

Minutes of Wednesday, February 1, 2023
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 1, 2023. 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
Anne Williams, MBK Engineers
Yuen Lenh, MBK Engineers
Austin Cho, Downey Brand

Others

Bruce Blodgett
Lou Biagioni
Lisa Crowley
Lindsay Kammeier

Closed Session

The board adjourned into closed session at 9:34 a.m. with legal counsel to discuss: ANTICIPATED LITIGATION:

1. Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Government Code Section 54956.9 (two potential cases)

Closed Session Report

The Board reconvened in open session at 10:30 a.m. and Chairman Mello announced that the board took no reportable action during closed session.

Approval of the Minutes

The minutes for the December 7, 2022 Board Meeting were presented. No additions or corrections were made.

MOTION by Director Kuechler to approve the December 7, 2022 Board Meeting minutes as presented. Seconded by Director Slater and unanimously approved by a roll call vote. (AYES: Mello, Kuechler, Slater, J. van Loben Sels and M. van Loben Sels)

Approval of Resolution

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

MOTION by Director Kuechler to approve Resolution No. 2023-01 to extend the ability to hold remote board meetings. Seconded by Director Slater 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. At this time, the board also appoints 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 voice vote. (AYES: Mello, Kuechler, J. van Loben Sels, M. van Loben Sels, and Slater.)

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

Financial Report

Cindy Tiffany reported she received a presentation by CalPERS on the CEPPT, which is a pension prefunding trust that is administered by CalPERS. She recommended the board appoint an ad-hoc committee to analyze this option more closely and then make a recommendation to the entire board. Director Kuechler and Director J. van Loben Sels volunteered to be on the ad-hoc committee. Cindy will schedule another meeting with CalPERS to arrange a presentation that will allow the opportunity to ask questions specific to NDWA.

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

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

Engineering Report

Water Quality

Anne Williams provided an update on current hydrologic and water quality conditions. We are currently at 137% of average for precipitation this water year, with snow water content at 208% of average statewide. Oroville is currently at 2.29 million-acre feet of water and is 112% of historical average storage level for the date. Folsom is at 112 % of the historical average and Shasta is at 87%. Delta inflow is currently at 43,900 cfs. The Delta Cross Channel Gates are closed until May for salmon migration. Term 91 is no longer in effect.

Currently water quality at all seven monitoring stations are within the Contract's salinity criteria. In addition, the 4-River Basin Index is forecasted to be higher than the 10.6 MAF registered in the 2022 water year, which means the 2-year average will not be low enough to trigger that condition needed for a drought emergency pursuant to the 1981 Contract this year.

Scientific Basis Report Supplement in Support of Voluntary Agreements for Bay-Delta Plan Update.

Anne reported that NDWA requested an extension on the February 8th deadline to comment on the Scientific Basis Report Supplement in Support of Voluntary Agreements for the Bay-Delta Plan Update, but is also working on drafting a NDWA comment letter. This report is a supplement to the original SED intended to cover the voluntary agreements as an alternative to the SED from a CEQA standpoint.

Legal Report

Delta Water Quality Plan Update.

Kevin O'Brien reported that there has not been much movement on the Delta Water Quality Plan Update, beyond the release of the Supplement in Support of Voluntary Agreements, described above.

End of Brown Act remote meeting modifications

Austin Cho announced that the State of Emergency pertaining to COVID-19 is ending on February 28, 2023 and reviewed provisions in recently adopted AB 2449 to extend some public meeting allowances for remote attendance. This means that this is the last meeting under the rules of AB 361, which allowed board members to attend remotely under a health state of emergency. As a result, all public agencies will revert back to normal Brown Act rules for public meetings in terms of attendance by directors, with limited emergency situations authorized under recent legislation. As of March 1, 2023, NDWA Board Members need to attend in person or provide their physical location and access to the public at that location if they are attending remotely.

