

North Delta Water Agency Board of Directors Meeting

14120 Grand Ave, Walnut Grove, CA 95690
Wednesday, December 11, 2013 at 9:30 a.m.

Minutes

Call to Order

Chair Henry Kuechler called the regularly scheduled meeting to order at 9:40 a.m. on Wednesday, December 11, 2013. A quorum was determined at that time. Those present:

Directors

Neil Hamilton, Division 5
Henry Kuechler, Division 3
Steve Mello, Division 1
Ken Ruzich, Division 4
Topper van Loben Sels, Division 2

Others

Mike Hardesty, RD 2068
Mary Kuechler, RD 2060
Karen Meddars
John Lewallen, Tyler Island

Staff

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

Approval of Minutes

Motion and second to approve the minutes of the October 2, 2013 meeting. Motion unanimously approved.

Legal Report

Kevin O'Brien reported on a meeting he and Melinda attended with DWR Deputy Director Paul Helliker and legal counsel Dave Anderson regarding the Department's approval and signature of the updated version of existing MOU on SWRCB's Delta Water Quality Plan the Agency proposed to Director Cowin in 2012. Deputy Director Helliker raised concern with the relationship between DWR and NDWA, specifically advising Agency staff that DWR considers the negative tone of public comments regarding BDCP by the Agency Manager as a violation of the Agency's consent to the export of water in the 1981 Contract, consequently altering their views and previous willingness to sign the updated water quality MOU. Agency staff interpreted Mr. Helliker's comments during the meeting as a tactic to muzzle the Agency manager's comments and questions on BDCP and a possible forewarning of legal action by the department for perceived violations of the Contract. Agency staff responded with several counterpoints, including the fact that the MOU on SWRCB's Delta Water Quality Plan is independent of the BDCP process and should therefore not be politicized by the Department. The Board discussed how to effectively continue acting in the best interests of landowners within the Agency and agreed comments by the Manager have been appropriate and well-received by North Delta landowners. The Board supported her continuing to ask questions, provide public awareness and raise issues such as adverse impacts, and offering comments on BDCP Plan and EIR/EIS. Staff was directed to continue pursuing a signature for the water quality MOU.

The BDCP Public Draft Plan and EIR/EIS were released for a 120-day public comment period ending on April 14, 2014. Downey Brand has initiated internal discussions on the most cost-effective and time-efficient strategy for providing its Delta and Northern California clients assistance in submitting agency-specific and general public comments on adverse impacts as well as a work plan to share costs amongst its clients. They will provide a scope of work and budget for NDWA once they have a better idea of the specific deliverables and time associated with their services. Melinda is also working with several agencies to see if and how the workload and costs can be shared among a broader coalition of stakeholders with similar issues. Melinda noted the review period is 120 days, but due to the size of the project, that was not long enough for many agencies, so if asked, the Agency will sign onto a coalition letter requesting an extension of the BDCP April 14, 2014 comment deadline. Steve Mello and Topper van Loben Sels volunteered to participate on an ad hoc committee to work with staff on the comments that will be submitted.

Kevin raised the importance of the NDWA and DWR engaging in meaningful discussions to identify the details regarding specific impacts disclosed in the EIR/EIS that are related to the contract and specific measures to mitigate those impacts. However, he believes DWR will be too busy to actively engage at that level of detail until after the end of the EIR/EIS public comment period ends in April. He suggests the Agency focus on submitting comments at this point.

Mike Hardesty mentioned that Roger Patterson with Metropolitan Water District requested a meeting with NDWA to discuss the BDCP unavoidable adverse impacts and suggested it would be worth the effort. The Board agreed and directed staff to pursue a meeting.

Engineer's Report

Gary Kienlen, MBK, said his firm will coordinate with Downey Brand to develop engineering costs associated with the work plan and budget for reviewing the BDCP Plan and EIR/EIS. Gary also explained that Walter Bourez, MBK, has done a lot of work already on coordinating with DWR/USBR staff to refine the BDCP CALSIM model so that the effects of the BDCP operations are separated out so they can be accurately reviewed in a new model run to use for submitting comments. The Board agreed the sharing of Walter's final report with other interested parties would be beneficial for purposes of submitting comments.

