

North Delta Water Agency Board of Directors Meeting

14120 Grand Ave, Walnut Grove, CA 95690
Wednesday, October 5, 2011 at 9:30 a.m.

Minutes

Call to Order

Chair Henry Kuechler called the regularly scheduled meeting to order at 9:36 a.m. on Wednesday, October 5, 2011. 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

Others

Mark Wilson, RD 999
Brett Baker
Russell van Loben Sels, Glide-In Ranch
Belan Wagner, WKBK&Y
John Lewallen

Staff

Gary Kienlen, MBK Engineers
Steve Saxton, Downey Brand
Margaret Sorensen
Melinda Terry

Approval of Minutes

Motion and second to approve the minutes of the August 3, 2011 meeting. Motion unanimously approved.

Financial Reports

Reclassification Appeals

The Board has received Appeal requests from two landowners of assessment reclassification decisions rendered by the Manager:

- 1) Hamilton Bros. for reclassification as Isolated Non-Irrigated Lands for four parcels in Solono County; and
- 2) Glide-In Ranch for reclassification as Riparian for seven parcels in Yolo County.

Neil Hamilton informed the Board that he has a conflict of interest on the Hamilton property appeal and Topper van Loben Sels informed the Board that he has a conflict of interest on the Glide-In Ranch property appeal. Both indicated that they would abstain from any vote on their respective conflicts. Melinda Terry reviewed the history and process of how the petitions are

handled. She also reviewed each of the two landowners' petitions to date, including the evidence available to the Manager at the time of her decision.

Burrows Hamilton brought an additional document for the Board to review. The Board asked several questions regarding the use of the land, but reminded landowners that pursuant to the Engineer's Report, the classification and special benefits afforded to parcels is based on water rights applicable to each parcel, not the purpose for which the lands are used or not used. Or put another way, the issue is whether the parcel has access to water from surface channels, not whether landowner is actually irrigating or otherwise using water. The Board decided to table the decision until the next regular board meeting on October 5, 2011 so that the Board and the Agency's lawyer and engineer can review the additional document. Burrows Hamilton will provide copies of the additional document to Melinda to distribute prior to the next meeting.

The Board heard a presentation by Glide-In Ranch landowners and their attorney Balen Wagner to reclassify seven parcels as riparian. The landowner and its legal representative presented the Board with 120-pages of additional documents at the meeting for their consideration. Although the Board had not yet reviewed the 120-pages of documents they did listen to information offered by Mr. Wagner regarding property elevation, natural waterways including Babel Slough, swamp and overflow lands, and a deed from the Port of Sacramento referencing water rights. The Board decided to table this decision to the October 5, 2011 board meeting in order to allow the Board and the Agency's legal counsel to review the additional documents provided at the meeting.

Report on Delta Activities

The BDCP held a public meeting on June 15th and Manager provided extensive comments, but there was not significant new information presented by the BDCP. The next public meeting is August 11th and workgroups on Governance, Biological Goals, Yolo Bypass, and Management Team meetings will continue meeting in between.

Director Mello asked Steve Saxton about whether legal action can be taken against the SWP pursuant to Article 6 of the NDWA Contract for Georgiana Slough project, an underwater berm, now causing erosion problems that require rocking. Mr. Saxton said the issue would need to be reviewed regarding documentation on the project, so would need to discuss further once more information is provided.

The Delta Stewardship Council released its 5th draft yesterday. The Delta Protection Commission is working on an Economic Sustainability Plan (ESP) which will be incorporated into the DSC plan. The Manager has met with DSC consultants working on the ESP and given input on behalf of the Agency. Steve Mello suggested that NDWA may need to complete its own economic sustainability report to refute incorrect reports from other agencies.

The Manager spoke with Delta Conservancy consultants regarding the importance of the Conservancy focusing public outreach on economic projects in the Delta.

The California Water Commission met to discuss procedures for the condemnation of portions of approximately 150 parcels in the Delta that DWR could not reach agreement with landowners for temporary entry permits to do drilling and environmental survey work to support the development of EIR/EIS for the BDCP. Melinda attended the CWC's meeting and voiced several concerns on process and compliance with eminent domain laws. The Commission staff requested she send in the Agency's concerns in writing. The NDWA letter to the CWC on this issue was included in the Board packets.

Manager's Report**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 11:48 p.m. on Wednesday, October 5, 2011.

Respectfully Submitted,
Margaret Sorensen, Administrative Assistant