

## Minutes of Wednesday, April 5, 2023

North Delta Water Agency Board of Directors Meeting  
3050 Beacon Blvd., Ste 203, West Sacramento, CA 95691

### Call to Order

Chairman Mello called the board of directors meeting to order at 9:33 a.m. on Wednesday, April 5, 2023. Pursuant to Government Code section 54953(b)(3), Director Mark van Loben Sels attended remotely via identified teleconference location. A quorum was determined at that time. Those present:

#### Directors

Steve Mello, Division 1  
Mark van Loben Sels, Division 4  
Tom Slater, Division 5

#### Staff

Melinda Terry, Manager  
Cindy Tiffany, Assistant Manager  
Anne Williams, MBK Engineers  
Kevin O'Brien, Downey Brand  
Austin Cho, Downey Brand  
Yuen Lenh, MBK Engineers  
Gary Kienlen, MBK Engineers

#### Others

Alex Wilson  
Bruce Blodgett  
Jay Zigler  
John Collins  
Lisa Crowley  
Anna Swenson

### Closed Session

The board adjourned into closed session at 9:33 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 (One case)

### Closed Session Report

The Board reconvened in open session at 10:13 a.m. and Chairman Mello announced that the board took no reportable action during closed session.

### Approval of the Minutes

The minutes for the February 1, 2023, Board Meeting and March 6, 2023 Special Board Meeting were presented. No additions or corrections were made.

**MOTION** by Director Mark van Loben Sels to approve the Feb. 1, 2023 Board Meeting and March 6, 2023 Special Board Meeting minutes as presented. Seconded by Director Slater and unanimously approved by a roll call vote. (AYES: Mello, Slater, and M. van Loben Sels ABSENT: Jack Kuechler, Justin van Loben Sels)

### Financial Report

Cindy Tiffany presented current financial statements and noted she has received assessment revenues from all four counties and will be moving some money from the checking to LAIF within the next few weeks. She reported there is approximately \$13,000 in delinquent assessments on the direct billing, but the CA Dept. of Parks and Recreation finally paid-in-full for the last four years of assessments. Notices for late payments along with penalties and interest charges have been sent. The expenses for engineering and legal are over budget.

**MOTION** by Director Slater to accept the financial statements as presented. Seconded by Director M. van Loben Sels and unanimously approved by roll call vote. (AYES: Mello, Slater, and M. van Loben Sels ABSENT: Jack Kuechler, Justin van Loben Sels)

## **Engineering Report**

### *Water Quality and Hydrologic Update*

Anne Williams provided graphs showing water quality is currently within the Contract criteria at all seven monitoring locations and noted that criteria does not extend into April yet because we are waiting for the April 1 Bulletin 120 to be released. The May 1 Bulletin 120 will set the criteria for the year. Currently the 8-Station index shows snowpack at 130% of average and the SWRCB lifted curtailments and emergency order. Current reservoir storage levels are: Shasta 106% of average capacity; Oroville at 116%; and Folsom at 107%. Oroville reservoir is currently releasing water and Shasta may begin releases soon to make room for snow melt. Delta inflow is 99,900 cfs, with 57,800 cfs at Freeport, and the Delta Cross Channels are currently closed.

### *DWR Land Ownership*

Anne and Cindy have been meeting monthly with DWR real estate staff to determine the acreage currently owned by DWR. Once the correct acreage is identified, then will work on a MOU to memorialize the methodology for calculating the annual Contract payment. Will put this issue on the June agenda.

## **Legal Report**

### *Legal Hearing Scheduled*

Austin Cho provided an update on the CEQA lawsuit filed by NDWA requesting DWR pay Agency's legal fees associated with the Waterfix EIR. Agency lost at the trial court level, but won on appeal, so the matter was referred back to the trial court with instructions. The judge has scheduled the case to be heard on September 15, 2023, with plaintiff briefs due on April 14, 2023. DWR will file responses to the briefs in June and the Agency can respond to their response in August.

### *Governor's Executive Order*

Kevin reported that Governor Newsom issued a new Executive Order to suspend certain permitting requirements in order to allow diversion of flood water to recharge groundwater aquifers between March 31 and August 31, 2023. The Division of Water Rights released a FAQ, but it's still rather confusing.

## **Manager Report**

### *Correspondence, meetings, and presentations*

The Agency has submitted two comment letters since the last board meeting to the U.S. Army Corps of Engineers on the draft EIS for the Delta Conveyance Project and to the SWRCB on the Draft Scientific Basis Report Supplement for the Bay-Delta Plan Update. Melinda also reported that the Agency continues to have monthly meetings with DWR regarding the water quality exceedances that occurred in 2022.

### *Resolution Regarding Delta Conveyance Project*

Melinda reviewed the revisions made to the Resolution regarding the Delta Conveyance Project and recommended adoption by the board.

**MOTION** by Director Mello to adopt Resolution No. 2023-02: *“Resolution in Support of Ensuring the Health and Sustainability of the Sacramento-San Joaquin Delta”*. Seconded by Director Slater and unanimously approved by roll call vote. (AYES: Mello, Slater, and M. van Loben Sels ABSENT: Jack Kuechler, Justin van Loben Sels)

### *Succession Planning*

Melinda reminded the board that her retirement is about 18 months away and recommended an ad hoc committee be designated to coordinate with CCVFCA on the recruitment of candidates to replace her. Director Mello appointed Director Slater and Director Kuechler to serve on this ad-hoc committee.

### **Delta Activities Report**

#### *SWRCB/Delta Water Master*

The new Delta Watermaster, Jay Ziegler, introduced himself and described his background and experience on Delta issues. He announced that the SB 88 Delta Alternative Compliance Plan (ACP) reporting will be extended 60 days due to some issues with Open ET that need to be fixed. His staff will also be conducting outreach with landowners to encourage greater participation in the ACP. The results for the 2022 Delta Drought Response Program are posted on their website, and the 2023 program is underway with 65 applicants and double the acreage from last year. The SWRCB is holding a workshop on March 10<sup>th</sup> on the methodology for determining curtailments, with comments due April 14<sup>th</sup>. Kevin offered to meet with Jay and his staff with Melinda to discuss the NDWA and its water quality and availability contract with DWR. He will schedule it with Melinda.

#### *SWP/CVP Allocations*

SWP water supply allocations have increased from 35% to 75% for urban and to 100% for the Sacramento and Feather River contractors. CVP allocations have increased from 35% to 80%.

#### *Delta Conveyance Activities*

Geotechnical drilling is planned in mid-April; raising concerns about disruption to traffic flow.

#### *Delta Habitat*

Melinda noted the Lookout Slough was recently acknowledged as the largest restoration project in the Delta at 3,400 acres and costing \$119 million.

#### *Delta Protection Commission*

Bruce Blodgett announced there is a National Heritage Area Management Plan meeting this week. Adoption of the Management Plan must be done by March 2024 and will include a marketing plan. The DPC will be installing new on Jefferson Blvd. announcing entrance to the Delta. Anna Swenson is the new chair of the Delta Protection Advisory Committee. Next Commission meeting is May 18<sup>th</sup>.

#### *Delta Stewardship Council*

The Delta Independent Science Board issued a favorable review of Scientific Basis for Implementation of the Voluntary Agreements as an alternative to flow requirements proposed by staff in the Bay-Delta Plan Update.

### **Announcements**

Meeting dates listed on the agenda were announced.

### **Public Comment**

No public comment provided.

### **Adjournment**

Chairman Mello adjourned the meeting at 12:13 p.m.

Respectfully submitted by Cindy Tiffany, Assistant Manager.