

North Delta Water Agency
Board of Directors Meeting
14120 Grand Avenue, Walnut Grove CA 95690
Wednesday, January 8, 2014 at 9:30 a.m.

Minutes

Call to Order

Chair Henry Kuechler called the meeting to order at 9:45 a.m. on Wednesday, January 8, 2014. 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

Staff

Melinda Terry
Gary Kienlen, MBK Engineers
Kevin O'Brien, Downey Brand
Margaret Sorensen

Others

Mike Hardesty, RD 2068
Mark Wilson
John Lewallen, Tyler Island
John Webber, RD 999
Vanessa Schmoker, RD 999
Mary Kuechler, RD 2060
Erik Vink, Delta Protection Commission

Approval of Minutes

Motion and second to approve the minutes of the December 11, 2013 meeting. Motion unanimously approved. (Yes - Hamilton, Kuechler, Mello, van Loben Sels)

Legal Report

Kevin O'Brien updated the Board on efforts to obtain approval and signature from DWR on updated MOU for water quality standards the Agency proposed more than a year ago. As a follow-up to Agency staff meeting with DWR Deputy Director Paul Helliker and department attorneys in November, Kevin spoke with DWR attorney Dave Anderson who confirmed DWR executives believe the Agency has

breached its contract by speaking negatively in public venues about adverse impacts in BDCP Plan and EIR/EIS. Kevin pointed out the water quality MOU is unrelated to the BDCP and reiterated that NDWA does not have an oppose position on BDCP, but does have the right to raise concerns with adverse impacts, both general and specific to compliance with the Contract, on a project such as BDCP that is still in development phase, as well as raise legal inadequacies under CEQA/NEPA and HCP/NCCPA laws. Mr. Anderson stated DWR's view is NDWA is opposed to any Delta water conveyance project and Kevin again stated the NDWA has not taken an oppose position on BDCP. Kevin also stressed that NDWA has tried to have a substantive conversation with DWR about the remedies required under the Contract to address the adverse impacts disclosed in the BDCP Effects Analysis and EIR/EIS which will violate provisions of the Contract, but DWR has not been willing to engage in substantive discussions to identify engineering or other specific solutions to the issues despite numerous requests by the Agency. The Board directed staff to send a letter to DWR Director Cowin requesting approval/signature of the water quality MOU or a written response explaining to the Agency the Department's reason for not signing the MOU.

Kevin said Downey Brand is still working out a scope of work plan to tackle comments on the EIR/EIS for the BDCP on behalf of all their clients, including NDWA. So far, Downey Brand has determined there will be three levels of comments/cost-sharing: Tier 1 will be general problems with the Plan all clients can submit; Tier 2 will be comments specific to a region such as the Delta and Northern Sacramento Valley; and Tier 3 will be comments specific to individual entities such as NDWA and Reclamation Districts. Costs associated with developing Tier 1 comments will be divided amongst all Downey Brand clients interested in submitting comments on BDCP, Tier 2 comment costs will be split between Delta (NDWA and participating RDs) and NCWA/Sac Valley clients, and Tier 3 comments will apply to individual entities such as NDWA or RDs. Kevin explained that, if court action is needed in the future, only those items submitted in these public comments could be used in a suit, but the Agency can still submit comments after the April 14, 2014 deadline up until project approved, especially for clarification or technical issues, but the main problems and concerns need to be addressed in the first submission. Melinda updated the Board on her plan to initially meet with a small group of Delta folks knowledgeable on the BDCP Plan and EIR/EIS content to identify a list of issues to then share with a broader group of individuals concerned with Delta flood management and water quality and availability, and then sometime in February convene a larger group of Delta entities to discuss and coordinate the issues each will be focusing their written comments.

Engineer's Report

Gary Kienlen distributed water quality charts for the month and for the entire 2013 calendar year, reporting that water quality is currently within the contract's criteria. Due to the dry conditions, MBK will more frequently monitor the water quality and immediately inform Agency staff if quality starts approaching contract limits.

