

**EL DORADO COUNTY  
BOARD OF SUPERVISORS  
AGENDA TRANSMITTAL  
Meeting of May 15, 2007**

<b>AGENDA TITLE: Finnon Lake Restoration</b>		
<b>DEPARTMENT: Board of Supervisors</b>	<b>DATE: May 3, 2007</b>	<b><u>CAO USE ONLY</u></b>
<b>CONTACT: Supervisor Ron Briggs</b>	<b>PHONE: 621-6513</b>	
<b>DEPARTMENT SUMMARY AND REQUESTED BOARD ACTION: Supervisor Briggs requesting the Board approve the dispersal of \$10,000 to the Mosquito Volunteer Fire Association, to be used for payment of fees owed to the Division of Dam Safety to assist in securing a \$600,000 Proposition 50 grant for the restoration of Finnon Lake.</b>		
<b>CAO RECOMMENDATION:</b>		
<b>Financial impact? ( ) Yes ( ) No</b>	<b>Funding Source: ( ) Gen Fund ( ) Other</b>	
<b>BUDGET SUMMARY:</b> <b>Total Est. Cost</b> \$ _____ <b>Funding</b> <b>Budgeted</b> \$ _____ <b>New Funding</b> \$ _____ <b>Savings*</b> \$ _____ <b>Other</b> \$ _____ <b>Total Funding Available</b> \$ _____ <b>Change in Net County Cost</b> \$ _____ <b>* Explain</b>	<b><u>CAO Office Use Only:</u></b> <b>4/5's Vote Req.</b> ( ) Yes( ) No <b>Change in Policy</b> ( ) Yes                ( ) No <b>New Personnel</b> ( ) Yes( ) No <b>CONCURRENCES:</b> <b>Risk Management</b> <b>County Counsel</b> <b>Other</b>	
<b><u>BOARD ACTIONS:</u></b>		
<b>Vote: Unanimous _____ Or</b>  <b>Ayes:</b>  <b>Noes:</b>  <b>Abstentions:</b>  <b>Absent:</b> Rev. 7/96 j:\agenda\win96	<b>I hereby certify that this is a true and correct copy of an action taken and entered into the minutes of the Board of Supervisors.</b>  <b>Date:</b>  <b>Attest: CINDY KECK, Board of Supervisors Clerk</b>  <b>By:</b>	



# EL DORADO COUNTY

Karl Weiland - At Large - Chairman  
John Turner - At Large - Secretary  
Larry Nelson - Dist I  
William King - Dist II  
Leonard Stroud - Dist III  
Tom Pedersen - Dist IV  
Victor Babbitt - District V

## Fish & Game Commission

### Memorandum

**DATE:** April 11, 2007  
**FROM:** Karl Weiland, Chairman *[Signature]*  
**TO:** District IV Supervisor Ron Briggs  
**SUBJECT:** Finnon Lake

2007 APR 24 AM 11:21  
RECEIVED  
BOARD OF SUPERVISORS  
EL DORADO COUNTY

At the April meeting of the Volunteer Association Board of Directors, Director Linda Buchanan presented the attached report. It is a report on her research into charges levied by the Department of Water Resources (DWR) for Finnon Dam. The Volunteer Association is the owner of Finnon and the responsible party DWR is charging for dam inspection fees. The current balance has accrued since 1999 and now stands at almost \$30,000. Linda reports on the concerns of DWR officials that if this balance remains unresolved, it may have a negative influence on the \$600,000 Proposition 50 grant application. The report concludes with recommendations to resolve the problem.

There was some discussion at the board meeting indicating that a few years ago, a handshake agreement had been reached with DWR to cancel and suspend the charges until the dam was repaired. However, this was not documented, the principals have moved on, and DWR's current position is that the fees are owed and will not be waived. This is not an issue that the board has been ignoring, it's just that a combination of misunderstandings, turnover at the board, confusion over the issue and a lack of resources have all contributed to the current status.

As Linda points out, the fees would be stopped if the lake was drained and the gate made inoperative prior to July 1<sup>st</sup>. When the board was offered this option to eliminate the 2007/2008 fees, the immediate reaction focused on the impact of eliminating a fire fighting resource. Finnon is a resource with strategic location, not only for the Mosquito community but for this area of the divide as well, as evidenced in the Kelsey fire. The board acknowledged that even in its reduced state, Finnon is an important fire fighting resource that they were hesitant to eliminate.

The problem faced by the board is that Finnon has not been capable of generating revenue to pay the fees and they have no other sources to tap. Your board has set aside monies in previous years for the restoration project. The most recent allocation of

\$10,000, from the 2006/2007 budget is identified for use in the proposed resolution. However, a solution needs to be devised that will address the fees until the project is started, the dam made inoperable and the fees stopped.

The 2007/2008 fee is expected to be around \$6,000.

The volunteer board is requesting an opportunity to meet with you and discuss avenues for resolution, which may include:

- 1) Working to quickly develop a package and fund request that the BOS can approve and the Auditor can pay from to make payment to the Division of Water Resources. There is \$10,000 in monies from last year's budget. This will have to occur prior to June 30<sup>th</sup>; otherwise the funds will need to be rebudgeted for FY 08/09. This would implement the solution favored by DWR.
- 2) Consider allocation of about \$6,500 in funds to cover the 2007/2008 fee. This will insure preservation of a fire fighting resource.

Thank you for your consideration.

Report on Finnon Dam Fees Prepared for  
The Mosquito Volunteer Fire Association Board of Directors  
by Linda Buchanan  
March 2007

Background

In our March 1<sup>st</sup> meeting I was asked to look into the outstanding balance MVFA owes to the State, and gain an understanding of whom we owe money to, why we owe it and how much we owe.

