

Minutes of Wednesday, October 5, 2022

North Delta Water Agency Board of Directors Meeting

In-Person Meeting at 3050 Beacon Blvd Ste 203, West Sacramento, CA and via Teleconference

Call to Order

Chairman Mello called the board of directors meeting to order at 9:31 a.m. on Wednesday, October 5, 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

Cindy Tiffany, Assistant Manager
Austin Cho, Downey Brand
Gary Kienlen, MBK Engineers
Yuen Lenh, MBK Engineers

Others

Bruce Blodgett
Harvey Correia
Gilbert Cosio
James Crowder

Lisa Crowley
Matt Frank
Michael George
Lindsay Kammeier

Closed Session

The board adjourned into closed session at 9:31 a.m. with legal counsel to discuss the following item:

1. Litigation regarding WaterFix Environmental Impact Report under CEQA. (Gov. Code 54956.9(d)(4))

The board reconvened in open session at 9: 55 a.m. and Chairman Mello announced that the Board authorized Downey Brand and MBK Engineers to begin working on the comment letter for the Draft EIR of the Delta Conveyance Project.

Approval of the Minutes

Minutes were presented for two Special Board Meetings on August 24, 2022 and September 9, 2022, and a regular Board Meeting on September 7, 2022. No additions or corrections were made to any of the minutes.

MOTION by Director Kuechler to approve the minutes as presented for board meetings on: August 24, 2022; September 7, 2022; and September 9, 2022. Seconded by Director Mello and unanimously approved by a voice vote. (AYES: Mello, Kuechler, J. van Loben Sels, M. van Loben Sels ABSTAIN: Slater)

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. 2022-010 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)

Financial Report

Cindy Tiffany presented current financial statements. She noted the Agency is over budget in engineering costs for developing property assessments because there is a much larger number of parcels due to over 200 parcel splits in Yolo County and Solano County changed their file requirements.

MOTION by Director Slater to accept the Financial Reports as presented. Seconded by Director Mark van Loben Sels 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 Conditions Update

Anne Williams reported that as of September 25th the Contract salinity criteria at Three Mile Slough monitoring station is being exceeded. The SWP decreased exports to improve the water quality and the U.S. Bureau of Reclamation shut the gates on October 3rd, but the salinity is still in exceedance of criteria. Current Delta inflow is at 8,700 cfs. Curtailment of water rights was lifted in the Sacramento River watershed. Reservoir storage conditions are currently: Shasta 1.51 MAF; Oroville 1.23 MAF; and Folsom 342 MAF.

DWR provided a drought update to the SWRCB and disclosed it is planning for a third year of drought in 2023 due to La Nina. This will mean very low initial allocations for SWP contracts and likely the same for the CVP contractors. There is also a potential for the extension of the interim operations plan.

Drought Activities

Drought Barriers

Austin Cho reported we still have not received a draft MOU from DWR for reimbursing NDWA for costs associated with installation of drought barriers. Gilbert Cosio reported that DWR has been working with local Reclamation Districts and individual land owners in preparation of the barriers for next year.

Special Claims Process

DWR finalized the Special Claims Process and all the forms for submitting a claim are posted on our website, or you can contact our office and we can provide you with the instructions and necessary forms.

Legal Report

Adopt Resolution Approving Policy on Revenue Reserve Amount

Austin Cho presented a Resolution on the Reserve Fund Policy to the board that proposes to increase the Agency's reserve account to a maximum of \$6 million. The resolution is recommended by the ad hoc committee. After discussion of the use of funds section, the Board requested that additional description be included in the use of funds portion of the policy.

MOTION by Director Kuechler to approve Resolution number 2022-11 and the Reserve Policy with additional wording included under Use of Funds. Seconded by Director Mark van Loben Sels. (AYES: Mello, Kuechler, Slater, J. van Loben Sels, and M. van Loben Sels)

Delta Conveyance Project

Downey Brand and MBK will be working on developing NDWA comments for the Draft EIR of the Delta Conveyance Project, which are due December 16, 2022. Austin provided a brief description of the project as currently proposed, including design and location changes. The modeling used for effects analysis only uses

monthly averages, so MBK will need to investigate their data further regarding compliance with the 1981 Contract 14-day average criteria. Director Mello commented there is a huge impact on water surface levels, which is a big concern to raise in the comment letter.

Delta Diversion Complaint

Michael George reported that his office completed their investigation in June of Friant Water Authority complaint asserting illegal diversions in the Delta. The results of the investigation were the Delta Watermaster could not determine if there was unlawful diversion in the Delta, so no enforcement is required. He wrote a summary response of his findings and distributed to three Delta Water Agencies for comment. He has since revised the summary document and distributed the second draft for final input.

Water Right Decision

Austin reported that a ruling on curtailments recently came out of the 6th Court of Appeals. The case involved the enforcement of curtailment orders issued by the State Water Resources Control Board (SWRCB) under section 1042 on pre-1914 water rights in 2015. The court concluded that SWRCB could not curtail water rights under section 1042, but can curtail pursuant to their emergency regulation powers, so it was a half of a victory for the plaintiffs.

Manager Report

Report on Meetings, Presentations, and Correspondence

Melinda Terry was absent, but she provided written manager reports to the Board. Cindy Tiffany said Melinda recently participated on a panel with Michael George, DWR Director Karla Nemeth, and DSC Lead Scientist Laurel Larsen at the Municipal Water District of Orange County Water Summit. Michael reported the Summit was attended by around 450 people.

Engineering Assistance

Gilbert Cosio reported that he approached the Delta Stewardship Council to participate in the Delta Adapts process. They have agreed to use his expertise and he will coordinate with NDWA and other local agencies and help the DSC coordinate there focus groups. Melinda authorized funding his time to participate approximately 1-2 hours monthly per agency.

Legislative Report

Melinda was unavailable to give a legislative report, but a written report on bills proposing to modify statutes governing public meeting requirements was included in the board packet. Proposed changes include allowing public agency board members to participate remotely in official public meetings, under limited circumstances specified in the legislation.

Delta Activities Report

Delta Protection Commission

Bruce Blodgett announced that on November 3rd the Commission will have a Forum on the Delta Heritage Area.

Delta Stewardship Council

The Delta Levee Investment Strategy Rulemaking is open for public comments through November 16, 2022. A hearing on the proposed regulations is scheduled for November 17, 2022.

SWRCB/Delta Watermaster

Michael reported the Delta Dry Year Response Program ended for 2022 participation. Data for 2022 activities has been collected, but results will not be available for another month. Lindsay Kammeier provided some examples of the data analyzed and water savings being calculated. Once all data is summarized, it will be made available to everyone online. The 2023 Program will be launched by the Delta Conservancy on Monday with a virtual meeting scheduled tomorrow to review the details of program ready for implementation. Bids will be due October 18th by 5pm.

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

No additional information to report.

Announcements

Oct 27/28 – Delta Stewardship Council meeting, 9:00 a.m.

Nov 17 – Delta Protection Commission meeting, 5:00 p.m.

Dec 7 – NDWA Board meeting, 3050 Beacon Blvd, Ste. 203, W. Sacramento & Virtual, 9:30 a.m.

Public Comments

No public comments provided.

Adjournment

Chairman Mello adjourned the meeting at 11:57 a.m.

Respectfully submitted by Cindy Tiffany, Assistant Manager