Gary said Walter Bourez should have a written report on the BDCP modeling finished very soon. The technical portion of the report is complete and being reviewed by a few technical experts while a short summary narrative is being developed. The final report (Summary & Technical Appendix) will be broadly distributed once it's complete so entities may use it in drafting comments on BDCP's modeling, effects analysis, and conclusions regarding project impacts. He also indicated MBK is waiting for direction from Downey Brand regarding what technical assistance is needed to assist in drafting

comments on BDCP. Once he knows the scope of work, he will be able to put together a budget for MBK's portion of the work.

Manager's Report

Included in the packet was a letter written to request cooperating agency status for the Yolo Bypass project; a letter explaining the East Bay MUD water diversion change petition; and a letter to the DPC announcing the new representative for the North Delta, Justin van Loben Sels. Melinda Terry informed the Board that fewer parcel reclassification requests have been received over the past year, but the Agency has received a reclassification request for parcels in the vicinity of Glide-In Ranch with equally complicated issues that is requiring closer review by Agency staff before she can render a Manager's decision, which could be appealed by the landowner to the Board at a later date.

Updates on Delta Activities

Melinda reviewed the handout on the Delta Restoration Network and encouraged landowners and local groups to participate since this group is actively coordinating efforts to convert large areas of the Delta into habitat for purposes of meeting Endangered Species Act compliance for SWP/CVP water conveyance.

Melinda recommended the Agency consider scheduling additional public outreach meetings for North Delta landowners later in the spring regarding comments it will submit on the BDCP once more details of the issues and specific comments have been identified and reviewed by the Board.

Erik Vink, Executive Director of the Delta Protection Commission, announced the DPC will focus on its strategic plan implementation for the next 6 months and is also starting to tackle development of its BDCP comments. The Advisory Committee is starting to become active again thanks to Melinda and others helping to revise the Committee's Operating Charter and the Commission looks forward to Delta residents using the Committee as a venue to bring issues and recommendations to the Commission's attention. He also stated he is working on a letter to Congress expressing concerns regarding the adverse economic impacts the recent FEMA/NFIP flood insurance rate increases will create in the Delta.

At the last Delta Stewardship Council meeting, DWR made a presentation on BDCP and for the first time publicly mentioned a few of the adverse impacts the project will create, but failed to mention the 48 significant and unavoidable impacts or to explain how the 750 impacts in the EIR/EIS would cumulatively adversely impact issues the DSC has statutory responsibilities such as flood protection, emergency preparedness, water quality, and unique agricultural and recreational values that define Delta As Place. The DSC will submit comments on BDCP, but Melinda stated she is not sure if those comments will be limited whether BDCP meets the statutory requirements for incorporation into the DSC's Delta Plan or whether they will also comment on issues related to protecting the unique recreational and agricultural values of the Delta in accordance with the 2009 Delta Reform Act and other previous Delta protection statutes.

Melinda assisted Jane Wagner with Restore the Delta who volunteered to draft a 2-page summary describing the Delta Region's current and future water use needs to be considered by DWR for inclusion in the current update of the CA Water Plan.

Announcements

Melinda read the list of scheduled local BDCP Public Open Houses: January 21 in Stockton, January 29 in Walnut Grove, January 30 in Sacramento, February 12 in Clarksburg. She also expressed dismay that under the open house format DWR will not be providing presentations disclosing any of the 750 impacts or 46 significant and unavoidable imposed in the Delta region identified in the EIR/EIS. Instead, they expect Delta residents to have read 40,000 pages since the Public Draft was released on December 13, 2013 and come ask questions of individual BDCP staff. Erik Vink informed everyone that DWR told him that there will also be stations with experts for the public to talk to, computers for the public to use to submit written comments, and a court reporter to record their oral comments if they want.

Public Comment

None

Adjournment

The meeting was adjourned at 11:14 a.m. on Wednesday, January 8, 2014.

Respectfully Submitted,
Margaret Sorensen, Administrative Assistant