

BRANNAN-ANDRUS LEVEE MAINTENANCE DISTRICT

Minutes of Thursday, November 14, 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 10:10 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, Fran Silva and Denis Van De Maele
- Staff: Andy Giannini, Superintendent; Victoria Hale, Bookkeeper; Gilbert Labrie, Engineer; and Debbie Phulps, Secretary
- Guests: Bruce Gornto, Dave Spensley, Mike Voelker and 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 discussion regarding potential vacancy of Member-at-Large Director Seat.

3. Financial - Victoria Hale

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

A. Balance Sheet Summary as of meeting date:

Total Checking / Savings	\$ 925,433.53
Total Accounts Receivable	\$ 371,745.22
Total Other Current Assets	\$ 6,641.50
Total Fixed Assets	\$ 649,320.46
Total Assets	<u>\$ 1,953,140.71</u>
Total Current Liabilities	\$ 76,344.45
Equity	<u>\$ 1,876,796.26</u>
Total Liabilities and Equity	<u>\$ 1,953,140.71</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	236.83	North Delta Water Agency	248.30
Asta Construction	6,303.75	Oilwell Materials	63.86
CSDA Membership Dues	988.00	Payroll - PERS	3,871.32
California Waste Management	93.50	Payroll - Liabilities	2,051.66
Delta Bookkeeping	1,615.18	Ramos Oil	303.57
Contour Sierra Aebi, LLC	45.92	Rebero, Manuel	200.97
Dolk Tractor	5.46	Reclamation 2067	330.00
Downey Brand	884.00	River News Herald	416.08
Frontier Communications	139.40	Sacramento County Tax	2,465.72
Frontier Communications	49.27	Silva, Frank	200.97
Gardiner, Larry	200.97	Soluri Meserve (LAND)	13,800.00
Giannini, Andy	2,214.96	Stewart Industrial	72.41
Gilbert Labrie, AIA	35,995.12	Van De Maele, H. Denis	200.97
Giles, Gay	200.97	VISA	899.42
Klipfel, Russel	2,116.44	Total	<u>\$ 76,215.02</u>

MSC (Silva / Van De Maele) authorizing payment of claims with \$75,000 of warrants, (1) \$50,000 and (1) \$15,000 denomination.

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

5. Business

5.1 Job 7702.40 - Delta Bay Revetment. **MSC** (Giles / Van De Maele) Authorizing Change Order No. 1 in the amount of \$64,613.00 for a total contract amount of \$174,026.00.

5.2 Comstock Siphon Line Repair (permit previously authorized). **MSC** (Van De Maele / Rebero) authorizing the District to fulfill the roll of Lead Agency, and due to a finding of no significant impacts, to file a Notice of Exemption relative to CEQA for the stated work.

5.3 Review of District ditches at former Quitquit property. Mike Voelker was present to review the ditches and configurations thereof crossing the property, and to request permission to modify or remove certain lines. Discussion ensued and will continue with BALMD and RD407 in order to assist with the Property Owner's efforts. The request to fill the toe ditch was denied.

5.4 Director Seat (Member-at-Large) held by Manuel Rebero. Vicki Hale reported on information from Counsel Joe Schofield, that the Director Seat does not expire with the General Election, but rather remains occupied until vacated either by resignation of the seated Director or election of a new Director. Consequently, Manual Rebero tendered his verbal resignation to the Board with an effective date of Friday, November 15, 2013. **MS** (Silva / Van De Maele) accepting Manual Rebero's resignation with regrets. **Carried** [3 Yes, 1 No (Gardiner), 1 Abstention (Rebero). Vicki will move towards public notification of a Notice of Vacancy and Call for Nominees such that the Board may fill the vacancy by appointment.

6. Staff Reports

6.1 Secretary - Debbie Phulps

- A. **MSC** (Giles / Van De Maele) approving the minutes of October 10 and 24, 2013.
- B. Correspondence not requiring action was placed on file; and correspondence requiring action was taken care of under the proper order of business.
 1. Osha Meserve offered to attend the December 12 Stated Meeting to brief the Board on LAND's activities of the past year and the 2014 outlook. The Board was agreeable.
 2. Correspondence from Downey Brand inquiring whether BALMD would be interested in financially participating in an effort to prepare a comprehensive response and comment to the soon-to-be released draft environmental impact statement / environmental impact report (EIS / R) regarding actions of the Bay Delta Conservation Plan (BDCP) which plan includes the proposed tunnel project. **MSC** (Giles/Silva) authorizing staff to respond to Downey Brand of the Board's interest in participating.

6.2 Superintendent - Andy Giannini. Boom mowing is nearing completion for this cycle. Encountering technical issues with the boom which John Deere is expected to review. Intend to start training Russel on the Aebi. Gil inquired as to follow-up on the overgrowth at the District site. Andy needs to locate a stubble disc to address the blackberries. Both Andy and Russel attended the Flood Fight Training held on Twitchell. Director Giles noted the need to address SIMS compliance issues. Gil is to follow-up with Steve Guitierrez. The sheep are back on the Mokelumne. There is a new elevation drop on approximately 50-linear feet near B&W by the hair place. An additional site has been noted before one passes under the Highway 12 Bridge, headed south on Brannan-Island Road.

