

**North Delta Water Agency**  
**Board of Directors Meeting Minutes**  
14120 Grand Ave, Walnut Grove, CA 95690  
Wednesday, April 1, 2015 - 9:00 a.m.

**Call to Order**

Director Mello called the board of directors meeting to order at 9:03 a.m. on Wednesday, April 1, 2015. A quorum was determined at that time. Those present:

Directors

Tom Hester, Division 5  
Steve Mello, Division 1  
Ken Ruzich, Division 4  
Topper van Loben Sels, Division 2

Staff

Melinda Terry, Manager  
Colleen Flannery, Asst. Manager  
Kevin O'Brien, Downey Brand  
Gary Kienlen, MBK Engineers  
Sara Harper, MBK Engineers

Others

See attached sign-in sheet.

**Closed Session Report**

The Board convened closed session at 9:04 a.m. to discuss one item, reconvened open session regular business at 9:38 a.m., and announced no reportable action was taken in closed session. Steve Mello announced the death of Chair Henry N. Kuechler III and held a moment of silence in his memory.

**Director Vacancy**

NDWA Attorney Kevin O'Brien reviewed the statutory process and candidate qualifications to fill the Division 3 vacancy left by the death of the Chair. The Board agreed on scheduling a May 6, 2015 board meeting to appoint a new Director for Division 3.

**Motion and second to appoint Directors Mello and Van Loben Sels to serve on the candidate interview ad hoc committee and directing Agency staff to prepare, post and send the required public notices for the Division 3 Director vacancy. Motion unanimously approved. (Yes- Ruzich, Hester, Mello, Van Loben Sels).**

**Election of Officers**

Both the Chair and Vice Chair positions are vacant and must be filled to serve the remainder of the calendar year.

**Motion and second to elect Director Mello as Chair and Director van Loben Sels as Vice Chair. Motion unanimously approved. (Yes- Ruzich, Hester, Mello, Van Loben Sels).**

**Delta Watermaster Presentation**

Delta Watermaster Michael George briefed the NDWA on the purpose and status of a project led by his office to develop a new real-time methodology for quantifying the consumptive use of water in the Delta, the Governor's recent drought emergency Executive Order, and the future drought emergency water use enforcement actions the SWRCB may consider.

### *Consumptive Use Project*

The Watermaster's office is working with interested parties to develop a methodology for estimating consumptive use of water in the Delta. The objective is to have a method to substitute current the current estimates by the end of summer 2015. The project will combine three sources of data – crop surveys, evaporation studies and “LANDSAT” satellite data – to interpret the data and estimate consumptive use.

Currently, the project is seeking to identify six test sites strategically located in the Delta to measure and collect on-farm data to verify the assumptions in the methodology and provide adjustments, as applicable, to better estimate consumptive use.

In response to questions about the financing of this project, the Watermaster said voluntary cash and in-kind contributions were primary funding sources and suggested one cost to NDWA might occur in the form of hosting a station known as a California Irrigation Management Information System (CIMIS) station, operated by DWR, to gather better information about the microclimates within the Delta. The Watermaster did not identify how much it would cost to purchase, install, monitor, or maintain such equipment.

Agency staff reminded the Watermaster that the NDWA is not involved in water delivery or use and does not own any land on which to install one or more CIMIS stations or the staff to monitor and maintain such equipment. They also acknowledged the project would provide benefit to CVP and SWP operators, but questioned the benefits to Delta water users, specifically NDWA.

Attending landowners told him about existing weather stations within NDWA and prior consumptive use studies done by the U.C. Agricultural Extension. A couple of individual landowners expressed potential interest in hosting a CIMIS site on their property and the Watermaster requested their contact information in order to follow up with them later.

### *Informational Order/ Drought*

The Watermaster identified a 92% compliance rate on the SWRCB's February 4, 2015 water rights and use Order and acknowledged the data could be used to investigate illegal or unreasonable use or enforce curtailment Orders applicable elsewhere. He also acknowledges that illegal diversion are not an issue within the NDWA due to the 1981 Contract.

Moving forward, he said the Water Board staff is proposing new regulations to officially expand the scope and authority for the Water Board to require submission of more water use and water right information without the requirement for a complaint of illegal diversion or unreasonable use to first be filed against the water user. At some point, the Water Board may also consider declaring certain activities as unreasonable or wasteful uses of water during a drought year.

### **Approval of Minutes**

The Board offered no corrections to the minutes of the February 4, 2015 meeting.

**Motion and second to approve the minutes of the February 4, 2015 board meeting as submitted. Motion unanimously approved. (Yes- Ruzich, Hester, Mello, Van Loben Sels).**

### **Financial Reports**

Assistant Manager Colleen Flannery distributed financial reports to the Board, informing them the statements now reflect all of the assessment revenue and responded to questions

about reimbursement checks and how expenses are categorized. She committed to provide a document detailing timing and amounts of consulting expenditures when presenting the budget at the June meeting.

