

**Minutes of Wednesday, November 10, 2021**  
**North Delta Water Agency Board of Directors Meeting**  
Remote Meeting Held via Teleconference

**Call to Order**

Vice Chairman Kuechler called the board of directors meeting to order at 9:32 a.m. on Wednesday, November 10, 2021. Pursuant to AB 361 and Resolution 2021-05 members of the North Delta Water Agency Board of Directors and members of the public participated remotely by teleconference. A quorum was determined at the time. Those present:

Directors

Steve Mello, Division 1(late)  
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  
Kevin O'Brien, Downey Brand  
Gary Kienlen, MBK Engineers  
Anne Williams, MBK Engineers

Others

Harvey Correia  
Lou Biagioni  
Erik Vink  
Mark Wilson  
Mike Hardesty  
Michael George

**Approval of Minutes**

Anne Williams requested a change to the October 6th minutes on page 3 under the Engineering Report. The correction was from 277mS/cm to 280ms/Cm. There were no changes requested to be made to the October 19<sup>th</sup> or the October 26<sup>th</sup> minutes.

**MOTION** by Director Slater to approve the October 6, 2021 minutes as amended, and approve both the October 19, 2021 and October 26, 2021 as presented. The motion was seconded by Director Kuechler and unanimously approved by a voice vote. (AYES: Kuechler, J. van Loben Sels, M. van Loben Sels and Slater ABSENT: Mello)

**Manager Report**

*Report on Meetings, Presentation, and Correspondence*

Melinda gave an update on her letter to State Lands Commissions. State lands owns 59 parcels within our boundaries and submitted a letter for reclassification on some of the parcels. Most of the reclassifications are requested since the parcel is in a waterway. MBK has provided a memo of their review of the parcels and there are 33 parcels that are in waterways that will be assessed at zero going forward. There is only one outstanding question on one parcel regarding size and Cindy will work with MBK and the county to confirm the acreage. Melinda is hopeful to get the response letter out next week.

She reminded the board that we must adopt a resolution every 30 days, which would authorize remote teleconference meetings of NDWA and recommended that the board adopt this resolution based on the continuing State of Emergency that still exists due to COVID-19.

**MOTION** by Director Kuechler to adopt Resolution 2021-06. The motion was seconded by Director Slater and unanimously approved by a voice vote. (AYES: Kuechler, J. van Loben Sels, M. van Loben Sels and Slater, ABSENT: Mello)

**Engineering Report**

*Water Quality Update*

Anne Williams reported that water quality conditions are well within our current contract criteria at all seven monitoring locations. At recent coordination meetings with SWP operations staff, DWR reported they are currently at minimal releases from Oroville. Jack asked when Oroville resumed power generation. Melinda responded that according to

Jacob McQuirk of DWR, power generation has not yet resumed. In answer to question by Director Mello, Anne said the current storage level at Oroville is 1.009 million acre-feet.

Melinda reported no response has been received from DWR addressing our letter sent to them in reply to their letter requesting to enter into Art. 9 negotiations. Our letter requested a response from DWR by November 9<sup>th</sup>. Fortunately, due to recent rain delivered by Mother Nature, DWR is no longer exceeding contract water quality criteria. Michael George reported there were also exceedances of D-1641 and SWRCB has also requested DWR to provide a written response about achieving compliance.

## **Legal Report**

### *Drought Claims Procedure*

Kevin O'Brien reported that he has not heard anything back from DWR on the Drought Claims Procedure. In response to a question about what recourse landowners have if they have damage to their crops and soil due to salinity criteria being exceeded, Kevin stated the Agency will need to discuss if and when any such complaints are received from a landowner.

## **Drought Activities**

### *Curtailment Orders*

Michael George reported curtailments are currently suspended in the Delta based on recent precipitation levels. The Division of Water Rights updates all curtailment orders every Thursday. There have been some complaints from San Joaquin Valley elected officials that we are just letting this water go out to the ocean, when in reality the projects are pumping out at their maximum capacity right now so there is no additional capacity to grab that water. Refinements to the methodology for determining water availability will be released for public review and comment.

### *Drought Barriers*

Melinda reported she spoke with Jacob McQuirk with DWR about current status of the proposed drought barriers on Sutter and Steamboat Sloughs. Recent rains are good, but not sufficient to cancel the barrier projects yet; however, he has specific targets in terms of the Four River Index that will determine if DWR will no longer move forward. DWR submitted a letter to the U.S. Army Corp of Engineer requesting to not remove the False River Barrier this year. DWR has not made a final decision on locations of barriers on Sutter and Steamboat Sloughs, but he indicated the two locations recommended by local agencies are the only ones they are analyzing.

DWR is still not interested in executing a project mitigation MOU with NDWA, but is still willing to adopt a reimbursement agreement for all legal, engineering, and manager costs associated with the two barriers. Austin Cho with Downey Brand will work with DWR on the reimbursement agreement that includes costs for NDWA monitoring water quality in Cache Slough. Jacob said DWR has modeling on the water quality and will send these results to Melinda.

### *Delta Dry-Year Response Plan*

Michael George reported there is \$10 million available for the pilot program, but the State is still finalizing how they can provide direct payments to farmers, possibly through block grants administered by the Delta Conservancy. The current recommendations are that the program will pay \$1,400-1,500 per acre until total is expended and might impose a minimum of 200 acres and a maximum of 500 acres. With a \$10 million this program, it will likely be oversubscribed. The State will also pay for all additional monitoring and administrative costs.

## **Delta Activities Report**

Nothing to report for SWRCB/Delta Water Master or Delta Habitat Projects.

### *Delta Conservancy Activities*

Michael encouraged the Delta to organize in order to capture some of the new infrastructure money approved by Congress. Melinda pointed out the Delta Conservancy has the jurisdiction to receive and distribute this money to use

for local economic projects to help the Delta, not just habitat projects to implement the Biological Opinions.

#### *Delta Stewardship Council*

The DSC will be discussing Ecosystem Chapter 4 amendments to the Delta Plan at their next meeting, with public comments due by November 30<sup>th</sup>. The Council will begin working on Delta Adapts climate change project over the next few months.

#### *Delta Protection Commission*

Erik Vink thanked the Delta Leadership nominations are due by November 19<sup>th</sup> and thanked the board for there continued support of the program through their donation.

The Delta Trail Master Plan is ready to be put out for public review and comments and the Commission has a new flood ready website at [www.DeltaFloodReady.com](http://www.DeltaFloodReady.com).

Erik announced he will be retiring from the commission next summer, but hopes to continue to help the Delta in a volunteer capacity. The board expressed their sincere gratitude for his advocacy on behalf of the Delta and all of the good work he accomplished during his tenure.

#### **Public Comments**

Mike Hardesty congratulated and thanked Erik Vink for all the work that he has done at the Delta Protection Commission.

#### **Closed Session**

The Board convened Closed Session through teleconference at 10:59 a.m. to discuss three potential cases pursuant to Government Code Section 54956.9(d)(4).

#### **Closed Session Report**

The Board reconvened in open session at 11:29 a.m. and Chairman Mello announced that the board took no reportable action during closed session.

#### **Announcements**

Melinda announced she will be on vacation the week of November 22<sup>nd</sup> and reminded everyone that the next Board meeting is scheduled for December 1<sup>st</sup>.

#### **Adjournment**

Chairman Mello adjourned the meeting at 11:31 a.m.

Respectfully submitted by Cindy Tiffany, Assistant Manager