

Minutes of Wednesday, July 6, 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

Vice Chairman Kuechler called the board of directors meeting to order at 9:32 a.m. on Wednesday, July 6, 2022. A quorum was determined at that time. Those present:

Directors

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

Others

Michael George
Lisa Crowley
Lou Biagoni

Osha Meserve
Dan Whaley

Approval of the Minutes

No additions or corrections were made to the minutes for the board meeting held on June 1, 2022.

MOTION by Director Slater to approve the June 1, 2022 board meeting minutes as presented. Seconded by Director M. van Loben Sels and unanimously approved by a voice vote. (AYES: Kuechler, J. van Loben Sels, M. van Loben Sels and Slater ABSENT: Mello)

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 remote meetings during the COVID pandemic.

MOTION by Director Slater to approve Resolution No. 2022-007 to extend the authorization to hold remote board meetings. Seconded by Director Mark van Loben Sels and unanimously approved by voice vote. (AYES: Kuechler, J. van Loben Sels, M. van Loben Sels, and Slater ABSENT: Mello)

Engineering Report

Water Quality and Hydrologic Conditions Update

Anne Williams reported that cellular data was down at the Rio Vista location, and this was reported to MBK by Harvey Correia. Anne confirmed that DWR operations was not aware of this, but that CDEC staff may have been. There was some discussion on what we do when we know data is down. MBK has requested the public to let them know of those instances and they will follow up with DWR to make sure that it gets fixed.

Anne shared a presentation and went over the 3-Mile Slough monitoring site. She noted that on June 3rd Article 4 of the 1981 Contract was triggered and there were a few days that water quality exceeded the contract criteria, but was not a violation of our contract due to the enactment of the drought emergency

provisions. She shared daily average, 15-minute data, and the 14-Day mean EC at 3-Mile Slough to show the differences in water quality throughout the day compared to our contract criteria. As a reminder of our monitoring locations Anne shared a map of NDWA with the location of these monitoring stations on it.

Anne noted that as of June 30th the emergency drought order or TUCO is done and that means that the D1641 Western Delta ag salinity standard has moved back to Emmaton for the remainder of the season (until it ends on August 15th). Anne also commented that the San Joaquin River at San Andreas landing water quality is trending higher than before. She believes this is due to the current operations of the Delta Cross Channel gates (which has been different than prior years) and as of July 1st with the opening of the gates and increased Delta inflows the water quality at that location has been improving. Anne also covered current Delta conditions and storage levels in reservoirs:

Shasta @1.76 maf

Oroville @ 1.68 maf

Folsom @ 775 taf

SWRCB Emergency Drought Regulations

Anne announced that SWRCB is considering readoption of emergency curtailment regulations. The public comment deadline is July 8th. Michael George commented that July 20th is the date that the SWRCB will be adopting the curtailment regulations.

Anne announced that on July 14th the Delta Water Master is convening a meeting to discuss Appendix D of the Water Unavailability Methodology report, which will focus on the Delta and a discussion on riparian water rights.

Update on SWP Operations, Term 91 Notice, TUCO

Michael George confirmed that there are curtailments right now for Term 91 water holders and Post-1914 water rights in the San Joaquin water shed, outside of the legal Delta. Michael does expect additional curtailments announced today that will likely affect Byron Bethony Irrigation District and Banta Carbona Irrigation district. Additionally, more Pre-1914 water right holders may be effected, but we won't know until they are announced. Anne reminded everyone that landowners within NDWA may continue to divert despite any curtailments due to the assurances of the Contract.

Drought Activities

USACE Permit Notice Issued for Drought Barriers

The USACE issued a public notice of Section 404 permit application from DWR for the two drought salinity barriers proposed for possible installation on Miner and Steamboat Sloughs in 2023. NDWA will submit a comment letter by the July 18th deadline that acknowledges support for controlling salinity intrusion and the locations recommended by local landowners, but also requests more project description and modeling information in order to fully understand potential adverse impacts. In addition, we are still waiting for DWR to provide the Agency a draft MOU to be able to consider and respond.

Report on Friant Illegal Diversion Complaint

Michael George announced that he should be releasing the draft letter/report on the Friant Illegal Diversion Complaint tomorrow with an opportunity for public review and comment.

