

**DRAFT MINUTES OF THE BOARD OF DIRECTORS OF THE
SUTTER BUTTE FLOOD CONTROL AGENCY
REGULAR MEETING OF
October 10, 2012**

The Sutter Butte Flood Control Agency (Agency) Board of Directors (Board), State of California, met on the above date in Regular Session at 1 p.m. in the City of Yuba City Council Chambers, Yuba City, California.

MEMBERS PRESENT

County of Sutter:	James Gallagher, Stan Cleveland
County of Butte:	Bill Connelly
City of Yuba City:	John Miller, John Dukes
City of Gridley:	Owen Stiles
City of Live Oak:	Gary Baland
City of Biggs:	Mike Bottorff
Levee District 1:	Francis Silva, Al Montna
Levee District 9:	David Lamon

MEMBERS ABSENT: Directors Chris Schmidl, Larry Montna, Steve Lambert, Owen Stiles

STAFF PRESENT: Mike Inamine, Executive Director; Michael Bessette, Director of Engineering; Andrea Clark, Agency Counsel; and Sarah Modeste, Staff Analyst.

REGULAR SESSION

Chair John Miller opened the meeting at 1:05 p.m. and Director Francis Silva led the Board and audience in the pledge of allegiance.

CONSENT CALENDAR

On motion of Director John Dukes, seconded by Director Al Montna and carried by those present, the Board approved the Consent Calendar as follows:

1) Approval of the minutes for the Regular Board Meeting of September 12, 2012

PRESENTATION, DISCUSSION AND ACTION ITEMS

2) Receive and file monthly financial report

Executive Director Mike Inamine opened the Board meeting with an overview of the meeting agenda. Budget manager Seth Wurzel stated that the Agency has \$3.3 million in cash reserves. The Agency's total cash burn is approximately \$1.1 million per month, and \$1 million of that relates to the Early Implementation Program activities. The Agency plans to draw approximately \$5 million from its line of credit at the end of October, 2012.

The Agency received approximately \$41,000 from the City of Yuba City's pooled budget accounts for fiscal year 2011-12. The Agency owes its first interest payment of \$22,000 to Rabobank for its line of credit.

Director of Engineering Michael Bessette presented an update on the Agency's earned value summary, which compiles all of the administration, hydraulics, hydrology, environmental, right-of-way, permitting, and civil engineering work to track progress and costs. The Agency is very close to tracking at the "base line," which is the projected time and expense of completing the design phase of FRWLP1. The right-of-way shows that it is slightly delayed, but upon closer evaluation the outstanding work relates to eminent domain which the Agency has not begun.

The Agency was previously four months behind on its environmental work, but is now tracking one month behind and is under budget. The total project costs has not changed, but updated costs will be available at the Board's November meeting.

No public comment.

No action taken on this item.

3) Approval of Bender Rosenthal Amendment 1 to Task Order 2

Scott McElhern, right-of-way counsel, requested Board approval of Amendment 2 to Bender Rosenthal's Master Agreement. The not-to-exceed amount would be increased from \$1,500,000 to \$2,900,000. Mr. McElhern also requested Board approval of Amendment 2 to Task Order 2 for additional right-of-way acquisition support services for Projects Areas B and D in the amount of \$1,440,300. The costs associated with the amendment are part of the Agency's already adopted five-year costs.

Bender Rosenthal was hired in September 2012, at which time a master agreement was executed, then Task Order 1 to cover right-of-entry support for HDR's geotechnical explorations, right-of-way constraints analysis, preparation of a right-of-way manual, early acquisition assistance and miscellaneous right-of-way services.

At the December 14, 2011 Board meeting the Board approved Task Order 2. This Task Order covered obtaining right of entries, conducting property appraisals, negotiating property acquisitions, providing relocation assistance, and administration and management oversight of parcels to be acquired for the project. Task Order 2 initially included 169 parcels in Project Areas C and D at a proposed budgeted cost of \$2,021,000. At the December 14, 2011 meeting, the Board directed staff to revise Task Order 2 to provide a budgeted amount not to exceed \$1,000,000, and to bring back to the Board at the future date a Task Order amendment to cover the remaining project areas. Task Order 2 was then revised to include parcels in just Project Area C and proposed borrow site parcels at a budgeted amount of \$995,650. Amendment 1 to Task Order No. 2 was approved by the Executive Director on September 10, 2012, to reflect changes in the task order scope which were 'no cost increase' scope changes.

