

ITEM 3

Agenda of February 18, 2016

**TO: Board of Directors
Sacramento Area Flood Control Agency**

**FROM: Richard M. Johnson, Executive Director
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SUBJECT: EXECUTIVE DIRECTOR'S REPORT FOR FEBRUARY 18, 2016

Yolo Bypass and Cache Slough Partnership Meeting

The second Yolo Bypass and Cache Slough Partnership (Partnership) meeting was held on February 9, 2016. As a reminder, Kris Tjernell, Special Assistant for Water Policy - California Natural Resources Agency, was appointed by the Governor's office to bring together a partnership of all the various agencies looking at projects in the Yolo Bypass to assist in pursuing an inclusive and coordinated approach to implementing Yolo Bypass flood and habitat restoration projects. The first meeting was held on September 2, 2015, to formally initiate that effort.

Partnership members expect that efforts to improve integration, alignment, and coordination related to Yolo Bypass activities will result in accelerated project construction, improved regulatory certainties, greater public benefit outcomes, reduced environmental impacts, and stronger economies, including the local agricultural economy, than would otherwise be possible.

At the February 9th meeting, the Memorandum of Understanding (MOU) was presented to the Partnership with the expectation that it would be taken to their respective governing bodies for execution. The MOU indicates the signatories' intention to improve integration across Yolo Bypass flood management, habitat restoration, agriculture, and economic sustainability efforts and to improve collaboration on project planning, environmental review, implementation, and related matters.

Item 13 on today's SAFCA Board agenda presents this MOU to the SAFCA Board for consideration.

Draft Environmental Impact Report and Draft Engineer's Report - SAFCA's Project Funding Mechanisms

The Local Funding Mechanism Draft Environmental Impact Report and the Draft Engineer's Report were released for public review February 1, 2016. A public hearing will be held at the February 18, 2016 SAFCA Board meeting for the Draft EIR. The first newsletter is expected to be mailed within a few days of the Board meeting. There will be additional opportunities for

Board discussion and public input at regular Board meetings on March 17th and April 21st. At the April 21, 2016 Board meeting the Board will decide whether to proceed with the balloting.

American River Watershed Common Features General Reevaluation Report

The U.S. Army Corps of Engineers (USACE) has completed the Draft Chief's Report for the American River Watershed Common Features General Reevaluation Report. It is critical that the Chief's report get completed soon to make sure it can catch up with the Water Resources Development Act process (see discussion in subsequent sections). The schedule is as follows:

- | | |
|--------------------------------------------------|------------------|
| ○ FEIS E-File for State and Agency 30 day Review | January 15, 2016 |
| ○ Initiate State and Agency GRR Review Period | January 22, 2016 |
| ○ Chief's Report | April of 2016 |

Section 7001 Report Released

The Administration has released the 2016 Report to Congress on Future Water Resources Development as required by Section 7001 of the Water Resources Reform and Development Act (WRRDA) of 2014, which requires that the Secretary of the Army submit an annual report to Congress that identifies potential future water resources development through feasibility reports, proposed feasibility studies, and proposed modifications to authorized water resources development projects or studies.

Section 7001 requires a notice to be published in the Federal Register requesting proposals for proposed feasibility studies and proposed modifications to authorized water resources development projects and feasibility studies to be submitted by non-Federal interests. This report reflects information provided by non-Federal interests in response to that notice as well as the inclusion of feasibility reports that have signed Chief's Reports.

The Section also directs that "the Secretary shall include in the annual report only those feasibility reports, proposed feasibility studies, and proposed modifications to authorized water resources development projects and feasibility studies that:

- (i) are related to the missions and authorities of the Corps of Engineers;
- (ii) require specific congressional authorization, including by an Act of Congress;
- (iii) have not been congressionally authorized;
- (iv) have not been included in any previous annual report; and
- (iv) if authorized, could be carried out by the Corps of Engineers."

The report can be viewed at:

http://www.usace.army.mil/Missions/CivilWorks/ProjectPlanning/LegislativeLinks/wrrda2014/wrrda2014_proposals.aspx

The American River Watershed Common Features General Reevaluation Report was included in the main report. This is critically important because it is extremely difficult to be included in the upcoming WRDA for authorization if the Project is not included in this report.

