encroachment issues that conflict with the no-net-loss habitat criteria of AB 360 and legacy grandfather accommodations.

As has been recently noted in past reports, Project Levees are now coming under more scrutiny, in addition to the stepped up PL 84-99 periodic inspection efforts. Any alterations to a Federal levee are also subject to Corps review and approval under 33 USC 408, which provides authority for the Secretary of the Army to grant permission for the alteration of public works built by the United States. In June 2010 USACE Headquarters issued a new memorandum clarifying and specifically delegating that authority to District Commanders. Subsequently, the Sacramento District developed a policy that establishes classifications of actions into minor and major. Any District projects already undertaken involving the Sacramento River and Georgiana Slough levees would be considered minor actions because they were undertaken for the purpose of reducing flood risk and did not change the authorized purpose, scope or functionality of the project, or adversely impact system performance. However, future projects would be subject to a Section 408 review as part of the Flood Protection Board review and approval process, which is required for anything other than mowing, grazing and spraying.

In terms of the BALMD Georgiana Slough levee toe drain and blanket drain project, the construction plans are being finalized for the next phase of the project. In order to get a feel for the implications of this new 408 review process, this office reviewed a drawing of the design concept being utilized for the project, with a USACE official responsible for such a review. Fortunately, the area we are working on has an easement recorded for

the Sacramento - San Joaquin Drainage District and the existing toe ditch is outside of the easement, which eliminates some issues. Additionally, we have the as-built drawings for the levee system upgrade that was done in the 50's, which also helps with other issues. Never the less, we are preparing to submit plans to the Flood Protection Board and go through the 408 process as a minor action. However, it is not clear to this office what this new oversight development will mean to the timing that needs to be considered during the process of scheduling future construction projects involving SPFC levees on BALMD.

Another issue affecting the future direction of the Levee Subventions Program which has been discussed in previous reports is a DWR effort to produce a new policy document to guide decision making concerning State funding (labeled investments) for levee program elements, considered Integrated Flood Management (IFM) decisions. The final (ninth) draft of this FloodSAFE document, which is entitled "*A Framework for Department of Water Resources Integrated Flood Management Investments in the Delta and Suisun Marsh*", is scheduled to be circulated for public review.

According to DWR staff, some modifications have been made to the Framework in response to comments received following LMA review of the eighth draft. A summary of all the comments and DWR's responses is also scheduled to be released to the LMA's.

- B. Project Levee Inspections. On October 7 this office received a letter from the Central Valley Flood Protection Board informing BALMD - RD 556 that on March 26, 2013 the levee system became inactive in the USACE PL 84-99 Rehabilitation and Inspections Program and is therefore ineligible for PL 84-99 rehabilitation assistance following a disaster. However, the system will remain eligible to receive flood fighting assistance. The inactive status will remain until the Districts present the USACE with sufficient documentation and evidence that the issues have been resolved. The system rating must be improved to a minimally acceptable condition before the systems status can be changed to active. Once the necessary corrective actions have been taken, the USACE should be contacted to schedule a re-inspection. However, an updated levee log and map showing the right-of-way easement area must be submitted before any re-inspection request is made. A letter from the USACE to the CVFPB, that is attached to the Flood Board notification does clarify that the USACE inspection rating represents an evaluation of operations and maintenance and does not imply a performance warranty. The letter does recommend that FEMA consider the ratings for levee certification under the NFIP.

The Flood Board letter requests that an LMA PL 84-99 RIP Eligibility Goal Form be filled out and returned by October 30, 2013. The letter gives the Districts two basic options; to take part in a Letter of Intent (LOI) to undertake a System Wide Improvement Framework (SWIF) plan, or to not take part in an LOI for a SWIF and instead either address or not the Unacceptable-rated issues. The Flood Board letter and all LMA references are to the combined BALMD-RD 556 unit (levee system).

Without a SWIF BALMD has 2 years (until March 26, 2015) to fix vegetation, settlement and rip-rap problems. The inactive status is because issues considered more serious deficiencies that were not addressed in a timely manner. For BALMD the difficult issues in that category involve erosion and encroachments.

