

Minutes of Wednesday, May 4, 2022

North Delta Water Agency Board of Directors Meeting
3050 Beacon Blvd, Ste. 203, West Sacramento, CA /Teleconference

Call to Order

Chairman Mello called the board of directors meeting to order at 9:31 a.m. on Wednesday, May 4, 2022. 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
Anne Williams, MBK Engineers
Yuen Lenh, MBK Engineers
Austin Cho, Downey Brand

Others

Alex Wilson
Erik Vink
Kristen Pringle
Lindsay Kammeier
Mark Wilson
Michael George
Mike Hardesty

Closed Session

The Board convened Closed Session through teleconference at 9:33 a.m. to discuss initiation of litigation pursuant to paragraph (4) of subdivision (d) of Government Code Section 54956.9 (one case).

Closed Session Report

The Board reconvened in open session at 9:58 a.m. Chairman Mello announced that the board took no reportable action during closed session.

Approval of the Minutes

MOTION by Director Slater to approve the April 6, 2022 board meeting minutes as presented. The motion was seconded by Director M. van Loben Sels and unanimously approved by a voice vote. (AYES: Mello, J. van Loben Sels, M. van Loben Sels and Slater ABSTAIN: Kuechler)

Approval of Resolution

To continue to hold remote meetings, the board needs to approve another resolution authorizing the extension of the Modified Brown Act to allow remote meetings during the COVID pandemic.

MOTION by Director Kuechler to approve Resolution No. 2022-003 to extend the ability to hold remote board meetings. Seconded by Director Slater and unanimously approved by voice vote. (AYES: Mello, Kuechler, J. van Loben Sels, M. van Loben Sels, and Slater.)

Engineering Report

Water Quality and Hydrologic Update

Anne Williams reported water quality is currently within the Contract criteria. She noted that the May 1 Bulletin 120 forecast has not been released yet but to expect that it will be wetter than the April 1 Bulletin 120 forecast due to the late rains that were seen in April. The May 1 Bulletin 120 forecast is the final forecast and will be used to set the NDWA Contract criteria through January of 2023. She shared graphs, including comparison of the Contract criteria at the Three Mile Slough monitoring location and the current D-1641

criteria. Currently the D1641 standard is located at Emmaton, but once the projects being releases of stored water it allows them to move this standard to Three Mile Slough, per the most recent Temporary Urgency Change Petition (TUCP), approved by the SWRCB.

The current reservoir storage levels are:

- Shasta 40% capacity;
- Oroville 55% capacity;
- Folsom 80% capacity.

Due to the most recent rains Oroville Reservoir jumped from 48% capacity to 55% capacity, and Folsom is now at 80% capacity, 107% of its historical average for the date. Shasta Reservoir saw very little additional inflow due to the weather patterns of the most recent storms. Both Folsom and Oroville have been gaining in storage (inflow is greater than releases). Shasta is no longer gaining in storage and they will likely begin to increase releases in the next few weeks.

The Delta is currently in balanced conditions. Delta inflow is 8,800 cfs and Delta exports are 1,600 cfs. The Delta Cross Channel (DCC) gates are still closed and will likely be closed until Memorial Day Weekend. As of now, the plan is to open gates on the weekend for boat traffic.

Drought Activities Report

Review Potential Implementation of Contract Art. 4

The three criteria that are required for the drought emergency provision of the 1981 Contract (Article 4) to be triggered are in the table below. Criteria 1 and 3 have already been met, but criteria 2 has not – yet.

Criteria (all must occur)	Current Status
1. Four-River Basin Index is less than an average of 9 MAF in two consecutive years	2021 = 6.4 MAF ² 2022 = 10.8 MAF (Apr 26 Bulletin 120 Update 50%) Two-Year Average = 8.6 MAF*
2. SWRCB emergency regulation is in effect and maintains water quality different from contract criteria	TUCP moves Emmaton salinity criteria (2.78 mS/cm) to Three Mile Slough; NDWA Contract criteria likely <2.78 mS/cm at Three Mile Slough for May-June
3. SWP Ag < 50%, or all SWP annual entitlements are reduced by at least 15%	SWP allocations at 5% as of March 18th

* Subject to change per updated May 1 Bulletin 120 forecast

Anne reported that she and Gary Kienlen have a meeting scheduled this Friday with the State Water Project operations staff to discuss the Article 4 drought emergency criteria and the likelihood of it being triggered soon. Melinda added that if the drought emergency provision is triggered, then the special claims process is developed and administered by DWR. It would likely be similar to the previous claims process implemented in

2015. Per the NDWA Contract, the State shall compensate North Delta water users for loss of net income for each acre either planted to a more salt tolerant crop, not planted to any crop in the current year, or which had a reduced yield due to drought emergency (based on average income for 3 out of the last 5 years). She also announced the Agency is having a Special Board Meeting on May 26th via teleconference at 1:00 p.m. to provide a more detailed informational drought briefing.

