

Minutes of Wednesday, December 1, 2021
North Delta Water Agency Board of Directors Meeting
Remote Meeting Held via Teleconference

Call to Order

Chairman Mello called the board of directors meeting to order at 9:31 a.m. on Wednesday, December 1, 2021. 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
Gary Kienlen, MBK Engineers
Anne Williams, MBK Engineers
Sam Bivens, Downey Brand

Others

Michael George
Erik Vink
Lou Biagioni
Harvey Correia
Lindsey Kammeier
Matt Frank

Appointment of Directors

Cindy Tiffany reported there was only one candidate for each Division, therefore in accordance with local election law, the counties have appointed the following Directors: Sacramento County – Div. 1, Steven Mello; Solano County – Div. 3, Henry N. Kuechler IV; and Yolo County – Div. 5, Thomas Slater. She disclosed that all three directors already had their Oath of Office administered and each will be serving a 4-year term ending in December of 2025.

Approval of the Minutes

Anne Williams made two corrections to the November 10, 2021, Minutes. The first was a spelling error on page 1 and the second correction was to the storage level at Oroville Reservoir, which should be 1.009-million-acre feet.

MOTION by Director Kuechler to approve the November 10, 2021, minutes as amended. Seconded by Director Slater and unanimously approved by a roll call vote. (AYES: Mello, Kuechler, J. van Loben Sels, M. van Loben Sels, and Slater)

Financial Report

Cindy Tiffany presented the current financial statements and answered questions regarding transactions, including confirming the reserve limit is set at \$2 million, which we have currently met.

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

Cindy also disclosed the delinquent assessments for 2020-21 Direct Bills total \$12,353.34, with the largest delinquent assessments are for Parks and Recreation (\$7,291.52) and Cal Trans (\$3,017.10). She has tracked down a new contact for the Dept. of Parks and Recreation and was able to send the invoice to the correct department for payment. Sam Bivens of Downey Brand provided an update on legal options for CalTrans which has failed to respond to multiple requests for payment. The Agency previously filed a State Claim for past amounts owed, but that did not incentivize them to pay. He will attempt to contact their legal counsel to see if a settlement can be negotiated, but recommends against a lawsuit because it would cost the Agency more

than the amount owed. Cindy will continue to pursue collection on all other delinquent accounts.

Manager Report

Report on Meetings, Presentations, and Correspondence

Melinda reminded the board that the Agency must adopt a resolution every 30 days to authorize NDWA to hold remote teleconference meetings based on the continuing State of Emergency that still exists due to COVID-19.

MOTION by Director Kuechler to adopt Resolution 2021-07. The motion was seconded by Director Slater and unanimously approved by a voice vote. (AYES: Mello, Kuechler, J. van Loben Sels, M. van Loben Sels and Slater)

Melinda recommends the board meetings in 2022 return to an every-other-month schedule beginning in February. The schedule was included in the board packet and Cindy will email calendar reminders for those dates.

The Agency still has not received a written response from DWR to the letter NDWA sent in November 2021 requesting DWR to provide a written list of topics before scheduling a meeting to discuss Article 9 of the Contract as the department requested in October.

The Manager decision letter on the reclassification request for 59 parcels from State Lands Commission is finalized. Changes include removal of one parcel owned by Department of General Services and correction of an acreage error on Sacramento County Assessor's website for another parcel, which required investigation and confirmation by MBK and the County. Thirty-four of the parcels were determined to be waterways, partially or fully submerged, and reclassified to have zero benefit in accordance with NDWA policies and no changes to the remaining twenty-one parcels.

Engineering Report

Anne Williams reported the water quality at all seven monitoring stations is currently within the contract 14-day mean criteria, but noted the salinity levels at the Three Mile Slough location are creeping up closer to the contract criteria. She warned the real-time daily peaks do reach higher levels than our 14-day criteria and reminded landowners to check CDEC before irrigating. The Delta Cross Channels are currently closed and she anticipates the gates staying closed, which improves water quality at Three Mile Slough.

She gave a presentation on contract compliance and improved reservoir conditions with a comparison of storage in 2014-15, 2015-16, and 2020-21. She stated that current Oroville storage is at 30% of capacity, which is 60% of historical average and Folsom is at 92% historical average, while Shasta is less than half of historical average with just 25% filled to capacity. Anne will send Cindy the slide presentation so she can post on the NDWA website and email to board members.

Michael George reported the State and the Federal governments are developing an interim drought CVP/SWP operations agreement to reduce overall exports. Kevin O'Brien commented that the carry-over storage requirement in the draft interim order can adversely affect the Sacramento Valley farmers and they will likely oppose. The current proposed hearing date is February 1st.

Drought Activities

DWR informed the NDWA Manager that the department will be submitting a joint request with the U.S. Bureau of Reclamation for a new TUCP this month to relax D-1641 objectives in February thru May 2022. The Delta Watermaster said the new TUCP will also request that the False River Barrier stay in place through November 2022.

Michael George reported there has been no significant precipitation since the last storm and things are drying out again. As of today, there is a new curtailment order, but will not affect Delta water users at this time. His office has not enforced any delinquent reports of certification at this time, but will begin enforcement with fines in January 2022. If conditions stay dry, then curtailments will likely be reinstated. Jones Pumping Station is being reduced to minimum levels as of this Friday in order to hold on to reservoir storage.

Drought Barriers

Melinda reported she is still waiting for drought barrier modeling from Jacob McQuirk. She will forward the modeling results to MBK for their review when received.

Delta Dry-Year Incentive Pilot Program

Michael reported a delay in implementation of a Delta Dry-Year Incentive Pilot Program because terms for an agreement between DWR and the Delta Conservancy on disbursing payment to landowners is still be negotiated. The last version from the State had the minimum amount of acreage at 100 and the maximum was 500 acres.

Delta Activities Report

SWRCB/Delta Water Master

Michael George reported the Delta Alternative Compliance Work Group has made progress with development of an alternative water diversion measurement methodology to comply with SB 88 instead of installing measuring devices. The program will formally rollout in January and can be used for the current water year. The cost will not exceed \$2/acre and will go down after the first year. The \$2/acre cost is also assuming no one acreage from NDWA joins, so the costs will go down in participation in NDWA occurs.

Delta Habitat Projects and Delta Conservancy Activities

No new activities to report for these agenda items.

Delta Protection Commission

Erik Vink announced the release of a new draft Master Plan for the Great Delta Trail for public comment. The next National Heritage Area Management Plan Advisory Committee meeting is scheduled for Thursday December 2nd at 3pm via Zoom.

Delta Stewardship Council

The comment deadline on the Delta Plan Ecosystems Chapter was due yesterday and the DPC submitted a comment letter. Michael George announced that the Delta Stewardship Council's Delta Adapts climate change effort is starting up again with technical and stakeholder group meetings. He is hoping the Council does additional outreach to increase landowner/farmer representation.

Public Comment

There was no public comment provided.

Closed Session

The Board convened Closed Session through teleconference at 10:48 a.m. to discuss three potential cases pursuant to Government Code Section 54956.9(d)(4) and litigation regarding WaterFix Environmental Impact Report under CEQA pursuant to Government Code Section 54956.9(d)(1).

Closed Session Report

The Board reconvened in open session at 11:16 a.m. and Chairman Mello announced the board took no reportable action during closed session.

Announcements

Chairman Mello announced this will be his last 4-year term as a board member for NDWA.

Adjournment

Chairman Mello adjourned the meeting at 11:22 a.m.

Respectfully submitted by Cindy Tiffany, Assistant Manager