

Minutes of Wednesday, February 7, 2024
North Delta Water Agency Board of Directors Meeting
Remote Meeting Held via Teleconference and in Person at
3050 Beacon Blvd., Ste 203, West Sacramento, CA

Call to Order

Chairman Mello called the board of directors meeting to order at 9:32 a.m. on Wednesday, February 7, 2024. Pursuant to Government Code section 54953(b)(3), Directors Jack Kuechler, Justin van Loben Sels, and Mark van Loben Sels attended remotely via publicly accessible teleconference locations identified on the agenda. 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
Kevin O'Brien, Downey Brand
Austin Cho, Downey Brand
Anne Williams, MBK Engineers
Gary Kienlen, MBK Engineers
Matt Wickersham, Austin & Bird

Others

Jay Ziegler
Bruce Blodgett
530-650-6811

Closed Session

The board adjourned into closed session at 9:34 a.m. to conference with legal counsel on the following four items:

- i. Existing litigation regarding Coordinated Operation Agreement Amendments (*North Coast Rivers Alliance et al. v. Department of Water Resources et al.*; Sacramento County Superior Court Case No. 34-2019-8003057) pursuant to paragraph (1) of subdivision (d) of Government Code Section 54956.9 (One Item);
- ii. Existing litigation regarding DWR Environmental Impact Cases (Sacramento Superior Court, Case No. JCCP 4942) pursuant to paragraph (1) of subdivision (d) of Government Code Section 54956.9 (One Item);
- iii. Public Employment – Appointment of public employee pursuant to Government Code Section 54957 (b)(1)(One Item);
- iv. Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Government Code Section 54956.9 (One Item).

Closed Session Report

The Board reconvened in open session at 10:49 a.m. and reported that the Board authorized counsel to file a notice of appeal on Case No. JCCP-4942.

Approval of the Minutes

The minutes for the December 13, 2023, Board Meeting and the January 10, 2024, Special Board Meeting

were presented. No additions or corrections were made.

MOTION by Director Slater to approve the December 13, 2023, regular Board Meeting and January 10, 2024, Special Board Meeting minutes as presented. Seconded by Director Mello and unanimously approved by a roll call vote. (AYES: Mello, Kuechler, Slater, J. van Loben Sels and M. van Loben Sels)

Appointment of Officers

NDWA governing statutes require the annual election of Chairman and Vice Chairman of the Board of Directors. The Board also discussed the appointment of a Director to serve as Treasurer.

MOTION by Director Slater to nominate Director Mello as Chairman and Director Kuechler as Vice Chairman. Seconded by Director J. van Loben Sels, and unanimously approved by a roll call vote. (AYES: Mello, Kuechler, J. van Loben Sels, M. van Loben Sels, and Slater.)

MOTION by Director Kuechler to appoint Director Slater as Treasurer. Seconded by Director Mello, and unanimously approved by a roll call vote. (AYES: Mello, Kuechler, J. van Loben Sels, M. van Loben Sels, and Slater.)

Manager Report

Meetings, Presentations, and Correspondence

The Agency sent a comment letter to the State Water Resources Control Board on the Sacramento River/Delta Draft Staff Report for the Bay Delta Report. A comment letter was also sent on the Final Delta Conveyance Project EIR. The Agency sent a letter DWR with our 1st installment of our annual Contract payment. Copies of the letters are included in the board packet.

Financial Report

Cindy presented the current financial statements and answered questions regarding fiscal transactions.

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

Rick Johnston of PBJ, Inc. presented the Biennial Audit Report for the Fiscal Years 2021-2022 and 2022-2023. He gave a clean opinion of the audit and provided highlights contained the report's notes section.

Engineering Report

Water Quality

Anne Williams provided an update on current hydrologic and water quality conditions. The water quality at all seven monitoring stations is within the Contract's salinity criteria. In terms of hydrology, the northern Sierra 8-River Index is at 86% of average for this time of year and it is still early on in our wet season.

The northern reservoir storage is also looking good: Shasta at 82% of capacity and 123% of historical average; Oroville at 76% of capacity and 130% of historical average; and Folsom at 57% and 123% respectively. The reservoirs are being operated for flood control this time of year. All three reservoirs are at or near the top of conservation for this time of year. Lake Oroville currently sits at about 2.7 million-acre-feet of storage.

As of April 1st, the northern Sierra snow water equivalent average is 51% and that is 79% of normal. This snowpack is below average due to the warmer storms that we have seen recently.

The DCC gates remain closed for the winter to meet fishery requirements. The Delta conditions are in excess with total Delta inflow at 63,300 cfs.

Legal Report

Bay-Delta Water Quality Plan Update

Austin Cho summarized the issues in the Draft Staff report. There is not sufficient analysis of long-term impacts due to climate change, the modeling does not seem to quantify any of the In-Delta use, and it contains contradictory language on in-Delta water use. The Agency's comment letter raised these issues along with requesting the 1981 Contract be added as a baseline when making allocation decisions.

Melinda asked why the comment to extend the August 15th deadline was removed from the letter and suggested this comment be put back into the next comment letter. Austin said the Agency could submit a supplemental comment letter. The next step is that SWRCB will review all comments and release another draft. We will likely see the second draft by mid-2024 and the final draft by the end of 2024. The voluntary agreements are still up for consideration as part of this update.

Delta Conveyance Project and EIR Certification Update

Austin reported that the final EIR for the DCP was certified. Melinda entered into a tolling agreement with DWR on behalf of NDWA for this project and as of right now we have until March 26th to file a CEQA lawsuit. This tolling agreement will allow the ad-hoc committee and staff to discuss settlement terms with DWR for the DCP.

Succession Planning

Director Slater updated the board on the status of succession planning for Melinda's replacement upon her retirement. Before we can develop a compensation package, the joint committee needs to determine if NDWA will continue participating in CalPERS. To do this, NDWA will need to have CalPERS run an actuarial to determine the cost of exiting CalPERS. Once that information is available, then the Board can make an informed decision on the retirement package that will be offered. The Board will be having a Special Board meeting on February 13th at 3:30 pm to discuss the resolution required by CalPERS to run the actuarial.

Delta Activities Report

Delta Protection Commission

The DPC finalized its National Heritage Area Management Plan and released it for public review. A new Delta Leadership group has started its program of meeting monthly.

SWRCB/Delta Watermaster

Jay Ziegler reported they are closing out water year 2022 reporting. There are about 50 water rights holders that have not reported. Notices of violations will be sent soon. The 2023 water year reporting has been delayed from February 1st to April 1st. He is hoping to get 90% participation in the Delta Alternative Compliance Program.

CVP/SWP, Delta Conveyance Project and Delta Habitat Projects Update

Nothing new to report on these issues.

Delta Conservancy Update

The Conservancy approved a \$750,000 grant to Suisun City, but now the Prop. 1E funding is exhausted.

Delta Stewardship Council

DWR presented an annual report to the Council on the state funds spent on Delta levees in accordance with the Delta Levee Investment Strategy regulations. It contains four years of levee funding information.

Announcements

February 13th at 3:30 p.m. there will be a NDWA Special Board meeting to consider a CalPERS resolution. All other announcements were included on the agenda.

Public Comment

There was no public comment provided.

Adjournment

Chairman Mello adjourned the meeting at 12:42 p.m.

Respectfully submitted by Cindy Tiffany, Assistant Manager