Delta Drought Response Pilot Program

Michael George reported that all grant agreements for the pilot program have been signed. The oversight committee has been meeting weekly and has begun inspections. The State is already considering implementing program again in September/October of 2022. They need water conservation data from this year's program to determine how much they will scale up the program next year, which could include additional funding from surplus in the State Budget.

Michael also reported that the Division of Water Rights is hosting a workshop on May 12th regarding the drought curtailment methodology refinements and how to potentially manage riparian water rights within this methodology.

Legal Report

Delta Water Quality Control Plan Update

Austin Cho reported that AB 2639 has been moving through the State Legislature, which would set a December 31, 2023 deadline for the adoption of the Sacramento River flow standards and implementation of the already adopted San Joaquin standards by December 31, 2023. If the State Water Resources Control Board does not complete these actions by the deadline, then the Board would be prohibited from issuing any new water rights licenses.

Reimbursement Agreement for Delta Drought Barriers

Austin reported he is still working with DWR on developing the agreement and hopes to have a draft to respond to soon.

Manager Report

Correspondence, meetings, and presentations

Melinda reported that both she and Director Mello participated as speakers on two separate panels for a Salinity Management workshop hosted by the Delta Science Program. She also submitted corrections documents that were distributed prior to the workshop that incorrectly described the NDWA Contract. Michael George reported that the Delta Science Program is working on making the corrections to several errors that were identified by participants. You can watch each of the workshop panels on the Delta Stewardships Council's YouTube Channel.

A meeting with DWR was held to discuss compliance with Contract salinity criteria and improving communication during droughts. Director Nemeth was unable to attend, but Chief Deputy Director Cindy Messer as well as Ted Craddock, John Leahigh and their legal counsel participated. A follow-up meeting with John Leahigh and his SWP staff to discuss potential implementation of the 1981 Contract drought emergency provision (Article 4) is scheduled this Friday.

Melinda repeated the announcement that an online Special Board Meeting is scheduled for 1:00 p.m. on May 26th to provide and informational drought briefing.

Delta Activities Report

SWRCB/Delta Water Master

Michael George said the April storms delayed implementation of Term-91 curtailments until late May or early June.

The Delta Alternative Compliance Plan (ACP) is in the implementation stage. Water users should be able to enroll online by August or September 2022. The cost to participate is currently about \$1.40/acre, but will likely be reduced in the future. The next phase is to compare diversion measurement data against OpenET data.

Michael reported he expects to complete his investigation by end of May in response to a complaint about Delta diversions filed by Friant Water Authority.

The recent change in water use reporting dates has helped eliminate duplicate reporting. His office is considering current economic and drought conditions when analyzing the data. Melinda asked about enforcement against those who did not submit their water use reports by the deadline. Michael said compliance is very good, with a significant downward trend on the number of outstanding delinquencies. If by May 2nd his office has not been able to contact delinquent water users, then he will consider issuing fines.

In the South Delta, there is an expectation that salinity objectives will be exceeded. Right now, his decision is to not be enforcing Delta water quality permit conditions against the SWP/CVP projects at this time and will discuss with the South Delta Water Agency.

Delta Conservancy

Nothing additional to report.

Delta Protection Commission

Erik Vink reported the Commission is proceeding with filling his position. Candidate interviews will begin on May 19th during closed session. At the May 19th meeting, the Commission will also appoint a North Delta area farmer to serve on the Delta Protection Advisory Committee (DPAC).

Delta Stewardship Council

Melinda reported that the DSC as started their Delta Adapts are going to be having upcoming workgroups. Melinda sits on the ag and flood workgroups and she will report on those in the future

Announcements

Special Board Meeting scheduled for 1:00 p.m. on May 26th to provide an informational drought briefing.

Public Comment

Alex Wilson thanked the board for an informative meeting.

Adjournment

Chairman Mello adjourned the meeting at 11:51 a.m.

Respectfully submitted by Cindy Tiffany, Assistant Manager.