6.3 Legal Counsel - Schofield. Vicki read correspondence from Downey Brand confirming Joe's departure from the firm; and the reassignment of BALMD Counsel duties to Scott Shapiro. Secretary Debbie was instructed to advise Scott that, for financial purposes, it would like to continue on an "on-call, as-needed" basis with Counsel, as it had with Joe, rather than having Counsel appear at periodic Board meetings.

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. At the Delta Levees and Habitat Advisory Committee (DLHAC) meeting of Friday, November 1, Cal OES reported there has been little movement towards successful negotiations with FEMA on a new Hazard Mitigation MOU in order to provide better assurance of Federal financial assistance, following a declared high water incident. While OES is supporting reinstatement of the MOU originally negotiated with FEMA, a new FEMA version is calling for an ultimate sign-off by USACE and certification to PL84-99 standards. Cal OES did report on Friday that a meeting was scheduled to take place with FEMA, DWR and USACE participants on November 12 that could serve as a forum to bring up the MOU subject. Of course, if the Corps standards sticking point cannot be overcome, satisfactory

compliance could never be achieved because of local, low priority, non-structural issues such as waterside vegetation management and legacy encroachments, that are unacceptable to Corps inspectors.

As has been noted in past reports, Project Levees are now receiving more attention from DWR and the Flood Protection Board because of the stepped up PL84-99 periodic inspection efforts and higher funding priority placed on State Plan of Flood Control Levees by the current administration and Legislature. However, any alterations to a Federal levee are now referred by the Flood Board to the Corps for 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. This is a relatively recent development that has significantly impacted the Flood Board's permitting process in terms of processing time and discretion. All upcoming projects involving the Sacramento River and Georgiana Slough levees will be subject to a Section 408 review as part of a Flood Board review and approval process, which is now being more stringently required for anything other than mowing, grazing and spraying.

In terms of the BALMD Georgiana Slough levee toe drain and drainage blanket project, construction plans have been developed for the next phase of the project and we are preparing the submittal for an encroachment permit from the Flood Protection Board and will be going through the 408 process as part of that review. However, it is not clear to this office what this new local project oversight development will mean to the timing and construction scheduling of future projects involving SPFC levees on BALMD. The Flood Board staff blame the USACE for unnecessary delays and the USACE Flood Protection unit staff contend that their turn around is fast. By all indications the lengthy processing time required to obtain a Flood Board permit seems to be the result of internal problems at the Flood Board staff level.

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 due to be released for a 45-day public review period.

Another wrinkle that could influence the future focus of the Levee Subventions Program is oversight by the Delta Stewardship Council (DSC). Major Subventions projects, such as those funded under the Special Projects program will be subject to a DSC consistency determination with respect to the goals and objectives established in the Central Valley Flood Protection Plan. It was announced at the Habitat Advisory Meeting that the DSC is going to be developing a levee prioritization policy and list based on benefit criteria, that have yet to be determined.

It was also announced at the DLHAC meeting that DWR, the DSC, and the DPC are working together to develop a joint agreement to guide an effort to give serious consideration to the creation of a Statewide Assessment District to fund a flood protection program. The concept being floated is to develop a beneficiary pays approach to assigning cost sharing. Of course, such an approach would require policy changes that the Legislature would have to initiate.

The District's Levee Subventions claim for 2012-13 reimbursement was submitted by the State deadline and the back up data has been packaged and sent. The total amount submitted as qualifying expenditures is \$1,489,756.65. Applying the \$1,000 per mile mandatory expenditure deduction and anticipating the maximum 75% reimbursement could result in a total reimbursement for 1012-13 of \$1,157,207.48. That amount does take into consideration that the royalty reimbursement for the Machado spoils is less than 75% of the purchase price agreement with Mr. Machado. Of course, there is always the possibility that DWR staff will disagree with our interpretation as to what constitutes a qualifying expenditure that is eligible for reimbursement.

- B. Project Levee Inspections. In October it was reported to the BALMD Board that DCC Engineering had received a letter from the Central Valley Flood Protection Board informing BALMD and RD 556 that on March 26, 2013 the Project Levee system shared by the two districts 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. The system would remain eligible to receive flood fighting assistance but would otherwise be considered in an inactive status until the Districts

present the USACE with sufficient documentation and evidence that the issues identified in the periodic inspection reports have been resolved. The system rating must be improved to a minimally acceptable condition before the system's status can be upgraded to active.

The Flood Board letter requested that an LMA PL 84-99 RIP Eligibility Goal Form be filled out and returned by October 30, 2013. The key factor to consider in setting any goal for making improvements was that the entire system is a joint responsibility of the two districts. The Districts were given two basic options; take part in a Letter of Intent (LOI) to undertake a System Wide Improvement Framework (SWIF) plan, or do not take part, but instead either address or not the Unacceptable-rated issues.

