

MINUTES OF SPECIAL MEETING OF BOARD OF TRUSTEES  
FOR RECLAMATION DISTRICT 1614  
HELD MONDAY, FEBRUARY 8, 2021

The February Special Meeting of the Board of Trustees of Reclamation District 1614 was held on Monday, February 8, 2021, telephonically, at the hour of 2:00 p.m.

Roll Call of Board Members and Staff:

President Kevin Kauffman, Trustee Christian Gaines, Trustee Dominick Gulli, Attorney Daniel Schroeder, Attorney Andy Pinasco, Engineer Chris Neudeck, Secretary Rhonda Olmo

Absent were: Superintendent Abel Palacio

*A list of individuals in attendance is outlined in the meeting sign-in sheet, which is attached to these minutes. – No attendance sheet attached – meeting was held telephonically.*

**Item 1. Call to Order/Roll Call.** President Kauffman called the meeting to order at 2:02 p.m. Roll call was taken.

**Item 2. Public Comment.** *The public may comment on any matter within the District's jurisdiction that is not on the agenda. Matters on the agenda may be commented on by the public when the matter is taken up. All comments are limited to 5 minutes for general public comment and per agenda item in accordance with Resolution 2014-06.*

Mr. Chris Elias congratulated Mr. Neudeck on receiving the Engineer of the Year award. President Kauffman stated the Board of Trustees shares this sentiment.

**Item 3. Discussion and direction regarding 100-year and 200-year floodplain.**

Trustee Gulli said there are a lot of flood restrictions in this area for the 100-year and 200-year floodplain. He feels it is important the Board understand what the building restrictions are and how the floodplain is developed, where it is, and if there are any issues with how it has been determined, etc. He said he is familiar with the flood map and according to FEMA there are two flood zones in the District. One is a X zone (protected by a levee) and is everything east of Marine Blvd. To the west is an A zone (area of no base flood elevation determined). As far as FEMA is concerned, the A zone is an undetermined flood elevation. Trustee Gulli said the County has designated the area with a base flood elevation of 9.4. He said that is consistent with it being an AE zone or an area that is not protected by a levee. Trustee Gulli says this does not make sense because if it was a 9.4 the flood zone should go all the way past Pershing Ave. He said as far as the 100-year flood zone, FEMA says that the County regulations require it an A zone with no base flood determined elevation that building restrictions are that you have to build up two feet above the highest adjacent grade. Whereas, if the base flood elevation is 9.4 you must build your house up almost 9 ft. The building restrictions, as far as the County determined floodplain, are restrictive. He said there are no building restrictions when you are in the X zone. Trustee Gulli discussed the letter in the Agenda packet sent to FEMA from Kathleen Schaefer asking FEMA to make it an AE zone with an elevation of 10. He said FEMA responded and said "no" it's not an AE zone it is A zone undetermined. Trustee Gulli stated that the County Public Works Dept. want to keep it as an AE zone with an elevation of 9.4. Trustee Gulli wants to know why the County considers the levees an AE zone when the levees meet the requirements of CFR 6510 except for interior drainage.

Mr. Neudeck said many of these issues, if not all of them, have been raised by Trustee Gulli in previous correspondence. He said Trustee Gulli is incorrect in indicating that the levees are accredited. That was a statement that was made pre dating 2009 and Trustee Gulli has taken a statement out of context in so much that the 2009 flood study that he is reflecting on was actually reflecting on a historical FEMA study

that was done in 2002. The 2002 accreditation was done predominately on the premise of physical geometry. Mr. Neudeck said back in the day when the levees were grandfathered in (provided the geometry of the levee looked to be sufficient) FEMA would accredit the levee. In 2005 FEMA undertook map modernization, whereby they went across the country to verify whether their accreditations systems were credible. They went to every map that was in an accredited condition and asked the Flood Control Agency that was involved in those maps to provide documentation that would continue to provide the accreditation. When they came to RD 1614 and RD 828, neither of the Districts had the accreditation to validate under CFR 6510 to accredit those levees. Mr. Neudeck said the reason they didn't have those accreditations is they are not accreditable levees. The levees were constructed for one particular purpose and that was to create a drain to the state hospital. The levees were never engineered – they were dredged filled levee systems that over time were constructed on by a series of residential improvements. They were not an engineered fill. When FEMA came to the RD's (he was the engineer for RD 1614 at the time) they asked whether or not we had the accreditable information to meet CFR 6510 the answer was, and still is, "no" because they are un-engineered fills. Mr. Neudeck said, in best interest as the District's Engineer, that those levees could not be accredited under those provisions. He said to this day he still stands by his judgement that those levees are not accreditable.

Regarding whether a map exists on A versus AE zone, Mr. Neudeck said the map ownerization did not leave enough funding within the congressional act to map flood depths. They simply said you are in the floodplain and we do not know the depth and it's up to the locals to decide if they want to prepare a map for flood depth, but we are just saying you are in the flood zone. Mr. Neudeck said they did not map the flood zone correctly – they did not include the entire floodplain area. The map was changed in 2010 that is reflective of what the actual AE zone is, and it is delineated as 9.4 (KSN assisted with the preparation of the map.) The map was used by SJAFCA in development of their beneficiaries to assist and pay for the new Gate. Mr. Neudeck said the map does exist; it shows all expanded boundaries that were incorporated into the flood zone but is not published on the FEMA website.

Further discussion was held on 100-year floodplain. President Kauffman directed Mr. Neudeck to see if the District can get any protection that FEMA will not be requiring a residual floodplain mapping once the Wisconsin Pump Station and Smith Canal Gate are completed. Mr. Neudeck will verify with Mr. Elias.

