

BOARD OF DIRECTORS MEETING

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# MINUTES

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REGULAR MEETING

Thursday, October 20, 2022

2:00 p.m.

(Paragraph numbers coincide with agenda item numbers)

**1. CALL TO ORDER**

The regular meeting of the Delta Conveyance Design and Construction Authority (DCA) Board of Directors was called to order remotely - Conference Access Information: Phone Number: (916) 262-7278, Code: 1468030055#, <https://meetings.ringcentral.com/j/1468030055> at 2:00 pm.

**2. ROLL CALL**

Board members in attendance remotely were Martin Milobar, Gary Martin, Richard Atwater, Tony Estremera, and Alternate Director Dennis LaMoreaux sitting in for Adnan Anabtawi. Sarah Palmer and Robert Cheng participated from the DCA Board Room, constituting a quorum of the Board.

Alternate Directors in attendance remotely were Dan Flory, Royce Fast and John Weed; the Board Clerk captured their attendance for the record.

DCA staff members in attendance were Graham Bradner, Damaris Villalobos-Galindo, Marcie Scott and Joshua Nelson.

**3. PLEDGE OF ALLEGIANCE**

President Sarah Palmer convened the open session at approximately 2:03 p.m. and led all present in reciting the Pledge of Allegiance.

**4. PUBLIC COMMENT**

President Palmer opened Public Comment. There were no public comment requests received, and the comment period was closed.

**5. APPROVAL OF MINUTES: August 18, 2022 Regular Board Meeting, September 15, 2022 Regular Board Meeting, and October 14, 2022 Special Board Meeting**

Recommendation: Approve the August 18, 2022 Regular Board Meeting, September 15, 2022 Regular Board Meeting and October 14, 2022 Special Board Meeting Minutes

Motion to Approve Minutes from August 18, 2022, September 15, 2022, and October 14, 2022, as

Noted: Cheng

Second: Palmer  
 Yeas: Palmer, Milobar, Martin, Atwater, Estremera, Cheng, LaMoreaux  
 Nays: None  
 Abstains: None  
 Recusals: None  
 Absent: None  
 Summary: 7 Yeas; 0 Nays; 0 Abstain; 0 Absent. (Motion passed as MO 22-10-01).

**6. CONSENT CALENDAR**

a) **Extend Resolution No. 2021-08 Authorizing Virtual Board and Committee Meetings Pursuant to AB 361**

Recommendation: Approve Extending Resolution Authorizing Virtual Board and Committee Meetings Pursuant to AB 361

Motion to Approve Extending Resolution Authorizing Virtual Board and Committee Meetings Pursuant to AB 361, as

Noted: Estremera  
 Second: Cheng  
 Yeas: Palmer, Milobar, Martin, Atwater, Estremera, Cheng, LaMoreaux  
 Nays: None  
 Abstains: None  
 Recusals: None  
 Absent: None  
 Summary: 7 Yeas; 0 Nays; 0 Abstain; 0 Absent. (Motion passed as Resolution 21-08-15).

**7. DISCUSSION ITEMS:**

a) **October DCA Monthly Report**

*Informational Item*

Executive Director, Graham Bradner, presented an overview of the monthly board report. He started with Section 1: Worked Performed, highlighting that the Program Management team continues to process invoices for Fiscal Year (FY) 2021/2022. The team is also developing and processing Task Orders, Task Order Amendments, and Purchase Orders for FY 22/23. The Administration team continues to provide support to the DCA Board of Directors and coordinate DCA events. The DCA is in the process of transitioning the video and phone provider to Zoom. Mr. Bradner is hopeful that the December Board meeting will be held via the new platform. The Engineering team continues to support the Department of Water Resources (DWR) permitting activities as they request for information and clarification regarding the conceptual designs and reference documents the DCA provided to support the Draft Environmental Impact Report (EIR). The Geotechnical team continues to review existing and new data obtained from the soil investigations and provide support to DWR’s consideration of alternatives. Mr. Bradner noted that there are several ongoing Fieldwork activities that will be discussed during Agenda Item 7b.