To maintain the project schedule and have Project Areas B and D ready for construction by 2014, we must now start right way of acquisition activities for these project areas. Pursuant to the Board's direction on December 14, 2011, we are now presenting an amendment to Task Order 2 for your consideration. This amendment will cover right-of-way acquisition services for 106 parcels in Project Areas B and D.

A motion was made by Director Owen Stiles to approved Bender Rosenthal Amendment 1 to Task Order 2. The motion was seconded by Director Stan Cleveland and was carried by those present.

4) Approval of Amendment 1 to Master Contract Agreement with Diepenbrock Elkin

Michael Bessette stated that at its June 2012 Board meeting, the Board authorized the Executive Director to enter into an agreement for construction legal services. Agency staff issued a request for qualifications to four highly qualified firms. All four firms participated in the RFQ process, and the Agency conducted interviews with each firm. Ultimately, Diepenbrock Elkin was hired.

Diepenbrock Elkin has been working with Agency staff and the design team to develop the construction bid document language and is developing creative approaches to maximize the Agency's construction timeframe.

Director Al Montna asked for clarification on when Diepenbrock Elkin would begin. Mr. Bessette responded that the Agency has already started working with Diepenbrock Elkin on the construction specs and contracts and will continue to do so through the construction bid process. Mr. Inamine added that the funding has been moved from construction management forward into design because the Agency saw value in engaging legal services. Diepenbrock Elkin bills on an hourly time and materials basis.

No public comment.

A motion was made by Director Al Montna to approve Amendment 1 to Master Contract Agreement with Diepenbrock Elkin. The motion was seconded by Director John Miller and was carried by those present.

INFORMATIONAL AND POSSIBLE APPROVAL ITEMS

5) Engineering Update

Mr. Inamine stated that Agency staff and the design team is busy preparing design documents, permits, etc. An updated format for the engineering update will be provided to the Board prior to the next Board meeting.

Mr. Bessette highlighted many of the recent design team successes, and stated that the design team has submitted the 90 percent design to Agency staff for review. On October 15, the documents will be

submitted to the independent panel of experts, partners, and regulators. Eight explorations are underway in Reach 13 to confirm the slurry wall depth. Borrow material is a critical component of the project as sufficient soil is needed to rebuild the levees to geotechnical standards. The Agency is completing explorations of potential borrow sites.

The team has just completed the third administrative draft of the EIR/S, and it has been submitted to DWR and the USACE for review. The Agency's goal is to issue a public draft of the environmental document in late December, 2012.

The Agency needs USACE headquarters to complete its review prior to the public draft being released. Significant permitting work is also underway.

Director James Gallagher asked if the Agency could award a contract in advance of the issuance of the 408 permit. Mr. Bessette stated that Agency plans to award a construction contract in April, 2013 even if the 408 permit had not been issued. At the time, the contract would begin preparing its pre-construction documentation to insure it was ready to begin construction upon 408 award.

Mr. Inamine added that the Agency prefers to work through the administrative components of the construction contract, so once the permit is issued the construction team is ready to begin work.

Mr. Inamine stated that the Agency began its 408 permit process in December 2011 and due to the complexities and uniqueness of each 408 permit, the Agency and USACE are navigating the process. The primary focus of the trip to Washington D.C. will be to advocate for early approval of the 408 permit so the Agency can proceed with construction in 2013. Mike Inamine, Michael Bessette and Scott Shapiro are scheduled to travel to Washington D.C. on October 22-24. The group currently has 11 meetings scheduled during the two days.

Director Al Montna stated that nothing is more critical than the staff spending time in Washington D.C. to obtain the necessary permits to begin levee work. He added that the region is only one winter away from a levee disaster. Director John Dukes agreed.

The formal request from the Central Valley Flood Protection Board to the USACE for the 408 permit will be held on October 26, 2012 in a public meeting. The Agency hosted the CVFPB on September 14 for levee tour and briefing. Mr. Inamine thanked Levee District 1 General Manager Bill Hampton for his assistance in planning the levee tour.