President Kauffman told Trustee Gulli that he appreciates his intentions for the community for protecting their landowner rights and controlling costs. President Kaufmann does not recommend the Trustees rule against Mr. Neudeck. President Kauffman feels the District should continue with the path they are on and continue to support the Gate and Wisconsin Pump Station to completion. Trustee Gulli would like in the future to review the Kleinfelder Geotechnical Report as to whether the levee is accreditable.

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Trustee Gulli stated the 200-year floodplain is a higher restriction than 100-year. The 200-year floodplain elevation was developed by Dave Peterson of SJAFCA. Trustee Gulli said if you look at the floodplain map (Stockton) you will see everything west of I5 is orange. Which means it is 10 ft. deep with the floodplain. The building restrictions for 200-year floodplain is that you must build above that elevation which is 9.4. He said you can't build a new house in it, or you can't add on to your building unless you go above the floodplain – unless you can get your levee certified with the 200-year level of protection. Trustee Gulli said the 200-year protection is impossible for the District. The Smith Canal Levees will not be able to meet that requirement ever due to the encroachment and access requirements (about 50 requirements need to be met). The District's area is in the 200-year floodplain and he said we are not

going to get out of it. Trustee Gulli spoke on the State Mandates and said no one has asked the State Commission on Mandates whether this a State Mandate. Trustee Gulli would like the District to work with the City or County to get out of the 200-year floodplain and get someone else to pay for it since it's a mandate.

Mr. Neudeck said the 200-year level of protection is and will be provided by the Gate. That is the only segment of levee that meets the 200-year level of protection. He said this is something that the City and/or County are going to have to embrace and undertake substantial improvements upstream of the District to provide protection downstream of the District. One difference in the 200-year level of protection is if a home burns down and you are out of the 100-year you can build your house back on its existing foundation. Further discussion was held on the Lower San Joaquin Feasibility Study and State Mandates. Attorney Schroeder said it is important to understand the state is not mandating that all reclamation districts comply with the 200-year standard. What they are requiring is that there are certain developments that you want to do that you must meet those requirements. That's why none of the rural reclamation districts meet the standard nor will they attempt to. They are not in violation of the law nor would any of the urban districts be in violation – unless they wanted to do some improvements that would then trigger that requirement.

No action taken.

**Item 4. Discussion and direction regarding a letter of map revision.**

Trustee Gulli stated that FEMA is very straight forward – they receive information, they review it, they don't make opinions on things – they just specify what will happen. The Conditional Letter of Map Revision that the City and the County have received states clearly that the Wisconsin Pump Station will change the A zone into a X zone. They have another project that has to do with the flooding source of the Smith Canal from the SJ River to Yosemite Lake. According to FEMA, if you build the Smith Gate project that flooding source in the Smith Canal the floodplain will go from 10 down to 9.4. Trustee Gulli said FEMA is looking at this straightforward. He feels someone (or the District) should do the Wisconsin Pump Station and submit the Letter of Map revision to address the Conditional Letter of Map Revision that the City and County have that says you do this project and we will change from an A to a X zone. He wants to find an Engineer that is willing to submit the data based on that information.

Mr. Neudeck stated that Trustee Gulli dissected a document that clearly states that “yes” a CLOMAR requires the construction of the Wisconsin Pumping Plant. But it also requires the construction of the Smith Canal Gate. To submit the data on the pump station alone will not result in any change of any map. The map needs to have the Smith Canal Gate, and that is what the CLOMAR states. Mr. Neudeck said Trustee Gulli is making a mistake and spending money that otherwise SJAFCA is responsible for so that is expending funds of the District that is not necessary to undertake a Conditional Letter of Map Revision that will not result in a map change because there is no map that you are changing - it's a map that Trustee Gulli is assuming he is changing. There is no map for the residual floodplain because it has never been established. It is one that SJAFCA is going to take place in their final Letter of Map Revision. Mr. Neudeck recommends not following through in the procedure of looking for an Engineer to review and submit data.

Further discussion was held. President Kauffman told Trustee Gulli that if he wants to investigate finding an Engineer willing to look at the project he can. President Kauffman stated he wants no District funds spent on this matter at this time.

*The Board went into Closed Session regarding Action Item 5(a)(b) at 3:49 p.m.*

**Item 5. Closed Session.**

- a. **PUBLIC EMPLOYEE PERFORMANCE EVALUATION**  
**Title: District Legal Counsel**
  
- b. **PUBLIC EMPLOYEE PERFORMANCE EVALUATION**  
**Title: District Engineer**

*The Board adjourned from Closed Session at 4:14 p.m. regarding Action Item 5(a)(b). All the Trustees were present during the entirety of the Closed Session.*

**Item 6. Closed Session Report**

President Kaufman stated the Board Members reviewed the performance evaluation of the District's Legal Counsel and Engineer. The Chair was directed to meet with Legal Counsel to talk about services from this date forward. The District Engineer was commended for being the Engineer of the Year for the San Joaquin Council of Engineers. No further direction currently for the District Engineer.

President Kauffman would like to have Closed Sessions shown on every future Agenda.

**Item 7. Future Agenda Items.** Trustee Gulli's report back on an Engineer to look at the Letter of Map Revision.

**Item 8. Adjournment.** Trustee Gaines made a motion to adjourn the meeting at 4:17 p.m. Trustee Gulli seconded the motion.

Secretary: The agenda for this meeting was posted at 3121 West March Lane, Suite 100, Stockton, California at least 24 hours preceding the meeting.

Respectfully submitted,

Rhonda L. Olmo  
District Secretary