Findings

Sharon Hern provided copies of past invoices received from Department of Water Resources. I did some online research based on the Water Code citations on the invoices and determined these were annual fees charged by DWR, Division of Safety of Dams (DSOD) to owners of dams that meet certain criteria. Further research confirmed that Finnon Dam falls within these criteria. The fees are calculated based on the fee structure for general dams at \$420 per dam plus \$116 per foot of height per Section 6307, (b) of the California Water Code. Based on our fiscal year 2006 billing DSOD has calculated these fees correctly. These are fees to fund the Dam Safety Program statewide and are assessed for all dams meeting jurisdictional criteria. They are not inspection fees or penalties assessed for some infraction. These fees have increased from previous levels in the last two years due to program funding shifting from the California General Fund to the program fee structure based on legislation approved by the Governor. The billing also shifted from calendar year to fiscal year at that time.

I then spoke with Andy Mangney, Senior Engineer in the Field Engineering Branch of DWR's DSOD. Andy is the Engineer who does our annual inspections. I updated our name and telephone number and provided him interim contact numbers for the MVFA board (see recommendations below). I also set a meeting with him for March 26<sup>th</sup> to discuss the issues regarding the Finnon dam fees and obtain copies of the most recent invoices and correspondence on this topic. He stated that Mark Egbert from the RCD had also contacted him and requested a copy of the most recent billing.

On March 26<sup>th</sup>, prior to my meeting with Andy I spoke to Mark Egbert to discuss his reasons for needing the DWR account statement. Mark expressed concern that this outstanding account may be detrimental to our obtaining state funding for our

project. He indicated that if we could make an effort to address the delinquencies it would put our application in a better position for funding. He also stated that the \$10,000 for the dam project provided by El Dorado County could be used for this purpose, though we will have to confirm that officially with the Board of Supervisors. Regarding the \$10,000, I could find no reserve account or other account in Sharon's report reflecting this, so don't know if the County has transferred it to us yet or not. Mark also stated that he had briefed Superintendent Briggs on the project and Mr. Briggs seemed willing to help us in any way he could, which might mean with money. The MVFA will need to follow up on that with Mark and Mr. Briggs.

During my meeting with Andy, he explained that while Finnon remains operational the MVFA is subject to the annual fees. There is correspondence confirming this in our file with DWR. Should we choose to place Finnon in an inoperable status by welding the slide gate open we would be temporarily relieved of these fees. This must be done prior to June 30 of a given year as the fees are assessed on a fiscal year basis from July - June, with no partial year assessment option provided. Our dam project will necessitate this anyway, as the entire dam will be removed, but the timing will determine whether we pay annual fees through the full construction period.

Andy also stated that DWR truly supports our dam repair project and has provided a letter in support of our grant application to the DWR Watershed program. However, while supporting the project he is concerned that our outstanding account may affect DWR's decision to provide State funding for the project. During this meeting I obtained copies of pertinent correspondence regarding the dam's operational status, the letter of support for the grant application, and the most recently issued (March 16, 2007) delinquency statement which shows a total of \$29,875.93 owed for past fees, delinquent interest and penalties (see the attached spreadsheet for details on this). Our normal annual billing statement should be coming with in the next few weeks.

Andy indicated that if the MVFA were to make a good faith effort to bring the account current by making the next payment for FY 2007 when it was due, paying down a part of the arrears and developing a payment schedule to liquidate the balance of the account over time, DWR would consider waiver of at least some of the penalties and interest, although he could make no promises in this regard.

Based on this information I have formulated the following recommendations for your consideration and action.

### Recommendations

- 1) Provide DWR with a current list of the names and telephone numbers of our governing board, and update this information with DWR when changes occur.
- 2) Provide DWR with a contact from among our board members to accompany the DWR engineer, any interested community members, or other board members on inspections.
- 3) Bring our account with DWR current using the following steps:
  - i. Utilizing the \$10,000 provided by the County, pay this year's billing which will arriving soon and pay down a portion of the arrears.
  - ii. Provide DWR with a payment schedule to retire the account balance over a specific period of time, perhaps 5 years.
  - iii. Request that DWR consider waiver of penalties and interest on past fees, providing justification and need for such waiver, and a second payment schedule without the penalties and interest.
  - iv. Set up reserve funds in our budget for annual payments and payments to retire the account balance.
- 4) Place Finnon Dam in inoperative status when feasible to facilitate construction activities and relieve the MVFA of the annual fees through the construction period.

If the Board adopts these recommendations, implementation could be carried out as follows:

### Implementation

Items 1 & 2 - MVFA provides notice on official MVFA letterhead listing the names, addresses and phone numbers of the current board members and identifying board officers and a board member to contact for inspections. This notice should be sent annually or as often as there are changes in the membership or officers.

Items 3 i. through 3 iii. - MVFA board to designate a board member to work with Mark and or Sharon to determine if the \$10,000 from the County can be used for this purpose and get the money transferred to the MVFA, if that has not already been done.

MVFA board to designate a board member to work with Sharon in drafting a letter to DWR transmitting payments and payment schedules and including a request regarding the waiver of penalties and interest.

Item 3 iv. - MVFA board requests Sharon to add appropriate accounts to budget and determine which revenues can be used to fund such accounts.

Item 4 - MVFA board, Dam project coordinator (Debbie) and Mark to determine when to place the dam in inoperable status and arrange to have it done at the appropriate time. We will need to contact DWR to inspect the work and confirm the status of the dam at that time.