

North Delta Water Agency
Regular Board of Directors Meeting Minutes
14120 Grand Ave, Walnut Grove, CA 95690
Wednesday, February 4, 2015 – 9:30 a.m.

Call to Order

Chair Henry Kuechler called the regular board of directors meeting to order at 9:35 a.m. on Wednesday, February 4, 2015. A quorum was determined at that time. Those present:

Directors

Tom Hester, Division 5
Henry Kuechler, Division 3
Steve Mello, Division 1

Staff

Melinda Terry, Manager
Colleen Flannery, Assistant Manager
Gary Kienlen, MBK Engineers
Sara Harper, MBK Engineers
Kevin O'Brien, Downey Brand

Others

See attached sign-in sheet.

BDCP Informational Presentation

B.G. Heiland of the California Department of Water Resources (DWR) showed an animated video depicting the design and location changes made to Bay Delta Conservation Plan (BDCP) Conservation Measure 1 water diversion facilities as he described the most significant project modifications:

- Elimination of the pumping plants from all three new intake locations; relying instead on one new pumping plant next to the Clifton Court Forebay.
- Replacement of the three pumping plants with a gravity-fed intake design also allows the installation of permanent power lines and substations to be eliminated.
- The tunnel alignment under Staten Island is the same, but surface disruption reduced to lessen impacts to the sandhill crane, by moving tunnel muck disposal site and boring machine holes.

He answered questions about alternatives, siltation build-up, and public receiving responses to their written comments and stated the revised project and EIR/EIS documents are scheduled to be recirculated for public review and comment in the spring. All comments received in both the first and second public comment periods will receive responses once the final draft is released.

Engineering Report

Gary Kienlen reviewed water quality graphs of the water quality monitoring locations specified in the 1981 Contract and provided an update on current water storage conditions. He reported that salinity levels exceeded the Contract criteria for two week in October at the Three Mile Slough location, but were meeting Contract criteria at the other six locations, and back in compliance at Three Mile since the beginning of November. He pointed out daily salinity spikes at Rio Vista, but noted the 14-day average used in the Contract did not come close to the maximum EC levels specified in the Contract.

He discussed the differences between current conditions and the 1976-77 drought and reviewed all three conditions that must exist before the “drought emergency” provision (Art. 4) of the 1981 Contract is triggered: 1) the Four River Basin Index is less than an average of 9 million acre-feet (MAF) in two consecutive years; 2) the SWRCB adopts emergency regulations allowing the SWP to maintain a lower water quality standard than the salinity criteria in the Contract and; 3) the water supplied to SWP agricultural contractors is reduced by at least 50 percent or reduced for all SWP contractors by 15 percent of all entitlements. Once the Contract’s drought emergency provision is in effect, the SWRCB’s modified Delta water quality standards supersede Contract salinity criteria as long as all three conditions continue to exist, and requires establishment of a special contract claims procedure to compensate impacted farmers if an overland supply is not available. Currently, the water allocations to SWP contractors is only 15% and therefore triggers one of the three Contract emergency drought conditions, but the other two conditions have still not been met as of yet. However, the SWRCB continues to consider additional changes to the Delta water quality standards every month and the final calculation of the Four River Index is not done until May 1 but is trending very low right now, so they may be triggered at some point.

An update on the recent Order issued by the SWRCB requesting water rights and use documentation for large diversions in the Sacramento-San Joaquin River watershed and the most recent Temporary Urgency Change Permit (TUCP) changes to additionally modify D-1641 that were partially approved by the SWRCB with the denial for flexibility on outflow standards was also provided. NDWA sent a letter to the SWRCB questioning the Order being applied in the Agency’s jurisdiction due to the water use rights conferred to water users in the 1981 Contract with DWR, and recommending the Order be amended.

