

# North Delta Water Agency Board of Directors Meeting

14120 Grand Ave, Walnut Grove, CA 95690  
Wednesday, December 7, 2011 at 9:30 a.m.

## Minutes

### Call to Order

Chair Henry Kuechler called the regularly scheduled meeting to order at 9:33 a.m. on Wednesday, December 7, 2011. A quorum was determined at that time. Those present:

### Directors

Neil Hamilton, Division 5  
Henry Kuechler, Division 3  
Steve Mello, Division 1  
Topper van Loben Sels, Division 2

### Absent

Ken Ruzich, Division 4

### Others

Mark Wilson, RD 999  
Brett Baker  
Russell van Loben Sels, Glide-In Ranch  
Mike Hardesty  
Meda Bennefield  
Rick Johnston, PBB&J  
Bob Webber

### Staff

Gary Kienlen, MBK Engineers  
Steve Saxton, Downey Brand  
Margaret Sorensen  
Melinda Terry

### Approval of Minutes

**Motion and second to approve the minutes of the October 5, 2011 meeting. Motion unanimously approved.**

### Audit Report

Rick Johnston, PBB&J, reviewed the audit report for FY 2009-10 and 2010-11. The Agency must now report in accrual format and Rick reviewed those changes.

### Reclassification Appeals

Staff met with the owners of Glide-In Ranch on November 10. Based on new evidence provided by the owners, Agency staff recommended changing the classification of the parcels in question.

**Motion and second to reclassify parcels 033-180-020; 033-180-001; 033-180-002; 033-180-008; 033-180-023; 033-180-025; and 033-180-026 as riparian. Motion approved. (Topper van Loben Sels abstained.)**

## **Legal Report**

Included in the packet was a request by RD 501 for the Agency to support its endeavor to collect assessments from CalTrans. RD 501 submitted a request to the Attorney General's office for an opinion on whether CalTrans is obligated to pay assessments. RD 501 invited the Agency to join that request to the Attorney General's office. The Board discussed the merits of supporting RD 501 and felt that other RDs would be interested in joining as well.

**Motion and second to submit a letter of support to the Attorney General's office.**

**Motion unanimously approved.**

The Board asked staff to send a similar request to other RDs within the Agency.

## **Report on Delta Activities**

There was quite a controversy over a management agreement that the water contractors made with the State which gave the contractors access, authority and control of documents related to the BDCP. Because of the controversy, the State released the MOA for public comment. Melinda shared her frustration over the unequal access for the NDWA and general public in regards to the BDCP process and documents. The Independent Science Board recently published concerns over the adequacy of the BDCP effects analysis, listing out 8-10 significant points that need to be addressed by BDCP. The Science Board indicated that the foundation of the effects modeling is faulty, causing others to speculate there may be a need to start over. Walter Bourez, MBK Engineers, is looking at the modeling and will let NDWA know if it is the right time to analyze the modeling and what the scope of work and cost would be to do the analysis. Melinda informed the Board that NDWA was approved by the U.S. Bureau of Reclamation as a cooperating agency for the BDCP and she will be attending a meeting on December 8.

The Delta Stewardship Council (DSC) released its 2500 page EIR for public comment. The Council will not meet its January 1, 2012 deadline for approval of a Final Delta Plan, but hopes to complete and adopt final plan in the spring of 2012. Phil Isenberg, chair of the DSC spoke at the last North Delta CARES meeting about the draft Delta Plan and EIR.

The Delta Protection Commission may approve its Economic Sustainability Plan at its next meeting. The Commission will also recommend changes to the primary zone for approval at that meeting. Topper informed the Board that the DPC offices will be moving to West Sacramento.

At its last meeting in November, the California Water Commission approved 21 of the 22 parcels, all located within the NDWA boundaries, that were submitted for eminent domain to allow DWR to conduct geo-technical drilling as part of the preliminary engineering for the BDCP EIR/EIS. Melinda informed the Board that the Commission instructed DWR to quit claim the land back to the landowner after the geo-technical drilling and other testing for hazardous soils was completed. Many landowners at the Commission's November meeting expressed concerns about who would be liable for any future problems that the drilling and soil testing caused if the State relinquished ownership back to the landowners.

## **Manager's Report**

2011 was an election year for division 2 & 4 of the Agency. Staff missed the deadline to conduct the election with other local agencies. The two affected Directors, Ken Ruzich and Carel (Topper) van Loben Sels, will remain in their positions until elections can be held. Notice of the elections will be published December 9 and candidate's have until January 10, 2012 to turn in a Declaration of Candidacy form.

Melinda explained that the agreement between DWR, Fish & Game and the Agency for payment of Fish & Game's NDWA assessment ended with the Prop 218 election. The Agency will need to seek a new agreement.

**Motion and second to appoint Melinda Terry, Gary Kienlen, Legal Counsel and Henry Kuechler (or his appointed Board Member) to conduct discussions with Fish & Game to create a new payment agreement for Fish & Game's assessments. Motion unanimously approved.**

A meeting calendar for 2012 was included in the packet.

### **Engineer's Report**

Gary Kienlen distributed water quality charts and reported that water quality is currently within the contract's criteria. A report with a full year's data will be distributed early next year. Gary and Melinda met with Nicky Seward, a landowner and owner of Snug Harbor Marina within the Agency, to hear her concerns about how the State Water Project is affecting the river and her property. Although the information provided by Ms. Seward appeared to be anecdotal, staff assured her we would review the information she gave us and continue to monitor the potential impacts of projects proposed in the Delta as they relate to the 1981 Contract .

### **Public Comment**

Mike Hardesty explained that the State Water Resources Control Board plans to revisit the Sacramento River quality standards. He requested the Agency update its MOU regarding the phase 8 hearings so that when this new round of hearings begins, the Agency will be prepared.

### **Adjournment**

The meeting was adjourned at 12:02 p.m. on Wednesday, December 7, 2011.

Respectfully Submitted,  
Margaret Sorensen, Administrative Assistant