

North Delta Water Agency Board of Directors Meeting

14120 Grand Ave, Walnut Grove, CA 95690
Wednesday, August 7, 2013 at 9:30 a.m.

Minutes

Call to Order

Chair Henry Kuechler called the regularly scheduled meeting to order at 9:32 a.m. on Wednesday, August 7, 2013. A quorum was determined at that time. Those present:

Directors

Neil Hamilton, Division 5
Henry Kuechler, Division 3
Steve Mello, Division 1
Topper van Loben Sels, Division 2

Absent

Ken Ruzich, Division 4

Staff

Gary Kienlen, MBK Engineers
Kevin O'Brien, Downey Brand
Margaret Sorensen
Melinda Terry

Others

Bob Webber, RD 999
Mike Hardesty, RD 2068
Mary Kuechler, RD 2060
Mark Wilson, Clarksburg

Approval of Minutes

Motion and second to approve the minutes of the June 5, 2013 meeting. Motion unanimously approved.

Chair Report

The Board discussed how the recent public informational hearing held on July 10 went and when to have a follow-up public meeting to educate North Delta landowners about the mitigation measures offered in BDCP to remediate and repair adverse impacts associated with constructing and operating new conveyance facilities and aquatic habitat areas. The Board scheduled another informational meeting on the evening of October 2nd, to be preceded by a late afternoon board meeting of the Agency. Staff was directed to invite members of the press to the BDCP impacts informational meeting. Melinda informed the Board she has been invited to speak about BDCP at an ACWA Region 10 (Orange and San Diego Counties) regional workshop and will present similar information to them. Director Topper van Loben Sels asked whether the U.S. Army Corps of Engineers plans to conduct its own cost-benefit analysis of BDCP.

Legal Report

Agency staff met with DWR legal and SWP operations staff to discuss the two updated agreements NDWA has proposed to DWR and how the SWP will operate to maintain NDWA water quality criteria under the recent change in water year type for D-1641 from dry to critical. DWR legal staff indicated they have approved and sent to the DWR executive office for signature the MOU to revise the existing water quality agreement between DWR and NDWA to prospectively apply to any future Bay-Delta water quality changes made by the SWRCB. Craig Trombly, DWR Chief of the SWP Project Water Management, confirmed DWR agrees with the Dept. of Fish and Wildlife acreage and full assessment amounts under the new rates adopted by a North Delta landowner vote that were submitted by NDWA

for determining the amount by which the Agency's annual contract payment to DWR will be reduced. NDWA staff agreed to amend and resubmit the Agreement so it is only an agreement between the Agency and DWR. DWR legal staff indicated their intent to have both Agreements signed by the Director before NDWA's August Board meeting. DWR legal staff committed to contact the head of the Department to move the process along.

Joe Schofield sent a letter on behalf of NDWA responding to Dept. of Parks and Recreation's letter which objected to paying the NDWA assessment.

Engineer's Report

Gary Kienlen briefed the Board on the discussion with SWP operations staff regarding inquiry letter sent by NDWA requesting information on how the SWP will be operated to meet Contract criteria under the request by DWR and the U.S. Bureau of Reclamation to reclassify the D-1641 water year type from dry to critical. He reviewed water quality charts provided by DWR that show what water quality standards the SWP operations staff plans to meet under these revised conditions, including meeting the NDWA contract criteria. Gary distributed current water quality charts of the Contract's monitoring locations prepared by MBK and noted that water quality still looks fine. However, he said MBK is monitoring closer than normal to see how the relaxed standards affect quality in the North Delta.

MBK staff is reviewing the BDCP models and modeling results on behalf of a coalition of senior water right holders, including Northern CA Water Agency (NCWA), and have expressed concern to DWR and USBR staff with how the results mask the BDCP project's effects due to how assumptions on climate change used in the current conditions analysis. In addition, there are glitches in the model itself. MBK will continue to work with USBR staff to fix the glitches and then conduct a modeling run without climate change in the existing conditions to see if the model is working properly. Gary expects MBK's work on the BDCP modeling to be finished by the October 2nd NDWA meeting and will have the coalition send the Agency information on participating in their effort moving forward.