Without a SWIF the districts have 2 years (until March 26, 2015) to fix vegetation, settlement and rip-rap problems. For BALMD the more difficult issues involve erosion, legacy encroachments, and a non-responsive RD 556. Participating in a SWIF buys more time and may provide for temporary PO 84-99 eligibility. However, that process requires a joint district program with one district serving as the lead, which would have to be BALMD. The success of such a joint effort was discussed by the BALMD Board in October and considered doubtful. It became clear to Board members that correcting BALMD's inspection issues could not guarantee a return to an active status for its levees.

Subsequently, a letter addressed to the Flood Board, on behalf of RD 556, validated BALMD's suspicion. RD 556's letter spelled out the district's financial limitations and took a position concerning responsibility for extraordinary maintenance and repairs of its levees which presumes that the USACE would always step in if there was a problem.

There was another option for consideration on the RIP Eligibility Goal form that, apparently, has been under discussion by some LMA's with state officials. Specifically, it conveys an intent to seek federal de-authorization and removal of the levee system from the State Plan of Flood Control. Since BALMD levees are not NFIP certified for 100-year flood protection, and never have been, and the District has been proceeding with a long range program to deal with the serious erosion issues on the Sacramento River, there appeared to be little benefit to being active in the PL 84-99 RIP program. Consequently, the BALMD Board elected to proceed to address most of the Unacceptable-rated issues by a target date but also indicated a desire to apply to remove the system from the State Plan of Flood Control. As directed by the Board, a letter was prepared by this office which explains the position taken by the District, regarding the problem with RD 556 and entering into a SWIF. Additionally, the transmittal letter outlines other factors, all of which led to a conclusion that dealing with SPFC levees created more problems than the benefits to be derived from that special distinction.

2013-14 Subventions Projects. As reported previously, the project plans currently developed by 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 along the Georgiana Slough levee. The levee reach involved is 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. The current engineers estimate for this project is \$608,000. As discussed earlier, this project is being submitted to the Flood Protection Board for its review and a USACE Section 408 endorsement, in order to comply with the more stringent oversight involving SPFC levees. That means that the project will not likely be ready to bid for construction until late spring of 2014. The design was reviewed in advance with a USACE representative and was favorable received. However, unless the Flood Protection Board improves its review procedures the permitting will languish there for a longer time than necessary.

As reported in September, a bathymetric monitoring survey revealed two unique situations involving the San Joaquin River levee reach between the Sevenmile Slough confluence and the Spindrift Marina that warranted repair efforts before the upcoming flood season. One of the sites of concern was at Delta Bay and involved placing rip-rap on the levee slope and extending below the low water line, over a distance of 250 ft. The other situation involved water-side toe under cutting along a 400-foot section of the levee fronting the District's property. The repair solution proposed by this office involved enlarging the levee on the land side because the 50-foot deep hole between the levee and the channel islands would require too much rip-rap to fix. Widening the levee towards the land will protect against loss of the water-side slope and is an acceptable solution by DWR engineers. This office worked with the contractor that moved the Machado spoils

onto the District property and arranged for the levee to be fattened with that material, at an estimated cost of around \$3,500. That work began last week and is now completed. However, it is recommended that the District contract with Asta to bring in some AB to top off the area added to the crown in order to create a more compacted surface if a vehicle accidentally veers off the levee road..

The rip-rap project was bid on October 24, with Asta submitting a low bid of \$109,413. Construction began the following week and was completed by November 6, 2013. At this juncture it was determined by this office that repair of the undulating 250 section of County road, adjacent to the repair site was warranted to correct the subsidence on the levee crown and eliminate the dangerous section of where the pavement was displaced. Consequently, the contractor was asked to provide a bid to grind, grade and re-pave the levee road at this location. A bid of \$46,613 was received and discussed with District President Gardiner as to the advisability to proceed with a Change Order for this work. It was determined that it would be in the best interest of the District to make the repair at this time. The total contract for this emergency repair project now stands at \$174,026 with a Change Order for additional rip-rap and the re-paving.

- C. **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 at the Flood Training held November 5.

7.3 Rebero - No report.

7.4 Silva - No report.

7.5 Van De Maele - No report.

8. Recess: At 12:00 p.m. the meeting was recessed to reconvene in fifteen minutes at Rogelio's. Those present were invited to join the Board for lunch.

(Recess)

13. Call From Recess: The meeting was reconvened at 12:15 p.m. with Larry Gardiner, Gay Giles, Gil Labrie, Debbie Phulps, Dave Spensley and Denis Van De Maele in attendance. Conversation continued regarding the benefit assessment update, vegetation maintenance, and district ditches.

9. Adjournment: The meeting was adjourned by President Gardiner at 1:30 p.m.

Respectfully submitted,

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

Date Approved: December 19, 2013
MSC: Giles / Van De Maele