

Minutes of Wednesday, April 4, 2018
North Delta Water Agency Board of Directors Meeting
14120 Grand Ave. (Walnut Grove Community Church), Walnut Grove

Call to Order

Chairman Mello called the board of directors meeting to order at 9:33 a.m. on Wednesday, April 4, 2018. A quorum was determined at that time. Those present:

Directors

Steve Mello, Division 1
Topper van Loben Sels, Division 2
Jack Kuechler, Division 3
Ryan Mahoney, Division 4
Tom Hester, Division 5

Staff

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

Others

See attached sign-in sheet.

Approval of the Minutes

Gary Kienlen requested that the last sentence in the Engineers Report section in the February 7, 2018 minutes be modified to say, "Once Bulletin 120, for February, is completed MBK can calculate the Contract criteria for the month based on the forecast for the Four-River index."

MOTION by Director Hester to approve the February 7, 2018 minutes as amended. Seconded by Director van Loben Sels, and unanimously approved by a voice vote. (AYES: Mello, van Loben Sels, Kuechler, Mahoney, and Hester.)

Financial Report

Cindy Tiffany presented the current financial statements and answered questions about assessment revenues and consulting expenses.

MOTION by Director van Loben Sels to accept the Financial Reports as presented. Seconded by Director Mahoney and unanimously approved by voice vote. (AYES: Mello, van Loben Sels, Kuechler, Mahoney, and Hester.)

Engineering Report

Gary Kienlen distributed water quality graphs, noting salinity levels are currently well within the Contract criteria at all NDWA monitoring locations. Once Bulletin 120 for April 1st is completed MBK can calculate the Contract criteria for the month based on the forecast for the Four-River index. He reported that the State increased water allocations from 15% to 20% and it may go up again once Bulletin 120 is released and noted the reservoirs are up and the snow survey has improved some, but still is not where it should be. DWR has announced that the spillway may be used at Oroville on this upcoming storm but is increasing releases through the power plant to get ahead of the storm.

Legal Report

Kevin O'Brien reported that both the CEQA and 2081 lawsuits have been consolidated. Each petitioner will be responsible for \$7,000 for the costs of DWR to prepare the administrative record. NDWA cost will be \$14,000 since they are petitioners on both lawsuits. The judge will likely have a briefing schedule prepared by the end of 2018 and the proceedings may start in 2019.

Manager Report

Administrative Issues

Melinda Terry provided a written manager's report describing her recent activities and other issues of interest, including amendment of the Service Agreement with CCVFCA that requires board action. She informed the Directors that the CCVFCA board of directors already approved changes to update how shared office and personnel costs will be split between CCVFCA and NDWA. The changes in the "Restated Service Agreement" include CCVFCA paying 20% of the ACWA membership to offset portion related to providing health benefits to shared employees. In addition, the monthly NDWA payment to CCVFCA was reduced and annual CPI increase removed in order to more accurately reflect actual costs. If NDWA approves, then the revised agreement will become effective on July 1, 2018.

In response to inquiry on why ACWA dues were not being evenly split, Melinda explained the Association board was not willing to pay 50% because they felt that NDWA receives additional benefits besides employee health insurance from the ACWA membership that CCVFCA does not.

MOTION by Director Mahoney to approve the Restated Service Agreement as presented. Seconded by Director Hester and unanimously approved by voice vote. (AYES: Mello, van Loben Sels, Kuechler, Mahoney, and Hester.)

Melinda also reported she has discussed development of administrative policies for NDWA with Downey Brand to provide guidance on harassment, conflict of interest and other governance issues. She is also working with legal counsel on updating the Agency's policies on collecting delinquent assessments.

Jack Kuechler asked if NDWA is planning on holding another Ethics/Sexual Harassment Training for the board like they did in 2016 and offered to host the event again at Hastings Island. Cindy will contact with him and Downey Brand to schedule a date in late July or early August and extend invitation to Reclamation Districts within Agency boundary to also attend.

Delta Activities Report

SWRCB/Delta Water Master

Michael George reported there has been crowd correction on the water rights data collected pursuant to order issued by SWRCB in 2015. He wants to make sure Delta water users review and report inconsistencies regardless if they fall under the North Delta Contract or not. Melinda asked about enforcement of the order on water users that had not submitted documentation of their water rights. He responded that their objective is working on compliance, so no enforcement is planned in the foreseeable future. He is currently seeking permission to publicly release a legal memorandum he wrote regarding riparian water rights.

On SB-88 compliance, he reported there are several groups of water users implementing alternative compliance methodologies and a list of individual water users assumed to have installed measuring devices on their diversions. In response to question about fallowing land for evapotranspiration study, he said they have already identified the seven paired sites needed.

Delta Habitat

Melinda reviewed scoping comments submitted by NDWA on the Draft EIR/EIS for Yolo Bypass Salmonid Habitat Restoration and Fish Passage Project intended to comply with Biological Opinions that govern the coordinated operation of SWP and CVP. The project would implement Conservation Measure #2 from BDCP to divert 6,000 cfs from the Sacramento River into the Yolo Bypass which will impact water users downstream and should therefore require DWR and USBR to submit a petition for new diversion location since gates will be operated by SWP/CVP.

Director van Loben Sels said landowners consider more frequent inundation of their land as a “takings” of private property and Director Mello expressed concerns with increased vegetation growth in the Yolo Bypass reducing flood flow capacity. Melinda responded that CCVFCA submitted scoping comments about vegetation growth and said there is no “takings” if project proponents pay landowners for easements to inundate their property more frequently and for longer duration.

Cal Waterfix

Melinda reported DWR formally announced revising WaterFix project to phase construction to build single tunnel now and second tunnel later. Metropolitan Water District staff researched funding construction of two tunnels, but a recent internal memo said MWD would not fund both.

Delta Conservancy and DPC Activities

Delta Conservancy approved third round of Prop 1 funding for habitat projects. Erik Vink reported that the DPC levee feasibility study would be considered at May Subcommittee meeting in Courtland.

Announcements

Melinda announced that the next SWP water supply contract negotiation meeting is scheduled for April 11th and the next NDWA board meeting is June 6th.

Public Comment

No public comments were provided.

Closed Session

The Board convened into Closed Session with legal counsel at 10:43 a.m. to discuss the following five items:

- i. State Water Resources Control Board adjudicatory proceeding regarding Petition for Changes in Water Rights of the Department of Water Resources and U.S. Bureau of Reclamation for the California WaterFix Project (Gov. Code 54956.9(d)(1)).
- ii. Government Claims Act recovery of delinquent assessments, penalties, and interest against California Department of Fish and Wildlife (Gov. Code 54956.9(d)(1),(4))
- iii. Litigation regarding WaterFix 2081 ESA permit. (Gov. Code 54956.9(d)(1)).
- iv. Litigation regarding WaterFix Environmental Impact Report under CEQA. (Gov. Code 54956.9(d)(1)).

The board reconvened in open session at 11:18 a.m. and Chairman Mello announced there were no reportable actions taken during closed session

Adjournment

Chairman Mello adjourned the meeting at 11:18 a.m.

Respectfully submitted by Cindy Tiffany, Assistant Manager