Gary Kienlen distributed water quality charts and reported that water quality is currently within the contract's criteria.

Manager's Report

Melinda informed the Board that a coalition invited NDWA to participate in a December 13th rally and media event regarding the release of BDCP Public Draft Plan and EIR/EIS, but she declined because the media documents prepared by the coalition, Californians For A Fair Water Policy, explicitly stated participants opposed the BDCP twin tunnels or any tunnel proposal at all. Their anti-tunnel position is not consistent with the Agency's position on BDCP to work with DWR/USBR to assure the design, construction, water operations, and implementation of conveyance facilities and habitat projects maintain the water availability and quality provisions of the 1981 Contract.

The Board briefly discussed whether any follow-up was needed regarding the SWRCB and CDWA correspondence on 2013 D-1641 water year classification changes and directed Kevin O'Brien to review and advise accordingly.

Update on Delta Activities

The Delta Restoration Network is a new coalition of state and federal agencies coordinating information regarding implementation of several near term Delta habitat projects related to BDCP and Biological

Opinion Reasonable and Prudent Alternatives (RPA) that may affect the Agency. The Board agreed that the Agency should participate in the Network and comment on these projects, directing staff to participate as appropriate.

Justin van Loben Sels was announced as the new North Delta representative to serve on the Delta Protection Commission, replacing Topper van Loben Sels effective in January 2014. Melinda reported the DPC is planning to have meetings on BDCP adverse effects in order to assist in their development of comments to submit on the BDCP. She also informed the Board that she has been participating in efforts to activate the DPC'S Advisory Committee (DPAC) and expects it to be functioning in a more pro-active way in 2014.

The BDCP Cooperating Agencies met with SWRCB staff to follow-up on comments the SWRCB made on the BDCP Admin Draft. There will be no changes made in the BDCP Public Draft due to those comments, but they will continue discussions with DWR and informed the Cooperating Agencies that DWR intends to submit petitions for change of diversion in January. The Board discussed the importance of NDWA participating in the change of diversion process to protect the Contract. Kevin explained that the petition to change SWP/CVP diversion sites, adding new location in the case of BDCP, will need to answer the question of whether those projects harm other water users/beneficial uses. NDWA's participation in the SWRCB's process will likely involve submitting a formal protest to the change petition until it can be shown that no harm will occur to the channels or water users in the Agency's jurisdiction. The water board staff informed DWR that the shortest timeline for the change petition process would be 18 months, but the average is 4 years.

Melinda attended a WEF's San Joaquin River Restoration Agreement Tour and learned about the efforts to resume flows of the river in areas where it currently runs dry. Melinda will be working with DWR staff on drafting the 2-page summary of the Delta Region to be included in the updated CA Water Plan.

The Delta Stewardship Council (DSC) is in the process of creating an Implement Committee for the Delta Plan, which includes state and federal agencies, but not Delta organizations or agencies. The DSC's Independent Science Board has expressed interest in learning more about the BDCP modeling results Walter Bourez is working on in order to facilitate their review of BDCP in accordance with requirement in the Delta Reform Act. The Delta Watermaster informed the DSC about a report he submitted to the SWRCB on area of origin water rights at their October meeting.

The water bond, which includes funding for BDCP habitat, is still on track for the November 2014 ballot. Chairman of the Assembly Water, Parks and Wildlife Committee, Assemblyman Anthony Rendon (D-Los Angeles) is the author for the Assembly version, AB 1331, and Senator Lois Wolk (D-Davis) is the author for the Senate version, SB 42. The total amount of the bond has dropped from \$11B to \$7B at this point and polling indicates public support is weak.

The Board set a meeting for January 8, 2014 for updates and possible actions regarding BDCP or other time sensitive issues.

Public Comment

None

Adjournment

The meeting was adjourned at 12:00 p.m. on Wednesday, December 11, 2013.

Respectfully Submitted,
Margaret Sorensen, Administrative Assistant