Water Resources Development Act Update

The release of the Section 7001 Report kicked off activities for the next Water Resources Development Act (WRDA). It is important that the American River Watershed Common Features General Reevaluation Report be included in the next WRDA. This would be SAFCA's largest authorization ever.

On February 2, 2016, the U.S. House of Representatives Transportation and Infrastructure Committee hosted a Roundtable Discussion. Mike Strachn attended on behalf of SAFCA. This is part of the Committee's approach as it ramps up its efforts to do a WRDA this year. Fifteen Committee Members attended for all or part of the discussion, including Chairman Shuster, Water Subcommittee Member Gibbs (who presided) and Subcommittee Ranking Member Napolitano. There were 70-80 attendees in the audience.

There were eight presenters, primarily representing various interest groups including the National Waterways Conference, the National Association of Flood and Stormwater Management Agencies, the American Association of Port Authorities, the American Shore and Beach Preservation Association, the American Society of Civil Engineers, the Waterways Council, Inc., the Pacific Northwest Waterways Association, and the City of Los Angeles, California. The main messages were about how important infrastructure is and how badly a regular WRDA process is needed.

On February 10, 2016, the U.S. Senate Committee on Environment and Public Works held a hearing on the importance of water infrastructure and a WRDA 2016. The agencies testifying included Tulsa Port of Catoosa, Marathon Petroleum Corporation, Nucor Corporation, American Society of Civil Engineers, and North Central States Regional Council of Carpenters. The Committee Chair Inhofe said that WRDA 2016 is a top bipartisan legislative priority for this committee and they plan to move a bill this spring. The hearing was an important step in the process and a significant indicator that the Committee intends to move forward on a WRDA.

Federal Appropriations

On February 9, 2016 two actions occurred: (1) the release of the Federal Fiscal Year 2016 USACE Work Plan; and (2) the release of the President's Proposed Budget for Fiscal Year 2017.

When the new Federal Fiscal Year 2016 started on October 1, 2015, Congress failed to pass any appropriations bills for FY 2016. Instead, Congress passed and the President signed a Continuing Resolution giving Federal agencies authority to continue spending based on the FY 2015 appropriations until December 11, 2015. On December 11, 2015, Congress passed and the President signed another Continuing Resolution giving agencies authority to continue spending based on FY 2015 appropriations until December 16, 2015. Ultimately, an Omnibus bill was signed into law December 18, 2015. It kept the funding levels for SAFCA projects the same as

proposed in the President’s budget as shown in the following table. Additionally, the bill provides a pot of money for the USACE to propose how to use in a Work Plan. The Work Plan allows for an additional \$125 million for flood projects plus an additional \$185 million to be shared between flood control and navigation projects.

As mentioned above, the FY 2016 Work Plan was released and SAFCA projects received an additional \$16 million. The summary of the FY 2016 project total appropriations for SAFCA Projects is shown on the following table.

SAFCA Federal FY 2016 Appropriations – Status Chart
 (\$ in Millions)

PROJECT	FY 2016 Budget 2/2/15	FY 2016 Omnibus Approps 12/18/156 P.L.114-113	FY 2016 Work Plan Add 2/9/16	TOTAL FY 2016
American River Watershed (Folsom Dam Modifications/JFP) - Construction, site restoration, Water Control Manuel	56.024	56.024	5.000	61.024
American River Watershed (Folsom Dam Raise) - Construction Continue/complete design, const. mitigation & monitoring	18.641	18.641	0	18.641
American River Watershed (Common Features, Natomas) - Investigations Complete Preconstruction, Engineering and Design	3.500	3.500	0	3.500
American River Watershed (Common Features, Natomas) - Construction Designated New Start Design Reaches A&B, awd const Reach D	0	0	11.00	11.00
TOTAL	78.165	78.165	16.00	94.165
Other:				
Sacramento River Bank Protection - Construction General	6.000	6.000	0	6.000

The President's Proposed Budget for FY 2017 was also released. The summary of the FY 2017 proposed project budget for SAFCA projects along with Approved FY 2016 funding, is shown on the following table:

SAFCA Federal FY 2017 Appropriations – Status Chart
 (\$ in Millions)

