

**North Delta Water Agency**  
**Board of Directors Meeting**  
14120 Grand Ave, Walnut Grove, CA 95690  
Wednesday, March 3, 2010 at 9:30 a.m.

## **Minutes**

### **Call to Order**

Chair Henry Kuechler called the regularly scheduled meeting to order at 9:43 a.m. on Wednesday, March 3, 2010. A quorum was determined at that time. Those present:

#### Directors

Neil Hamilton, Division 5  
Henry Kuechler, Division 3  
Steve Mello, Division 1  
Ken Ruzich, Division 4  
Carel van Loben Sels, Division 2

#### Staff

Gary Kienlen, MBK Engineers  
Sara Harper, MBK Engineers  
Kevin O'Brien, Downey Brand  
Margaret Sorensen  
Melinda Terry

#### Others

Meda Bennefield, Maine Prairie WD  
Mike Hardesty, RD 2068

### **Approval of the Minutes**

**Motion and second to approve the minutes of the February 2, 2010 Board of Directors meeting. Motion unanimously approved.**

### **Finances**

**Motion and second to approve the financial reports as presented. Motion unanimously approved.**

### **BDCP**

Melinda Terry reported on a recent legal ruling which allowed increased pumping at Tracy, only to be replaced the following week with another legal ruling that reduced the pumping level back down to the previous level in order to protect Delta smelt. Senator Feinstein recently announced her intent to introduce a legislative amendment to apparently relax the Endangered Species Act (ESA) protections, allowing economic hardship to override ESA, in order to allow more water to be allocated to farmers. The Senator has not released the actual legislative language, so the proposal is only conceptual at this point. Environmental organizations on the BDCP Steering committee showed a united front at the last meeting, strenuously objecting to any amendments to the ESA, stating that they would likely resign from the Steering Committee if the Senator pursued this proposal. Senator Feinstein is now indicating that she may drop the proposal if this year's water allocation is increased as a result of recent rain. The environmental organizations submitted comments on BDCP Chapter 3 conservation measures which criticize the scientific accuracy and adequacy of many of the assertions for the conservation measures in the chapter.

Melinda reported that the Steering Committee announced the terrestrial conservation measures and the associated acres at the last meeting. She expressed concerns with the number of acres identified in North Delta. The amount is significant when you combine the aquatic and terrestrial.

She recommended inviting Chuck Hanson from BDCP to come make a presentation regarding combined, total terrestrial/aquatic acres proposed for protection/conversion in the North Delta. She also expressed concern that the terrestrial document does not define "protect", therefore it is unclear whether these acres would be allowed to continue farming operations or not. She also informed them that the only covered activities currently being proposed are for PRE facilities, but that due to the existence of the NDWA Contract, there may be opportunity to add certain facilities in the North Delta if landowners are interested in negotiating.

### **Prop 218 Process**

MBK Engineers are still working on filling in missing parcel information within Yolo County. Gary Kienlen will schedule another commissioners' meeting soon to hopefully finalize the assessment methodology. Kevin O'Brien reported that the agency can include tiers for increasing the rate as long as the ballot is clear on what the maximum allowable assessment amount they are deciding on. The Board appointed Henry Kuechler and Steve Mello to an ad hoc committee that will provide a budget recommendation to the Board at the April meeting.

### **State Water Resources Control Board (SWRCB)**

Downey Brand is preparing a sample letter to send to landowners within the agency explaining the requirement to report water diversions to the SWRCB per last month's recommendation by Director van Loben Sels. The water use diversion reports are due to SWRCB July 1, 2010. The Board discussed the purpose of letter and need to assure it is not providing legal advice or incorrect advice on how and what information is to be submitted. The Board agreed the letter should be limited to only providing factual information regarding the existence of the new law, its penalties, and deadlines that must be met to avoid penalty and to not provide advice on how the diversion reporting should be done. Directors also discussed who these letters would be sent to and how much it would cost. The Board agreed to table the decision until next month's meeting.

Included in the packet was a letter on the Delta flow criteria proceedings that Downey Brand submitted to the SWRCB on behalf of all its clients. Walter Bourez from MBK Engineers may also be submitting additional comments.

### **Legislation**

The agency will be supporting SB 894, which is the Senate local government omnibus bill that includes an amendment sponsored by NDWA clarifying the directors elections.

### **Report on Delta Activities**

The Delta Protection Commission Board had its first meeting as the newly re-constituted smaller board per last year's Delta legislation and approved its Land Use and Resource Management Plan. It has ambitious activities planned for 2010 including requirement to develop a Delta Economic Sustainability Plan per last year's Delta legislation. Linda Fiack also announced her retirement as Executive Director and their subsequent search for her replacement.

The Lower Yolo Bypass Planning Forum met in February and discussed the "LYBPF Lower Conservation Scenarios". Included in the document were specific proposals and projects that the group had not previously discussed. Melinda and Mike Hardesty shared their flood protection concerns with the document and will work with the Forum to make appropriate corrections.

Gary Kienlen, Joe Schofield, Mike Hardesty and Melinda met with National Marine Fisheries Service (NMFS) Delta office staff and discussed the Agency's contract and impacts associated with conservation measures and operations proposed in BDCP. Melinda reported that NMFS staff seemed to be flexible regarding fish restoration projects and therefore did not seem to be set on

any particular measure that must be implemented in order to meet the biological objectives of the Biological Opinions (BOs) for salmon. They said the recommendations of various fish conservation measures outlined in the BOs, were a menu of recommended ideas rather than directives and said they are open to better ways of achieving the goals.

**Engineer's Report**

Gary Kienlen distributed water quality charts and reported that water quality is currently within the contract's criteria.

**Public Comment**

None.

**Adjournment**

The meeting was adjourned at 12:11 p.m. on Wednesday, March 3, 2010.

Respectfully Submitted,  
Margaret Sorensen, Administrative Assistant