

Minutes of Wednesday, August 28, 2023
North Delta Water Agency Special Board of Directors Meeting
In-Person Meeting at 3050 Beacon Blvd Ste 203, West Sacramento, CA

Call to Order

Chairman Mello called the special board of directors meeting to order at 3:00 p.m. on Wednesday, August 23, 2023. Pursuant to Government Code section 54953(b)(3), Directors Jack Kuechler, Justin van Loben Sels, and Mark van Loben Sels attended remotely via publicly accessible teleconference locations identified on the agenda. A quorum was determined at that time. Those present:

Directors

Steve Mello, Division 1
Jack Kuechler, Division 3
Mark van Loben Sels, Division 4
Tom Slater, Division 5

Staff

Melinda Terry, Manager
Cindy Tiffany, Assistant Manager
Kevin O'Brien, Downey Brand
Anne Williams, MBK Engineers
Gary Kienlen, MBK Engineers
Yuen Lenh, MBK Engineers

Others

James Crowder
Harvey Correia

Closed Session

The board adjourned into closed session with legal counsel at 3:02 p.m. to discuss the following item:

- i. Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Government Code Section 54956.9 (one potential case)

The board reconvened in open session at 3:20 p.m. and Chairman Mello announced there was no reportable action taken in Closed Session.

Ad-Hoc Committee Report

Sites Authority Water Right Application

Director Mello summarized the meetings with Sites Project Authority (Sites Authority) and the documents reviewed by the ad-hoc committee analyzed in regards to the Sites Reservoir project and the proposed water rights application. A written report summarizing the committee's activities is also included in the board packet with a recommendation that the Board authorize the manager to enter into the proposed Memorandum of Understanding (MOU) with the Sites Authority in lieu of filing a formal protest with the State Water Resources Control Board challenging water right Application A025517X01.

Engineering Report.

Anne Williams of MBK gave a presentation summarizing the engineering memo, included in the board packet, that was prepared to review potential impacts to NDWA water quality from diversions to storage by the Sites Reservoir project as proposed. Total storage of Sites Reservoir is 1.5 MAF and water diversions from the

Sacramento River between September 1 and June 14th at a maximum rate of 4,200 cfs . Two criteria additionally limit when diversions may occur: 1) minimum flows at Wilkins Slough of 5,000 cfs in September and 10,700 cfs in October through June; and 2) the Delta must be in excess condition. Anne reviewed results of modeling conducted by Sites Authority to analyze water quality impacts at Freeport and Three Mile Slough for the period September through June from 2000-2022. Anne said MBK's analysis concluded that that Sites Reservoir will have little to no effect on Water Quality within the North Delta due to the required criteria they need to divert.

Legal Counsel Report

Austin Cho of Downy Brand gave a presentation on the SWRCB water rights process and the development of the proposed MOU between NDWA and Sites Authority. He reviewed the general requirements and specific criteria and evidence necessary to file a protest of a water rights application and described the water board's Protest Resolution Process for settling with terms and conditions to mitigate adverse impacts.

When we considered option of NDWA filing a protest, the committee looked at water quality impacts (salinity levels) and water supply impacts (hydrology of surface water impacts); and met with Sites Reservoir representatives to review the water quality and availability modeling results. They also shared with use their operations criteria and when they were allowed to divert. He noted that the Delta Conveyance Project was not included in the modeling analysis.

Austin reviewed language in the MOU that the ad-hoc committee is recommending the board approve instead of filing protest on water rights application A025517X01. No questions were asked about the MOU or committee recommendation. Copies of both legal counsel and engineer's Powerpoint Presentations are available on Agency's YouTube channel with a link also on Agency's website.

Public Input

Harvey Correia voiced his support for the proposed MOU with Sites Water Authority.

Consider Filing Water Rights Protest

Sites Authority Water Rights Application (A025517X01)

No changes to the proposed MOU were offered by the Board, staff or public. The manager presented a written motion to approve the MOU as presented.

MOTION by Director Slater to approve and authorize the Manager to execute and carry out the proposed Memorandum of Understanding between North Delta Water Agency and the Sites Project Authority containing key commitments and mutual understandings for Sites Reservoir operations to not adversely affect compliance with the water quality criteria and water supply assurances of NDWA's 1981 Contract and thereby forego filing a protest on water right application A025517X01. Seconded by Director Mello and unanimously approved by a voice vote. (AYES: Mello, Kuechler, J. van Loben Sels, M. van Loben Sels and Slater)

Public Comments

No public comments provided.

Adjournment

Chairman Mello adjourned the meeting at 4:22 p.m.

Respectfully submitted by Cindy Tiffany, Assistant Manager