

**Minutes of Wednesday, December 4, 2019**  
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 9:40 a.m. on Wednesday, December 4, 2019. A quorum was determined at that time. Those present:

Directors

Steve Mello, Division 1  
Justin van Loben Sels, Division 2  
Jack Kuechler, Division 3  
Mark van Loben Sels, Division 4  
Tom Slater, Division 5

Staff

Melinda Terry, Manager  
Cindy Tiffany, Assistant Manager  
Meredith Nikkel, Downey Brand  
Gary Kienlen, MBK Engineers  
Anne Williams, MBK Engineers

Others

Sign-in sheet in NDWA office.

**Appointment of Officers**

Cindy reported that she received confirmation from Yolo County Board of Supervisors that they appointed Tom Slater to the remaining 2 year term for Div.5 and Mark van Loben Sels for a 4 year term in Div. 4. Sacramento County Board of Supervisors also appointed Justin van Loben Sels to a 4 year term for Div. 2.

*Oath of Office*

Cindy Tiffany administered the Oath of office to Director Justin van Loben Sels of Division 2, Director Mark van Loben Sels of Division 4, and Director Tom Slater of Division 5.

**Closed Session**

The Board convened into Closed Session with legal counsel at 9:42 a.m. to discuss the following three items:

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

The board reconvened in open session at 10:25 am and Chairman Mello announced there were no reportable actions taken during closed session

**Approval of the Minutes**

No additions or corrections were made to the October 2, 2019 Minutes, but Director Mello noted that the sign in sheet was not attached.

**MOTION** by Director Slater to approve the October 2, 2019 minutes as presented. Seconded by Director Mello, and unanimously approved by a voice vote. (AYES: Mello, Kuechler, J. van Loben Sels, M. van Loben Sels, and Slater)

**Financial Report**

Rick Johnston of Perry, Bunch and Johnston Inc., CPAs gave the biennial audit report for FY 2018 and 2019.

He walked through each section in the report, including disclosure of increase in cash assets and net pension liability, and closed by reporting that the audit received a clean opinion with no recommendations

Cindy Tiffany reported on the current 2019-20 Fiscal Year financials, noting that ACWA membership dues have gone up again, despite fact that NDWAs were lower last year. She spoke with ACWA about our concern with dues increase, but they said ACWA's policy is to never reduce membership dues, so will stay same but not be lowered. ACWA did revise the original invoice they sent to a lower amount because of problem with their new billing system, but it's still higher than last year's dues. She recommends that NDWA explore changing employee health benefit providers. She also reported that we are over what was budgeted under legal for the litigation regarding Coordinated Operations Agreement Addendum. The Board acknowledged the increased legal costs as necessary. Melinda has requested Alston & Bird to provide an estimated budget for next steps in lawsuit.

**MOTION** by Director Kuechler to accept the biennial audit as presented . Seconded by Director Slater and unanimously approved by voice vote. (AYES: Mello, Kuechler, J. van Loben Sels, M. van Loben Sels, and Slater.)

**MOTION** by Director Kuechler to accept the current financials as presented. Seconded by Director Mello and unanimously approved by voice vote. (AYES: Mello, Kuechler, J. van Loben Sels, M. van Loben Sels, and Slater.)

### **Engineering Report**

Gary Kienlen distributed water quality graphs. The EC shows that salinity was going up at the Three Mile Slough location, however the level is still below contract criteria. The rise may have been due to a low pressure storm that pushed salt water up into the Delta. The last couple of days the river flows have been higher so the EC is trending back down.

### **Legal Report**

#### *Water Quality Control Plan Update-Voluntary Agreements*

Meredith reported that the modeling has been released for the voluntary agreements, comparing the agreement projects with unimpaired flows proposed by SWRCB staff.

Gary said MBK has been reviewing the modeling for the Voluntary Agreements, but he has not personally been involved. The state is using two different models: CalSim and SacWAM. Different results in flows from each model, but the habitat portion shows improvement in both models. Part of the problem is that there is only CalSim modeling done for the Delta and there are still lots of questions about flaws in the models. Melinda asked if it was possible to know what types of assumptions were used in the model runs. Gary said the models include the habitat projects from the voluntary agreements, but he's unaware of specific projects and locations, so not sure if in the Delta or upstream. Has the focus of the agreements and modeling been on impacts to fish only or does it include improvement of water quality in the Delta? Gary believes analysis is focused on fish impacts, and no salinity impacts in the Delta have been looked at.

### **Manager Report**

Melinda Terry reported that we received a letter from an accounting firm that DWR's revenues from NDWA payments was being audited. The accounting firm said their review shows that NDWA owes several thousand dollars and requested NDWA confirm or deny this delinquency and send any documents supporting our disagreement with their conclusion. Our staff worked with legal counsel to write response and organize supporting documents disputing any underpayment by NDWA.

Melinda met with the Delta Design and Construction Authority regarding flood control concerns and requested follow-up meeting to discuss NDWA water supply and quality issues. DWR released a mitigated negative declaration (IS/MND) in lieu of an EIR for and extensive exploratory drilling to inform design of the Delta tunnels and conveyance project (WaterFix). According to the maps provided, there are hundreds of drilling sites, many of which are through or next to levees, but no description in the document, so not sure of exact locations. The IS/MND failed to analyze levee impacts or water supply/quality issues to groundwater wells or surface waters. CCVFCA will be submitting a comment letter and she can make a joint letter with NDWA. Osha Meserve reported that DWR has sent notice letters to some landowners, but not all, and suggested our letter include a comment about the piece-mealing of this project.

Melinda reported that Chapter 4, Ecosystem, of the Delta Plan is open for public comment and the deadline to comment is January 21st.

Melinda announced the office move is scheduled for December 19th. The address is 3050 Beacon Blvd., Ste 203 in West Sacramento, CA. There is room to hold committee meetings and NDWA board meetings if the board is interested. The Board directed staff to schedule the February board meeting at the new office location.

### **Delta Activities Report**

#### *SWRCB/Delta Watermaster*

John Collins provided reminder that January 1, 2020 is when the requirement for telemetry takes effect for those who divert 10,000 acre-feet a year, per diversion. His office is currently conducting a water rights investigation on Holland Tract, owned by Metropolitan Water District.

#### *Delta Stewardship Council*

Melinda reported that Kris Tjernell gave a presentation to the DSC on how DWR disbursed State funding for Delta levees and distributed a written annual report. This annual report is a new requirement amended into the Delta Plan's Delta Levee Investment Strategy (DLIS) in 2018. He highlighted a \$118 million investment for the Lookout Slough project as an example of deviating from the DLIS funding prioritization. This amount includes funding provided by State and Federal Water Contractors.

#### *Delta Habitat Projects*

Melinda is still working on a NDWA comment letter for the Lookout Slough habitat restoration project.

#### *Delta Protection Commission*

Justin van Loben Sels announced that DPC meetings on National Heritage Area and on the Delta Trails was coming up, and expressed concern about building a trail through the Delta.

### **Announcements**

The next Delta Roundtable meeting is at 9:00 am on December 16th at the Robert Union Farm Center in Stockton.

### **Adjournment**

Chairman Mello adjourned the meeting at 12:04 pm

Respectfully submitted by Cindy Tiffany, Assistant Manager