

North Delta Water Agency Board of Directors Meeting

14120 Grand Ave, Walnut Grove, CA 95690
Wednesday, October 3, 2012 at 9:30 a.m.

Minutes

Call to Order

Chair Henry Kuechler called the regularly scheduled meeting to order at 9:30 a.m. on Wednesday, October 3, 2012. A quorum was determined at that time. Those present:

Directors

Neil Hamilton, Division 5
Henry Kuechler, Division 3
Steve Mello, Division 1
Topper van Loben Sels, Division 2

Staff

Gary Kienlen, MBK Engineers
Angela Bezzone, MBK Engineers
Joe Schofield, Downey Brand
Margaret Sorensen
Melinda Terry

Absent

Ken Ruzich, Division 4

Others

Bob Webber, RD 999
Mark Wilson, Clarksburg
John Lewallen, Tyler Island

Approval of Minutes

Motion and second to approve the minutes of the June 6, 2012 meeting. Motion unanimously approved.

Finances

The Board reviewed the financial statements and the list of delinquent 2011-12 assessments.

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

Engineer's Report

Gary Kienlen distributed water quality charts and reported that water quality is currently within the contract's criteria. Gary distributed a list of monitoring stations that operate within the North Delta. The stations monitor a variety of water conditions, but could all be used to monitor NDWA contract conditions. He will map out the locations of the all the monitors and distribute it to the Board, but at this point it appears that no new stations will be necessary.

Legal Report

Joe Schofield and Melinda Terry met with DWR Attorney Dave Anderson and Craig Trombly, DWR Chief of Project Water Management to discuss the Fish & Game assessments owed to NDWA pursuant to the 1981 Contract. Mr. Anderson indicated DWR and Fish & Game have verbally agreed to continue the agreement to reduce NDWA's payment to DWR by the amount that Fish & Game owes each year, but must still work out some internal negotiations between the two agencies before signing the new Agreement. Staff will continue to prod DWR about signing the agreement.

The SWRCB is currently updating the Delta Water Quality Plan, so Joe, Gary Kienlen and Melinda met with Dave Anderson requesting that DWR extend the existing water quality MOU between DWR and NDWA to include future water quality changes made by the SWRCB as part of this process.

Joe reviewed the correspondence between NDWA and CalTrans regarding assessments. CalTrans does not believe it owes the assessment and Joe has sent a letter on behalf of the NDWA outlining reasons why the assessment is owed. He informed the Board that there is a one year deadline to file a claim against a state agency. If after filing the claim, no payment is made by CalTrans, NDWA would then be able to file a lawsuit. Downey Brand estimates that filing a lawsuit against a non-paying entity would cost approximately \$10,000. Filing the claim would cost very little and would preserve the agency's right to file a lawsuit, if necessary.

Motion and second to file a claim against delinquent public agencies in order to reserve the right to collect at a later date.

Manager's Report

Melinda has received many responses about the letter NDWA sent to Secretaries Salazar and Laird requesting a benefit-cost analysis of the BDCP. Congressman Garamendi has introduced legislation which among other things, requires a cost-benefit analysis of the BDCP to be completed. The Congressman's office has contacted Melinda to participate in a press release event being held in Walnut Grove. She will do so if schedule permits.

The proposed NDWA Board meeting schedule for 2013 was reviewed. Melinda said the December 2012 Board meeting may be cancelled if there were no pressing issues.

Steve Mello shared a concern about the press release from Governor Brown and the Obama Administration for the BDCP. In the finance paragraph, it states the habitat portion of the project would "mostly be paid by the state." Melinda responded that water export contractors have agreed to pay for construction of new water conveyance (tunnels) and associated mitigation, but not for the extensive habitat restoration projects which the general public is expected to pay.

Melinda shared that she participated on a Delta panel at ACWA's Region 6 & 7 meeting.

Report on Delta Activities

A revised BDCP project was officially announced in July by Governor Brown and U.S. Interior Secretary Salazar. Instead of 5 intakes and 15,000 csf, the project will be 3 intakes and 9,000 csf. The pipeline tunnels are still sized for 15,000 csf. Also, it will be gravity feed rather than intermediary pumping and the forebay has tentatively moved to Hood area. It was also announced that the facilities will be constructed without specific water delivery operating criteria. A Decision Tree process to guide future water operations is being discussed instead, but has not yet been made available to the public for review. At the last Cooperating Agencies meeting, Melinda asked for the impacts of each Conservation Measure in the project and the planned mitigation for each impact to be given to the group before the draft is released to the public. She did not get an answer whether that will occur. She also shared her concern about the process becoming less transparent since the BDCP Steering Committee disbanded. Several of the BDCP work groups that replaced the Steering Committee have not met in almost a year and important questions such as does the tunnel harm fish? are not being answered. The Board discussed legislation that has been introduced to exempt certain projects (BDCP and Bullet Train) from the CEQA process. That legislation will be brought back next year. At the Cooperating Agency meeting, a discussion was held about a Good Neighbor Policy developed by DWR to keep as much Ag working land as possible in the BDCP habitat areas, but the policy will not be included in the BDCP and will therefore not be enforceable permit conditions.

The Delta Stewardship Council has a new Executive Officer, Chris Knopp. The EIR is being re-circulated for public review because there have been so many changes in the draft versions. Portions of the Plan will need to go through OAL review as well. The goal is to finish all of the review by June 2013.

Jonas Minton organized a meeting of broad Delta stakeholders to discuss and consider supporting near term action projects in the Delta. The group has created a list of projects and drafted a letter for all of the participants to sign stating that those projects should be given immediate consideration. Melinda will sign the letter on behalf of NDWA.

The SWRCB held workshops on the Bay-Delta Water Quality Control plan. Gary Kienlen stated that MBK has been attending and participating on behalf of several clients and will share anything related to NDWA.

The Delta Protection Commission has approved the Yolo County General Plan and the Sacramento County General Plan. The Commission also approved the National Heritage Area and expects Congress to make a decision on that issue in December.

No new imminent domain parcels have been brought to the CA Water Commission and no drilling has occurred on the designated parcels. Legal issues raised by Delta landowners regarding the eminent domain actions are still pending in court. Meanwhile, DWR has been denied the right to pursue the drilling and other exploratory activities by the court until remaining legal issues are resolved.

Melinda informed the board that the U.S. EPA has released a Sacramento-San Joaquin Delta Action Plan, but she has not been able to review it.

Public Comment

None

Adjournment

The meeting was adjourned at 11:13 a.m. on Wednesday, October 3, 2012.

Respectfully Submitted,
Margaret Sorensen, Administrative Assistant