**Motion and second to approve the financial reports as presented, with the possibility of modifying them at the June meeting. Motion unanimously approved. (Yes- Ruzich, Hester, Mello, Van Loben Sels).**

#### *Insurance Representation*

The North Delta Water Agency receives insurance coverage through the Association of CA Water Agencies' Joint Power Insurance Authority (JPIA) which requires a representative of the NDWA Board of Directors and an alternate be identified. Both positions are currently vacant.

**Motion and second to approve Director Tom Hester to serve as the NDWA representative for ACWA JPIA, and Colleen Flannery to serve as his alternate. Motion unanimously approved. (Yes- Ruzich, Hester, Mello, Van Loben Sels).**

#### *Delinquent Assessments*

Colleen provided an update on efforts to collect delinquent assessments, informing the Board the Agency received payment from the largest amount owed by an individual landowner. She responded to questions regarding total number of delinquent landowners and amounts owed, briefly describing the process that must be followed to collect from public agencies. She will need additional advice from legal counsel regarding partial payment received by the State Lands Commission and will report back to the Board.

#### **Engineering and Legal Report**

Agency Engineer, Gary Kienlen, distributed current water quality charts, noting there has been significant changes in water supply forecasts due to much less inflow and snowpack runoff than what the State predicted in March. He advised the Board that all three criteria required to trigger the 1981 Contract Emergency Drought provision appear to be imminent, but the official water supply forecast, Bulletin 120, will not be released until around April 10.

He once again reviewed the three criteria for the Contract's drought emergency provision to apply: 1) the Four River Basin Index is less than an average of 9 million acre-feet (MAF) in two consecutive years; 2) the SWRCB adopts emergency regulations allowing the SWP to maintain a lower water quality standard than the salinity criteria in the Contract and; 3) the water supplied to SWP agricultural contractors is reduced by at least 50 percent or reduced for all SWP contractors by 15 percent of all entitlements. Once the Contract's drought emergency provision is in effect, the SWRCB's modified Delta water quality standards supersede Contract salinity criteria as long as all three conditions continue to exist, and requires establishment of a special claims procedure to compensate impacted farmers if an overland supply is not available, regardless of whether barriers are installed this year.

#### *Contract's Emergency Drought Provision*

Kevin O'Brien read an email he sent to DWR the day before, notifying the department's legal counsel the Contract's Emergency Drought provision (Section 4(b)(iv)) is expected to be triggered according to MBK'S calculations of the April 1 water supply forecasts and the latest TUCP submitted to the Water Board asking for further modification of D-1641. He requested DWR contact him by Friday to immediately commence the establishment of a special contracts claims procedure as required by the Contract, and advised the Board that

depending on DWR's response, the Agency may need to consider pursuing legal action. He will notify the Manager if a Closed Session item needs to be included on the agenda for the May 6<sup>th</sup> NDWA meeting.

### *Barriers*

DWR is expected to submit a new TUCP soon requesting installation of the emergency drought barriers. O'Brien reported that the Agency and DWR are still very far apart in terms of reaching an agreement, a negotiation meeting scheduled later this afternoon. The Agency will continue to encourage DWR to consider moving barrier locations in order to reduce the number of impacted water users.

O'Brien reported Governor Brown released an Executive Order that morning. It appears to waive laws necessary to permit barrier installation, including the California Environmental Quality Act, but he would have to review the entire document before briefing the Board on the content.

### **Manager Report**

Manager Terry recommended that she and Assistant Manager Flannery receive training and assistance in May from an accounting firm on how to prepare and present financial reports to the Board and develop the annual budget. Board members concurred that such training was a good idea. The Agency is also scheduled to have the biannual audit of NDWA's financial records later in the year.

**Motion and second to authorize hiring accounting firm to provide training to staff. Motion unanimously approved. (Yes- Ruzich, Hester, Mello, Van Loben Sels).**

### **Report on Delta Activities**

Comment letters submitted by NDWA and other Delta organizations on the Mitigated Negative Declaration and Initial Study analyzing the environmental impacts associated with implementing the Emergency Drought Barriers project were mentioned. Rumors about the Bay Delta Conservation Plan (BDCP) abandoning pursuit of Habitat Conservation Plan permit, and instead simply provide endangered species mitigation under Section 7 consultation for the construction of new diversion intakes and water conveyance tunnels in the North Delta was discussed.

### **Public comment**

Additional input from public members regarding changes to BDCP project description and financing.

### **Adjournment**

Meeting adjourned at 12:02 p.m.

Minutes submitted by Assistant Manager, Colleen Flannery.