Article 4 Drought Emergency Provision

Melinda announced DWR is currently working on establishing a Special Claims Procedure for 2022 in accordance with Article 4(b)(iv) of the 1981 NDWA-DWR Contract which was triggered on June 3rd. DWR met with NDWA staff, informing them the Claims Procedure will be substantially the same as the one established in the 2015 drought. The Board directed the Manager to schedule a Special Board meeting on the afternoon of August 3rd for DWR to describe the claims procedure, application form, eligibility requirements, and compensation payment with an opportunity for the public to comment and ask questions. In addition to regular posting, the Manager will send meeting notices to Reclamation Districts and County Farm Bureaus.

Legal Report

WaterFix CEQA

Kevin O'Brien reported the WaterFix CEQA lawsuit filed by NDWA for reimbursement of legal fees was remanded by Appeals Court back to a lower court for reconsideration. The case is unlikely to be reheard until late fall and will be decided by a new judge.

Water Quality Plan Update

Kevin reported that the parties to the MOU signed in early Spring are now meeting to discuss additional agreements that need to be laid out. He recommends NDWA have a focused discussion in future closed session regarding legal options of potential participation. Staff will meet first to outline a presentation. Melinda reminded the Board there is already a precedent of a MOU between DWR and NDWA that acknowledges extra flows required under Bay-Delta Plan will be provided by DWR, therefore joining the VA may be unnecessary.

Manager Report

Report on meetings, presentations, and correspondence

Melinda announced she was invited to speak at an Orange County water conference on September 16th. The ad-hoc committee to discuss a reserve policy has scheduled a meeting later this month. The Delta Counties Coalition held a Water Summit on June 24th. There were new videos, presentations, and panels. They had a call-to-action for everyone to prepare to comment on the Delta Conveyance Tunnel EIR and provided a template resolution on the Tunnel Project for Delta organizations to consider adopting. Melinda will work with Downey Brand on revising the wording in the resolution prior to presenting to the board for consideration. Melinda announced the August agenda will include updates from Jacob McQuirk of DWR on the proposed drought barriers in North Delta and from Contra Costa Water District staff on the Los vaqueros Project.

Legislative Report

Consider AB 1944

Melinda reported legislation, AB 1944, to modify the Brown Act to allow public meetings to continue including teleconference participation by the public and board members may be of interest. The Directors asked if the Agency should consider submitting a support letter. Melinda will check on ACWA's position on the bill and work with Austin Cho at Downey Brand to review the legislation prior to sending a support letter.

State Budget

The 2022-23 State Budget approved by the Legislature provides funding for the Delta drought barriers (\$27 million) and the Delta Drought Response Plan (\$10 million). Michael informed that board that he is currently

working with the Delta Conservancy on updates to the Delta Dry Year Response Plan for implementation in 2023. They are planning to start accepting applications this fall.

Delta Activities Report

SWRCB released biological goals for the San Joaquin River system for public review and comment. Lawsuits will likely be filed.

Delta Habitat and Conveyance Projects

Groundbreaking ceremonies were recently held for both the Lookout Slough and the Big Notch projects. On the Delta Conveyance Project, political interest may be waning as there was a split vote, 3-2 by the Zone 7 Water Agency (Alameda) to continue providing funding of the tunnel project.

Delta Protection Commission

The Commission announced the new Executive Director as of August 8th will be Bruce Blodgett, who has served several years as the Executive Director of the San Joaquin County Farm Bureau.

Delta Stewardship Council

The Delta Independent Science Board released a Water supply Reliability Estimation report and held a tour of the Delta. Reclamation District 2093 submitted a certification of consistency to the DSC for the Fish Conservation Bank Project which is on Liberty Island.

CVP/SWP

Melinda announced that ESA consultations were reinitiated by the U.S. Bureau of Reclamation to develop new Biological Opinions guiding the coordinated operation of the state and federal water projects.

Announcements

Cindy is working on a date for an in-person FPPC/Harassment Training to schedule at Hastings Island in late August. August 3rd NDWA Special Board Meeting for DWR to present Claims Procedures at 1:00 pm, after the regular board meeting. Meetings of SWRCB, DPAC, and DPIC announced.

Public Comments

No public comments received.

Adjournment

Vice Chairman Jack Kuechler adjourned the meeting at 11:30 a.m.

Respectfully submitted by Cindy Tiffany, Assistant Manager