Drought Barriers Update

Despite NDWA’s request for DWR to analyze and mitigate the impacts associated with the installation of barriers in Steamboat and Sutter Sloughs by preparing a full Environmental Impact Report (EIR), attorney Kevin O’Brien announced DWR had instead released a Mitigated Negative Declaration (MND) to comply with the State’s environmental review laws (CEQA) for the Emergency Drought Barriers project and explained difference between the two environmental disclosure documents. Based on his first review of the MND and due to the fact there is currently no NDWA-DWR barrier agreement in place, the mitigations are inadequate to meet CEQA or DWR’s water supply and quality obligations in the 1981 Contract. Therefore, staff will draft comments to submit on the MND for impacts related to the Contract, but individual landowners should also submit their own comments regarding any additional adverse impacts that may occur that are outside the purview of the Contract water supply and quality assurances. DWR must also obtain permits from the U.S. Army Corps of Engineers, SWRCB, and Central Valley Flood Protection Board, which all have their own comment periods as well. Comments on the MND are due to DWR by February 25, and comments on the Army Corps permit are due February 28.

Engineer Kienlen announced DWR plans to conduct “pre-survey” of existing water diversion intakes, pumps, and siphons to determine potential impacts from water surface elevations lowered up to a foot-and-a-half behind the barrier, which is an important pre-project activity because siphons are fed by gravity and a drop in water level could mean they simply will not work. Elevations raised by same level on other side of the barrier, could cause seepage and erosion problems for levees.

He also reported on concerns found in the barrier model and modeling results (Appendix C), and reviewed an outline of issues to be described in a technical memo for NDWA to attach to its comment letter on the barriers project MND. Among the key findings so far, is DWR’s failure to include actual drought actions allowing modification of SWP/CVP operations already implemented pursuant to several TUCPs approved last year and this year. Additionally, if approved the project as proposed would authorize the barriers to be installed three times in a 10-year period, but the MND fails to analyze through modeling the potential “cumulative” effects that might occur in the second or third year of the barriers installation, particularly if consecutive drought years. DWR recently released a short study of installing a “single barrier,” but has not

modeled or analyzed this alternative, or any other potential alternative project options, in the MND currently out for public review and comment. Finally, modeling results indicate increased salinity levels in certain areas that may exceed the Contract water quality criteria in years the Art. 4 emergency drought provision is not triggered. Per a request from the audience, the Agency will post a copy of the 1976 Sutter Slough Barrier Agreement on the NDWA website (www.northdeltawater.net).

Kevin provided a short update on the negotiations with DWR on an agreement with NDWA specifying the terms and conditions for the installation, operation, and removal of Sutter and Steamboat barriers to ensure compliance with the water supply and quality assurances in the 1981 Contract. The possibility of executing another agreement with DWR if the Contract's emergency drought provision is triggered was mentioned, but is not being negotiated at this time.

Approval of Minutes

The Board reviewed the minutes for the Wednesday, December 10, 2014 regular board meeting.

Motion and second to approve the minutes of the December 10, 2014 regular board meeting. Motion unanimously approved. (Yes - Kuechler, Mello, Hester).

Financial Reports

Assistant Manager Colleen Flannery provided financial reports to the Board.

Motion and second to accept the financial reports as presented. Motion unanimously approved. (Yes - Kuechler, Mello, Hester).

Colleen reviewed several of the largest assessments currently overdue, proposed actions necessary to pursue recovery of these delinquent amounts, and requested Board guidance on how to proceed on these particular assessments. The Board empowered Manager Melinda Terry to oversee how the collection of these overdue assessments is addressed. She recommended a longer term assessment collection policy also be developed.

Motion and second to authorize Manager Terry to “take necessary actions” at her discretion, including the sending of certified letters and filing claims to the State or in small claims court, to collect delinquent assessments. Motion unanimously approved. (Yes - Kuechler, Mello, Hester).

Contract Payment Report

Melinda reported the Agency sent a letter explaining the adjustments made to the annual payment amount with a check for the Jan. 1, 2015 installment. In response to a director's inquiry at the December board meeting about additionally reducing the Agency's payment for the two weeks in October that salinity levels exceeded the Contract criteria, Kevin provided a brief explanation of reasons he recommended against reducing the Contract payment for days DWR not in compliance with water quality. In accordance with legal counsel's recommendation, the Board did not take any action to reduce annual payment for days water quality exceeded in October.

Delta Activities Report

Melinda introduced Delta Watermaster Michael George, informing the Board he will be back on April 1st to talk about a work group he is leading to develop real-time consumptive use methodology.

Adjournment

Meeting adjourned at 11:57 a.m.

Minutes respectfully submitted by Assistant Manager, Colleen Flannery.