

Minutes of Wednesday, June 7, 2023
North Delta Water Agency Board of Directors Meeting
3050 Beacon Blvd Ste 203, West Sacramento, CA

Call to Order

Chairman Mello called the board of directors meeting to order at 9:31 a.m. on Wednesday, June 7, 2023. Pursuant to Government Code section 54953(b)(3), Directors Jack Kuechler and Justin 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
Justin van Loben Sels, Division 2
Jack Kuechler, Division 3
Tom Slater, Division 5

Staff

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

Others

Bruce Blodgett
Gilbert Cosio

Lisa Crowley

Closed Session

The board adjourned into closed session at 9:32 a.m. with legal counsel to discuss the following four items:

- i. Litigation regarding WaterFix Environmental Impact Report under CEQA. (Gov. Code 54956.9(d)(1))
- ii. Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Government Code Section 54956.9 (three cases)

The board reconvened in open session at 11:05 a.m. and Chairman Mello announced there was no reportable action taken in Closed Session.

Approval of Minutes

April 5, 2023 minutes presented for approval. MBK requested a few minor wording edits in the Engineering Report section.

MOTION by Director Slater to approve the April 5, 2023, Minutes as amended. Seconded by Director Mello and approved by a roll call vote. (AYES: Mello, J. van Loben Sels, and Slater ABSTAIN: Kuechler ABSENT: M. van Loben Sels)

Director Elections

This is an election year for Divisions 2 and 4; Mark Van Loben Sels and Justin Van Loben Sels. If no challenger files to be a candidate, then incumbents will be appointed by the county in lieu of an election. Cindy Tiffany presented a resolution calling for an election on November 14, 2023.

MOTION by Director Mello to approve Resolution No. 2023-05 calling for an election for Divisions 2 and 4 on November 14, 2023. Seconded by Director Kuechler and approved by a roll call vote. (AYES: Mello, Kuechler, J. van Loben Sels, and Slater ABSENT: M. van Loben Sels)

Financial Statements

Cindy presented the financial statements and answered questions about duplicate payments in May. Earning higher interest in bank accounts, so she will be transferring more funds to LAIF in late June. Over-budget on current engineering and legal expenses, but was previously discussed and therefore expected.

Approval of Annual Budget for Fiscal Year 2023-24

Cindy presented the proposed fiscal year 2023-24 NDWA budget with total expenditures of \$1,364,414.35 and approximately \$400,000 into reserves. She also handed out a document disclosing employee compensation as required by CalPERS. No changes were made to the proposed budget.

MOTION by Director Slater to approve the 2023-24 NDWA budget as presented. Seconded by Director Mello and approved by a roll call vote. (AYES: Mello, Kuechler, J. van Loben Sels, and Slater ABSENT: M. van Loben Sels)

Adoption of the Fiscal Year 2022-23 Assessment Rate

Cindy provided a document showing annual assessment revenues and a projection of annual contract payments to DWR through year 2060. She pointed out that contract payments will exceed the assessment revenues by 2032. The current Board policy is to build a \$6 million in reserve in order to keep up with the increasing Contract payments and annual expenses. The current amount in reserves is about \$2.9 million. In accordance with Agency assessment policies, the maximum amount the assessment rates can be increased is either 3% or the annual change in Consumer Price Index, whichever is higher. Cindy provided MBK's estimated calculations on the CPI if it remains at 3.56%. It was noted that the final CPI is determined by the June Consumer Price Index, which is not out until July of 2023. After discussion, the board agreed to increase all assessment rate categories to the maximum allowed, including the minimum per parcel rate. Estimated rate is \$4.56 per acre and \$11.84 for minimal parcel rate.

MOTION by Director Mello to adopt resolution #2023-04 authorizing the increase of annual assessment rates for all categories to the maximum allowed, 3% or annual change in CPI, whichever is greater. Seconded by Director Slater and approved by a roll call vote. (AYES: Mello, Kuechler, J. van Loben Sels, and Slater ABSENT: M. van Loben Sels)

MOTION by Director Slater to approve Resolution #2023-06 governing the collection of NDWA assessments by Yolo County. Seconded by Director Kuechler and approved by a roll call vote. (AYES: Mello, Kuechler, J. van Loben Sels, and Slater ABSENT: M. van Loben Sels)

Manager Report

Report on Meetings, Presentations, and Correspondence

The ad-hoc committee and staff continue to meet regularly with DWR to discuss water quality exceedances that occurred in 2022. Staff attended a presentation on Sites Reservoir operational effects in the Delta presented by project consultants. NDWA representatives asked questions about flows, dam operations, and Delta water quality. The consultants promised to send modeling results for the Agency's review.

Succession Planning

Melinda reported she will be scheduling a joint meeting of CCVFCA and NDWA board representatives to discuss her replacement upon retirement. Director Slater and Director Kuechler will participate on behalf of

NDWA to identify qualifications each agency would like to see in a new Manager and to assist in the hiring process.

Delta Activities Report

SWRCB/Delta Watermaster

Lisa Crowley reported that as of May 31st, 70% of annual water use reports for water year 2022 are in, including data compiled in the Delta Alternative Compliance Plan. Reporting deadline was extended to June 15th because a technological glitch with the state's platform for collecting this data. She also reported the SWRCB held a public outreach meeting on May 19th and is hosting an environmental justice listening session tonight regarding the Bay Delta Plan Update.