Manager's Report

Melinda Terry distributed a manager's report to the Board.

Motion and second to approve Resolution 2013-2 requesting collection of charges for Yolo County. Motion unanimously approved.

The Board discussed the role of the Agency in electing a new Delta Protection Commission representative to replace Topper van Loben Sels. Staff will arrange to hold an election among the North Delta Reclamation Districts as we did previously.

Melinda briefed the Board on Delta activities starting with recent BDCP public meetings discussing Chapters 8-12, with an emphasis on chapters 8-9 on project financing and alternatives. The meeting was well-attended by Discovery Bay residents holding anti-tunnel signs, and the public was allowed unlimited time to comment and ask questions, although answers to questions were not provided. Melinda described many of the shortcomings of the finance chapter including an over-reliance on public funding from Congress and the State via water bonds not even approved by voters yet. At the meeting Melinda requested Jerry Meral host another public meeting for hired economist Dr. Sunding to give equal time to describe the costs associated with BDCP imposing 48 Unavoidable Significant Adverse Impacts on the Delta that his latest economic analysis report failed to mention, analyze, or quantify. Other BDCP activities include the submission of comments on the 2nd Draft Admin EIR/EIS by NDWA and other Cooperating and Trustee agencies, which are available for review on the BDCP's website. Many of the other agencies brought up some of the same concerns raised by NDWA as well as numerous other important questions and issues their agency's still have on the Draft document.

NDWA's cooperating agency comments primarily focused on the groundwater, surface water, and water supply chapters in the EIR/EIS. She also attended two USBR/NEPA Cooperating Agency meetings, neither of which were productive or particularly informative with BDCP EIR/EIS consultants indicating they didn't have time to analyze before the October 1 Draft release date some of the significant issues she raised such as failure to acknowledge, analyze or mitigate the degradation of project levees during BDCP construction. When the Contra Costa representative suggested the BDCP could in fact mitigate the increased salinity in the South and West Delta caused by BDCP water operations/facilities, he was told they couldn't mitigate salinity adverse impacts without modifying the project which would result in less water supply to export areas, and the water contractors would no longer be unwilling to pay for BDCP without any benefits. The state and federal government is still planning on releasing an official Draft EIR/EIS for public comment on October 1, 2013. Melinda expressed doubt the document could be released by that date due to significant deficiencies, including only providing a Programmatic level of analysis of Conservation Measure 1 (new North Delta conveyance facilities) rather than the Project level analysis intended by proponents.

The Board suggested that Delta interests should collaborate in selecting one of the proposed alternative BDCP plans to advocate for in place of DWR's current project. Mike Hardesty said he thought the Portfolio Alternative was a viable option, especially for the five Delta Counties. However, all of the alternative proposals are conceptual and would require funding to conduct sufficient analysis of each to determine which is preferred by the Delta region as a whole. Reaching consensus of all Delta elected officials, local agencies, and landowners on one particular alternative over the others will be difficult.