Participating in a SWIF buys more time and may provide for temporary PO 84-99 eligibility. However, that process requires a joint District program. A conversation on October 9 with one RD 556 Trustee indicated that their district intends to respond that they are not interested in a SWIF, have no money to fix the problems, and are also going to try to hold the State responsible for its prior commitment to fix some problems. That then brings BALMD back to the same dilemma it has faced since the initial periodic

inspection report draft was released. Correcting BALMD's issues will not guarantee a return to an active status. Of course, being eligible does not guarantee PL 84-99 rehabilitation expenses either. For instance, the major erosion areas that have been identified by the USACE inspectors and DCC on the Sacramento River in the vicinity of Isleton and extending to Ida Island and then occurring between Ida Island and the Cache Slough confluence are pre-existing conditions that PL 84-99 would probably not repair after a declared incident. The USACE made that distinction after the 97 and 98 high-water events, involving some erosion areas upstream of Twitchell Island Road and extending almost to Duck Island RV Park.

Since BALMD levees are not NFIP certified for 100-year flood protection, and never have been, and are proceeding to adopt a program to deal with the serious erosion issues on the Sacramento River, there may not be any benefit to being active in the PL 84-99 RIP program. Consequently, BALMD could elect to proceed to address the Unacceptable-rated issues by a target date and/or not address the issues or apply to remove the system from the State Plan of Flood Control. The latter option is somewhat attractive, given all the hassle dealing with the USACE Section 408 review, through the Flood Board and, presumably, could leave the levee eligible for State or FEMA repair assistance.

To meet the required response deadline, the Board instructed the District Engineer to respond that the District intends to pursue de-authorization, along with a letter of explanation regarding the crux placed upon Brannan-Andrus Levee Maintenance District by the actions (or rather non-actions) of the adjoining RD 556.

- C. Levee Stability Project. As reported previously, the projects currently being developed in this office for 2013-14 construction include: crown raising efforts on the Mokelumne River and Sevenmile Slough, and a continuation of the toe-ditch removal efforts involving the Georgiana Slough levee, involving a 2600 lineal foot section starting where the Bettencourt project stopped and proceeding downstream to the railroad approach ramp that separates the Gardiner and Van De Maele properties. As discussed earlier, the Georgiana Slough project is almost ready to be submitted to the Flood Protection Board for its review and a USACE Section 408 endorsement. That means that the project will not likely be ready to bid and go to construction until late spring of 2014.

As reported in September, a hydrographic monitoring survey has revealed two unique situations involving the San Joaquin River levee reach between the Sevenmile Slough confluence and the Spindrift Marina that warrant repair efforts before the upcoming flood season. The first site mentioned is 450 feet long and the other is 200 feet. The Delta Bay site will involve placing rip-rap on the levee slope, extending below the low water line. The situation involving the levee fronting the District's property calls for enlarging the levee on the land side because a 50-foot deep hole between the levee and the channel islands separating it from the main river channel has undermined the 2:1 slope at the levee toe. Widening the levee towards the land will protect against loss of the water-side slope. This office is working with the contractor that moved the Machado spoils onto the District property to arrange for the levee to be fattened with that material at an estimated cost of around \$5,000.

The 400-foot long Delta Bay revetment repair site involves an estimated 3400 tons of rip-rap that will have to be placed from the levee road. Given that the cost will more than exceed the \$25,000 no-bid threshold, the project will need to be publicly advertised. BALMD Board authorization to advertise for bids is being sought. The current engineer's estimate for this project is \$150,000 to \$175,000 but is difficult to estimate because of the proximity of the marina boat sheds that are 84 feet away from the levee along the

project levee frontage, and will only be approximately 30 feet away from the toe of the new rip-rap revetment repair effort.

- D. **Benefit Assessment Report.** 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 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. Once the ballots are mailed, there is a 45 day notice period.

## **7. Director Reports**

7.1 Gardiner - No report.

7.2 Giles - Reported as to her attendance of the CSDA Conference.

7.3 Rebero - No report.

7.4 Van De Maele - No report.

**8. Adjournment:** The meeting was adjourned by President Gardiner at 12:00 p.m. with those present invited to join the Board for lunch at Pineapples, Isleton, CA. Those responding were: Dave Spensley, Gay Giles, Debbie Phulps, Gil Labrie and Denis Van De Maele.

Respectfully submitted,

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

Date Approved: November 14, 2013  
MSC: Giles / Van De Maele