Delta Habitat Projects

DWR filed a certification of consistency with the Delta Stewardship Council for the Prospect Island project and also released a recirculated Draft EIR out for Lookout Slough restoration project.

Delta Conveyance Project

DWR is still working on the Geotech drilling for the DCP and added new web pages on the tunnel project website.

State Water Project

The State Auditor's office recently released a report on the SWP. In their conclusions, they found that DWR is overestimating the water supply and failing to maintain adequate records and documentation of water releases from Oroville Reservoir.

Delta Conservancy

The Delta Conservancy released the final report disclosing the water conservation results of last year's Delta Drought Response Pilot Program, and posted it on their website.

Delta Protection Commission

Bruce Blodgett reported the DPC recently hired a new public information officer. The DPC is also moving forward with the National Heritage Area Management Plan and will be installing new Delta signage this week on Jefferson Blvd. The Commission recently received an award for government innovation from the American Society in recognition of the DPC's Leadership Program. He also expressed concern over recent budget trailer bill language that would allow the DSC to lower the quorum necessary in conducting business, including rendering decisions on appeals of consistency certifications filed for projects such as the Delta Conveyance Project.

Delta Stewardship Council

Gilbert Cosio reported the Delta Adapts effort releases scenarios that put prices on levee improvements and habitat cost. Comments are due in a week. Director Slater commented that input from farmers has been minimal, and expressed concern with the DSC making regulatory land use decisions on privately owned lands.

Engineering Report

Water Quality and Hydrologic Conditions Update

Yuen provided a slide presentation on water quality conditions. Currently the 14-day mean is well within the NDWA Contract criteria at all seven monitoring locations. DCC Gates are closed and will remain closed until further notice. She noted that the Northern Sierra Precipitation 8-Station Index is 122% of average. All major reservoirs are full; Shasta, Oroville, and Folsom are all currently releasing water. There are some highwater concerns for the San Joaquin system and south/central California area. Currently allocations for SWP

contractors, CVP contractors, Sacramento River Settlement Contractors, and Feather River Diversion Agreement holders are at 100%. Gilbert commented that weekly flood operations have been happening for the San Joaquin Systems, watching for higher spring tides.

Contract Payment Calculation Update

Chris Connor of MBK gave an update on the status of recent staff discussions with DWR on resolving the acreage differences NDWA and DWR have for calculating the annual Contract payment. We have resolved acreage owned by DWR in Solano, Yolo and San Joaquin Counties. The last county the group is working through is Sacramento County, which has a smaller acreage difference; but many more parcels to review. The biggest areas of difference are located on Sherman and Twitchell Islands. We continue to meet monthly to clean up more of these differences. The intent is to then memorialize the current acreage owned by DWR through adoption of a resolution that also clarifies how calculation should be done each year, as well as how to update acreage annually.

Drought Claims Procedure

Pat Neu of MBK reported on behalf of a few landowners that there have been payment delays by DWR in the Special Claims process, and multiple requests for additional information beyond what was identified in the application form. Manager recommended having legal counsel draft a letter for her to send to DWR inquiring about the reason for these delays in paying out claims to landowners.

Legal Report

Delta Water Quality Control Plan Update

Austin Cho reported that there is likely to be a staff report in June or July for the Sacramento River watershed released to the SWRCB on the Delta Water Quality Plan Update. NDWA submitted scoping comments in February, but will have opportunities for additional comments when SWRCB releases SED.

Sites Reservoir

The Site Reservoir Authority filed a water rights application with the SWRCB, which triggers a hearing process and a deadline to file a protest within 60 days. Austin explained the application notice and protest process. After some discussion, the Board directed staff to submit a letter requesting a 60-day extension to allow the Agency more time to determine if it will submit a protest and identify potential terms and conditions.

Legislative Report

Website Requirements

AB 1637 proposes to require local agencies to convert their websites to a ca.gov or .gov. The intent to ensure government sites have higher level of cyber security.

Water Rights Modifications

Several water rights bills are progressing through the State Legislature – AB 460, AB 1337, and SB 389. These bills could alter the existing rights of landowners in the Delta. Melinda will reach out to Bob Reeb on the cost of writing a memo on the contents of these bills for the board's review.

Budget Trailer Bill

One of the Governor's budget trailer bills proposes to expedite construction of the Delta Conveyance Project and Sites Reservoir along with a handful of other projects by reducing some CEQA court challenge opportunities. A coalition of environmental, social justice, and Delta NGOs are actively lobbying to remove this language from the trailer bill.

Public Comments

Gilbert Cosio reported that DWR just completed the Geotech drilling on Grand Island for the North Delta drought barriers. DWR is out of funding for this project, so EIR and other activities are on hold. Manager will invite Jacob McQuirk of DWR to make a presentation at the August board meeting to provide an update on status of the North Delta drought barriers.

Adjournment

Chairman Mello adjourned the meeting at 1:02 p.m.

Respectfully submitted by Cindy Tiffany, Assistant Manager