Manager Report

Meetings, Presentations, and Correspondence

Melinda Terry reported the Agency submitted a comment letter in December on the Draft EIR for the Delta Conveyance Project (DCP) and a letter requesting an extension on the Supplement for the Voluntary Agreements. We are currently working on developing comments for the Draft Environmental Impact Statement (EIS) for the DCP, which is due March 16, 2023.

Also included in the board packet are letters exchanged between NDWA and DWR regarding the exceedances of the salinity criteria in the 1981 contract that occurred in 2022. In addition, the Agency has engaged in meetings with DWR on these exceedances and will continue to do so in order to determine a resolution.

Resolution on Delta Conveyance Project

Melinda presented Resolution No. 2023-02 regarding the Delta Conveyance Project (DCP). This is in response to a request last year by the Delta Counties Coalition (DCC) for Delta organizations to consider adopting resolutions on the DCP. Melinda and Austin revised the DCC's template resolution to be constructive, collaborative, and consistent with the 1981 Contract. Director Slater requested additional language be added to include reference to Delta as Place and Co-Equal Goals. Melinda will work with Austin to modify in accordance with suggestion and bring back in April.

Resolution Regarding Michael George

Melinda presented Resolution No. 2023-03 to honor Michael George for his service as the Delta Watermaster.

MOTION by Director Mello to approve Resolution No. 2023-03 honoring Michael George for his tenure as the Delta Watermaster. Seconded by Director Kuechler and unanimously approved by a roll call vote. (AYES: Mello, Kuechler, Slater, J. van Loben Sels and M. van Loben Sels)

Drought Activities

Special Claims Procedure Deadline

Melinda reminded everyone that the deadline is April 1st to file a Special Claim with DWR in accordance with the 1981 Contract's emergency drought provision. Melinda will send reminders to Reclamation Districts.

Drought Barriers

Melinda confirmed with Jacob McQuirk with DWR, that that due to current rain events, the North Delta emergency drought barriers will NOT be installed in 2023. DWR will still proceed with their permit process, in the event the barriers may be needed in 2024. No decision has been made yet on whether DWR will install a barrier at False River this year.

Delta Drought Response Pilot Program

Lindsay Kammeier announced that regardless of recent rain, the Delta Drought Response Program will still be implemented in 2023. They are seeking input on the results from the 2022 program. On February 8th that report will go to the Delta Conservancy for final publication.

2022 Temporary Urgency Change Petition (TUCP)

Melinda reported DWR and USBR have withdrawn the 2022 TUCP and Jacob McQuirk said It is unlikely there will be a new TUCP submitted for 2023.

Delta Activities Report

SWRCB/Delta Watermaster

Lindsay Kammeier reported there is no announcement on the selection of a new Delta Watermaster, but the Delta Residence survey will be mailed this week to the entire primary zone and a portion of the secondary zone. Currently all curtailments in the Delta have been suspended based on hydrology, but no word if the drought emergency will be lifted soon. The Office of Administrative Law approved new regulations in January governing water rights reporting dates and change of ownership, and there will be another public workshop on the curtailment methodology in March. She confirmed today, February 1st, is the reporting deadline for water rights statements and April 1st is the deadline to submit reports on water rights licenses and permits.

SWP/CVP

DWR announced SWP contract allocations will be increased from 5% to 30%.

Delta Conveyance Activities, Delta Conservancy Activities, and Delta Habitat Projects

Nothing new to report on these issues.

Delta Protection Commission

The DPC continues to work on a National Heritage Area Management Plan and has announced members of their new Leadership Class.

Delta Stewardship Council

Director Slater reported that he attended a recent Delta tour with a new DSC member and 6 Council staff traveling from Clarksburg to Vernalis.

Announcements

April 5th is the next North Delta Water Agency Board Meeting.

Public Comment

There was no public comment.

Adjournment

Chairman Mello adjourned the meeting at 12:21 p.m.

Respectfully submitted by Cindy Tiffany, Assistant Manager