The USACE has recently found an error its benefit estimates for the Feasibility Study preferred alternative. As a result, the USACE identified two new alternatives. On November 2, the USACE will review the tentatively selected plan and all levels of the USACE will review and potentially approve the recommended alternative.

Mr. Inamine stated that the USACE's three alternatives are as follows: 1) National Economic Development Plan (Sunset Weir south to Laurel Avenue) 2) LPP (Thermalito Afterbay to 4400 feet south of Laurel Avenue) 3) LPD: Fix-In-Place Feather River, Sutter Bypass & Wadsworth Canal.

Director John Dukes asked if the USACE's LPP would change the southern portion of Sutter County from 100-year protection to 200-year protection. Mr. Inamine responded the southern reach of the Feather River would receive 200-year protection.

Director James Gallagher asked what the main discussion items will be during the Decision Point 2 meeting. Mr. Inamine responded that the group will be discussing alternatives 1 and 2, "wise use of the floodplain," and the public safety component.

Director Dave Lamon stated that the Feasibility Study does not alter the Agency's project scope, instead it provides additional opportunities for future funding. Mr. Inamine responded that the Agency would like to have the USACE find a federal interest in the project as it is a back-up plan should the Agency project exceed budget.

Mr. Inamine stated that the Agency has been working with Levee District 1 and Three Rivers Levee Improvement Authority on several grant opportunities through the Department of Water Resources. The Agency saw the grants as a great opportunity to comply with the Central Valley Flood Protection Plan. The largest benefit is that it could be an additional source of funding for necessary work. The Agency's

three submittals were: Oroville Riparian Restoration Project 9ORRP), TRLIA Feather River Floodway Corridor Restoration Project and Star Bend Setback Levee Phase 2 Eco-Restoration Project. The initial proposals were due on October 2, 2012, and the formal grant applications will be due in December 2012.

Director Francis Silva asked if the levees are tailing piles or engineered levees. Mr. Inamine responded that there are both.

6) Central Valley Flood Protection Plan and Regional Flood Management Plan Update

Mr. Inamine updated the Board on a number of important developments on the regional planning process. The Agency is nearly complete with its grant application for a 100 percent funded regional planning grant. The regional planning process for the Feather River region will begin in December 2012.

Bill Edgar and the coordinating committee have contracted with an "ombudsman" to maintain communication among the coordinating committee and the regions. Kim Floyd has been hired to fulfill this role. Three agencies, including SBFCA, have each agreed to pay \$10,000 for this work.

No public comment.

7) Other reports from Agency staff and consultants regarding current Sutter Butte Flood Control Agency activities

- a. Update to Board on conflict of interest waivers granted, if necessary
- b. SB 1278 Update

No conflict of interest waivers granted this month.

Agency Counsel Andrea Clark stated that in addition to compliance with the CVFPP, SB 5 also put requirements on cities and counties on the flood protection plan process. The original legislation required cities and counties amend general plans within 24 months of the adoption of the CVFPP (summer 2014), required cities and counties not enter into development agreements for property located within flood zones, and required DWR to develop maps for 100-year and 200-year floodplains and provide them to cities and counties. The maps have not been developed.

SB 1278 changes the time requirements for the general plan updates. Now, general plans must be updated by summer 2015, and sets a release date for the DWR maps to July 2013.

Director Stan Cleveland asked if Lois Wolk spearheaded the bill. Ms. Clark responded that it was Lois Wolk's bill.

8) Report (if necessary) by the Citizens' Assessment District Advisory Committee (CADAC)

CADAC Chair Jon Munger stated that the CADAC had its last meeting on September 24. At the meeting, the CADAC decided that it would send a letter to the USACE with signatories from local organizations and businesses requesting the USACE expedite its 408 review. The letter, once finalized, will be sent to USACE HQ.

No public comment.

9) Report (if necessary) by member and partner agencies.

Nothing to report at this time.

CORRESPONDENCE

10) Report on correspondence sent by and received by the Board.

Nothing to report at this time.

PUBLIC COMMENT

No public comments.

Director Gary Baland

Chuck Smith from Sutter County did the layout of the document and

ADJOURNMENT

With no further business coming before the Board, the meeting was adjourned at 2:45 p.m.

ATTEST BY: _____

SARAH MODESTE, STAFF ANALYST

JOHN MILLER, CHAIR