

Minutes of Wednesday, December 5, 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 9:36 a.m. on Wednesday, December 5, 2018. A quorum was determined at that time. Those present:

Directors

Steve Mello, Division 1
Jack Kuechler, Division 3
Ryan Mahoney, Division 4
Tom Slater, Division

Staff

Melinda Terry, Manager
Cindy Tiffany, Assistant Manager
Rebecca Smith, Downey Brand
Gary Kienlen, MBK Engineers

Others

See attached sign-in sheet.

Closed Session

The Board convened into Closed Session with legal counsel at 9:36 a.m. to discuss the following four 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. Anticipated Litigation regarding recovery of delinquent assessments, penalties, and interest against California Department of Fish and Wildlife and the California Wildlife Conservation Board (Government Code section 54956.9(d)(4)). (Two potential cases.)
- iii. Litigation regarding WaterFix 2081 ESA permit. (Gov. Code 54956.9(d)(1))
- iv. Litigation regarding WaterFix.

The board reconvened in open session at 10:16 a.m. 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 3, 2018 Minutes.

MOTION by Director Mahoney to approve the October 3, 2018 minutes as presented. Seconded by Director Kuechler, and unanimously approved by a voice vote. (AYES: Mello, Kuechler, Mahoney, Slater ABSENT: van Loben Sels)

Financial Report

Cindy Tiffany reported on the current financials and answered questions about XBD video narration and Delta Region Foundation DPC Leadership Program expenditures.

MOTION by Director Slater to accept the financial reports as presented. Seconded by Director Mahoney and unanimously approved by voice vote. (AYES: Mello, Kuechler, Mahoney, and Slater. ABSENT: van Loben Sels)

Cindy presented the letter from Cal Trans in response to receiving direct billing for NDWA assessment. Letter is confusing because it's dated May of 2016, but was not received until November 2018. Sam Bivens of Downey Brand will be writing a response letter to Cal Trans.

Engineering Report

Gary Kienlen distributed water quality graphs, noting that salinity levels exceeded the contract criteria on November 21, 2018 and was out of compliance for 11 days at the Three Mile Slough (TMS) monitoring location. He contacted DWR on November 19th informing them of rising salinity levels at TMS. No actions taken by DWR, but storms came, flushing out salinity and improving water quality in the Delta. He also reported there was a sensor malfunction for two weeks at the TMS monitoring station.

Legal Report

WaterFix Change Petition

Rebecca Smith reported that SWRCB has not yet scheduled the closing briefs for the WaterFix change of diversion petition hearing, but expect announcement soon.

WaterFix CEQA

Rebecca said DWR is still working on the administrative record for the CEQA lawsuit. Once it is completed the court will issue a schedule.

Manager Report

Meetings

Melinda Terry reported she attended an invitation-only Women in Water Conference in November, which was very informative and great networking opportunity. Speakers included USBR Commissioner Brenda Berman and SWRCB Chair Felicia Marcus.

CDFW Parcel Reclassification Requests

Melinda reported she is in process of finalizing Manager's decision letter on the multiple parcel reclassification petitions received from CDFW. She intends completing and sending decision letter in a couple of weeks, then CDFW will have option to appeal the decision to the NDWA Board.

Ad Hoc Committee on Employee Benefits

Melinda reported that the Ad Hoc committee created to review employee benefits had a meeting via conference call, discussing information on benefits provided by NDWA. The next meeting will be on January 15, 2019.

NDWA Video

Cindy reported that XBD Events has delivered the video with narration by Director Mello. Melinda will review video to decide if we need to edit or redo the narration.

Delta Activities Report

SWRCB/Delta Watermaster

Michael George, Delta Watermaster, reported the water board is discussing the possibility of sponsoring clean-up legislation to SB 88 in 2020 based on what his office has learned during implementation of water measurement reporting requirements.

He reminded everyone that on December 12, 2018 the SWRCB will be voting on a resolution for adoption of San Joaquin Amendments as part of the Water Quality Control Plan update. Water Board member Dorene D'Adamo has objected to the San Joaquin Amendments and indicated she plans to provide an alternative proposal at the meeting.

Melinda inquired about status of response letter from SWRCB regarding the need for DWR to file a petition for new water rights diversion for an operable gate proposed to be installed at the Fremont Weir. Michael said

there has been more internal discussion at the water board about NDWA's letter, and the fact that SWRCB submitted prior written comments on EIR stating DWR should obtain approval for a change of diversion. Kris Tjernell, DWR Deputy Director, has also been focused on this issue with the water board.

SWP Contract Amendments

A Draft EIR was released by DWR for proposed SWP contract amendments. Changes include flexibility to transfer and exchange water, allow DWR to recover costs for constructing WaterFix Project, and extend contracts through 2085. The WaterFix Financing Authority submitted a letter of interest for federal funding from U.S. EPA, but was not selected.

Delta Stewardship Council

Melinda reported on a November DSC workshop regarding appeals filed on WaterFix consistency with Delta Plan, which included DSC staff report pointing out insufficient evidence submitted by DWR to support consistency. At the end of the workshop, DSC Chair Randy Fiorini advised DWR to withdraw their certification, which will allow lifting of ex-parte rules. DSC is scheduled to vote on the appeals at their meeting on December 20, 2018.

Delta Habitat Projects

Melinda informed the board she is still working on the letter for the Lookout Slough habitat restoration project, but will finish and send by the end of December.

Delta Protection Commission

Erik Vink thanked Tom Slater for his participation in the Delta Protection Commission's presentation at the DSC workshop on WaterFix appeals. He also reported that Yolo County Supervisor Oscar Villegas will be installed as the new DPC chair on January 7, 2019.

Public Comment

Director Kuechler announced the passing of Neil Hamilton. A farmer on Ryer Island with additional family-owned land holdings in the northwestern area of the NDWA, he served on the board of directors for both NDWA and the CA Central Valley Flood Control Association.

Harvey Correia announced DWR denied boundary change requested by the Northern Delta Groundwater Sustainability Agency.

Adjournment

Chairman Mello adjourned the meeting at 12:25 p.m.

Respectfully submitted by Cindy Tiffany, Assistant Manager