Melinda informed the Board of a meeting she and two other North Delta local agency representatives attended with DHCCP (BDCP project and engineering staff) project manager and lead engineer. Most of the meeting was spent on the DHCCP staff explaining the conveyance facility design and location modifications they planned to announce to the public in mid-August. The changes are part of their project optimization and primarily based on suggestions received from meetings with Delta landowners in the footprint of the new facilities. The changes include the considerable downsizing of the North Delta forebay from 750 acres to 40 acres and moving farther away from Courtland towards I-5, moving tunnel to run underneath Staten Island instead of Tyler, and eliminating some borrow pits. She said although these changes are positive, they do not mitigate or avoid the 48 Unavoidable Adverse Impacts of cutting off domestic and agricultural water supply from dewatering activities, seepage and erosion damage from aquatic habitat, or being forced out of homes due to the ear-splitting noise and ground shaking from 25,000 daily steel pile driving at the intake locations. She asked Gordon Enos, the lead engineer if they had analyzed how the levees near the pile driving would hold up under daily shaking of that magnitude or if they analyzed whether lowering groundwater 10-20 feet for six plus years through 24/7 dewatering of the area would cause land subsidence or sink holes. He admitted they had not analyzed either in the EIR/EIS and said the conveyance facilities are only at about a 10% design level. The Delta representatives only had a few minutes to share a few examples of impacts that are of concern, including Melinda reminding them of DWR's obligations under the NDWA contract provisions. She told them the EIR/EIS indicated almost all provisions in the Contract were impacted adversely, including but not limited to: creating reverse flows at Georgiana Slough and Delta Cross Channel; seepage and erosion from open water aquatic habitat; and lowered water surface elevations from tidal muting and combined effects of new intakes and diversions of 650,000 acres feet into the Yolo Bypass for fish farming. Gilbert Cosio also explained the concern over disconnecting the drainage systems causing localized flooding and issues with where and how much water they will be discharging during ongoing dewatering that could also create new SWRCB non-point source regulatory requirements for farmers. The group discussed scheduling another meeting, but first they need to develop an agreement on participants, topics to be covered, and DWR funding of Delta consultants' time.

The Delta Stewardship Council approved a final Delta Plan which is pending approval of its regulations at the Office of Administrative Law. Seven lawsuits have been filed challenging the statutory authority and CEQA compliance of the Plan's policies and regulations, but Kevin O'Brien was unsure whether the lawsuits would affect implementation. The Council has begun establishing an implementation committee and process for the Delta Plan.

The Delta Protection Commission has a new Executive Director, Erik Vink, to replace Mike Machado who is retiring. Melinda asked DPC representative Topper van Loben Sels to request the DPC which is responsible to protecting Delta as Place per the Delta Reform Act to host a public meeting to discuss the 48 unavoidable impacts of the BDCP, possibly as a joint meeting with DSC.

The SWRCB has sent out a pre-warning letter, "NOTICE OF SURFACE WATER SHORTAGE FOR 2013" that curtailment may be required in the future if dry conditions continue.

The eminent domain legal proceedings to allow DWR to conduct geo-technical drilling for BDCP preliminary engineering needed to complete the EIR/EIS has been delayed. DWR rescinded their original condemnation resolutions and has not submitted new resolutions to the CA Water Commission (CWC) for approval yet, which is required before filing with the courts again. Melinda estimates that obtaining approval of both the CWC and the courts will take about two years before the drilling is completed.

The State Legislature is likely to postpone negotiation and approval of a new water bond until early next year. Historical archives of reclamation district records in South and Central Delta have been posted on line by the San Joaquin Historical Society.

Public Comment

Mike Hardesty informed everyone of a Statewide Water Action Plan (SWAP) that members of ACWA are jointly working on with DWR. The initiative is intended to focus on actions needed in the near term rather to complement longer term water planning efforts and has the active participation of a large number of Northern California agencies strongly advocating for the SWAP to include language defining water quality and availability assurances to the upper watershed areas of origin in order to clarify BDCP's intent to respect and protect senior water rights. There are thirteen categories of issues and actions such as flood control, headwater issues, water contractors, FERC relicensing, etc.

Announcements

NDWA will hold an informational public meeting to inform landowners of BDCP's proposed mitigations from 6:00-8:00 p.m. on Wednesday, October 2, 2013 at the Courtland Auditorium. Accordingly, NDWA's regularly scheduled board meeting on October 2nd will be moved from the morning to 3:00-5:00 p.m. The Agency will provide dinner to board members prior to the start of the informational meeting.

Adjournment

The meeting was adjourned at 11:23 p.m. on Wednesday, August 7, 2013.

Respectfully Submitted,
Margaret Sorensen, Administrative Assistant