PROJECT	FY 2016 Omnibus Approps 12/18/156 P.L.114-113	FY 2016 USACE Work Plan Add 2/9/16	FY 2016 TOTAL	FY 2017 Budget 2/9/16
American River Watershed (Folsom Dam Modifications/JFP) - Construction	56.024	5.000	61.024	20.74
American River Watershed (Folsom Dam Raise) - Construction	18.641	0	18.641	21.04
American River Common Features, Natomas Basin - Investigation	3.500	0	3.500	0
American River Common Features, Natomas Basin - Construction	0	11.000	11.000	21.15 ^{1/}
TOTAL	78.165	16.000	94.165	62.93
Other:				
Sacramento River Bank Protection - Const.	6.000	0	6.000	8.00
Sacramento River Bk. Prot. GRR - Feasibility	0	0	0	0.625

^{1/} For continuation of construction. FY 2016 Work Plan added as a new start, with initial construction funding of \$11.0 Million

The great news is that between these two actions, construction funding was added to initiate Natomas construction by the USACE this year. The concern we had is that Congress has only allowed one new flood control start to proceed to construction since 2010. Many have been proposed in the President's past budgets but they haven't been approved by Congress, thus creating a backlog. We have been concerned that Natomas would get caught in that same scenario and not get approved to start.

Congress approved a few new starts in the FY 2016 work plan. What the Administration has done is given Natomas one of the slots Congress has already approved. This is great because it is done now and we don't have to worry about the FY 2017 appropriations bill to pass. Natomas can now continue with construction even if we end up with Continuing Resolution Authorities at the start of the FY 2017.

We owe a huge expression of gratitude to Congresswoman Doris Matsui for working so hard with the Administration to make this happen. We do have challenges moving forward. One of the requirements to qualify for the FY 2016 new start is we have to have a cost-sharing agreement in place by the end of August 2016. We have some details of the cost-sharing arrangement to work through with the USACE. Overall, this was a great announcement for the future of Natomas.

Actions on Section 3012

Section 3012 of WRRDA 2014 provides conditional authority to the Secretary to consider two or more flood control projects that are located within the same geographic area as a single program for budgetary or project management purposes. However, neither the statutory language nor the USACE's implementation guidance for Sec. 3012 explicitly allows for credits for non-Federal contributions to be comingled for projects.

In certain circumstances, non-Federal interests make contributions that are in excess of cost-sharing requirements which, through statutory construction or application of USACE implementation guidance, either (1) cannot qualify for usage or (2) would become eligible too late to be useable for transfer. For example:

- (1) Sec. 1018 of WRRDA 2014 (Credit for In-Kind Contributions) allows for the transfer of credits on among separable elements of the same project.
- (2) In implementation guidance for Sec. 1020 of WRRDA 2014 (Transfer of Excess Credit), the USACE states that determination of excess credits can only be made after the completion of a study/project.

SAFCA has at least one example where separately authorized projects within the same geographical area and functioning as components of a system-wide plan for flood protection (American River Watershed Common Features Natomas Basin (Natomas) and American River Watershed Folsom Dam Raise (Folsom Raise), with Natomas generating excess non-Federal credits will result in non-Federal credits that cannot be realized because (1) Natomas and Folsom Raise are not separable elements of the same project and (2) Folsom Raise will be completed before actual credits from Natomas can be applied under USACE guidance.

SAFCA is requesting to modify Section 3012 of WRRDA 2014 to include the transfer of credits among projects that are considered a single program under that section without the requirement that the "donor" project be complete before credits can be transferred, provided such credits are validated by the USACE.

SAFCA has requested consideration of the following change to WRRDA 2014: Subsection (a) of Section 3012 of the Water Resources Reform and Development Act of 2014 be modified to read as follows (underscored and italicized words are added language):

- (a) *IN GENERAL* – If two or more flood control projects are located within the same geographic area, the Secretary shall, at the request of the non-Federal interests for the

affected projects, consider those projects as a single program for budgetary or project management purposes, if the Secretary determines that doing so would not be incompatible with the authorized project purposes. *Non-Federal credits within such programs shall be transferable among projects without regard for the status of completion of the donor project, subject to verification of such credits by the Secretary.*

American River Watershed Folsom Dam Modifications - Joint Federal Project

Water is now up against the new gates and dam as shown in the following photograph. The removal of the remainder of the temporary earth dam and any final upstream channel excavation will be performed from barges.

RJlr/Exec Dir Re feb. 2016.docx
Attachment(s)