Mr. Bradner continued to Section 3: Budget, stating that the report shows financials from both the current and the previous fiscal year as there is an active task order that was extended from the previous fiscal year. He reminded the Board that the DCA has an approved FY 22/23 budget of \$31.16M of which approximately \$27M is currently committed. The balance that has yet to be committed is the unallocated reserve within the Executive Office budget line, a portion of the Community Engagement budget line, and a majority of the Fieldwork budget line. The Fieldwork task orders are issued based on the investigation programs and the budget is expected to be fully expended by the end of the fiscal year. The estimate at completion will be analyzed in either January or February, once there is a better understanding of the projections and budget. In regard to cash flow, the July and August actuals were close to the projected amounts, and this should be the case for the coming months through November. The original budget for the previous fiscal year was \$21.5M which increased to \$24.47M after rolling over underrun from previous fiscal years in July. The FY 21/22 budget had a total underrun of approximately \$6.4M and \$3.11M of that was rolled over into the current FY 22/23 budget. There is only one (1) remaining task order open for FY 21/22 and the work should be completed by the end of October 2022. The FY 21/22 cash flow reflects the Fieldwork Program fully operating in June, making the actuals almost equal the projected amount.

Lastly, Mr. Bradner went over the program schedule. The Program Management office activities continue as planned. The Engineering team continues with its primary focus on permitting support as well as advancing several of the concept validation studies. The Geotechnical team has three (3) programs active in various phases.

Director Cheng inquired about the lag time between invoices and payments.

Mr. Bradner informed the Board that the time between invoicing and payment is typically 80 days as it is an extensive process. The lag between when labor occurred versus when it is invoiced varies depending on the contractors. The Fieldwork contractors tend to be busy and may not include the labor until the next invoice.

President Palmer asked if there are any known problems in respect to invoicing from the folks that the DCA works with.

Mr. Bradner stated that there are no problems, and the DCA's priority is to ensure that the contractors are submitting invoices and getting paid in a timely manner.

No further questions or comments were presented by the Board.

**b) DCA Field Work Activities Program Update**

*Informational Item*

Executive Director, Graham Bradner, introduced the DCA's Field Exploration Manager, Damaris Villalobos-Galindo to provide the update on this item.

Ms. Villalobos-Galindo reminded the Board of the Field Exploration Programs goals. This includes determining the composition, location, and soil properties throughout the Delta, providing geotechnical and environmental data for the evaluation of project alternatives and updating the

ongoing geologic models by filling in data gaps. All of the current explorations are a part of the Initial Study and Mitigated Negative Declaration (IS/MND) which was adopted in July 2020 and subsequently updated with Addenda. Ms. Villalobos presented a map containing all 326 operations that are covered as part of the IS/MND, including land borings, cone penetration tests and overwater boardings. The soil investigation program includes a wide area of potential exploration locations throughout the delta, however not all of the explorations have been completed because completion of each exploration is contingent upon availability of appropriate approvals, additional permitting, and accessibility. Up to today, the Fieldwork team has completed about 33% of the explorations covered under the IS/MND and about 50%, 107 explorations, of the 33% were completed after Fall 2021. There are an additional 69 explorations that are ongoing and planned for the next calendar year. Currently, the team is in the midst of the Fall Exploration Program. The programs are typically comprised of 60% soil borings and 40% cone penetration.

Ms. Villalobos-Galindo showed a comparison of two (2) maps with an overlay of the proposed project alternatives. The first (1<sup>st</sup>) map showed historical soil investigations that were obtained via other projects. The second (2<sup>nd</sup>) map showed soil investigations obtained between 2009-2021 that were relevant to the project as the bores were approximately 150 feet underground. Most of the borings were along the Central Alignment, leaving significant data gaps for the Eastern and Bethany Alternative Alignments. The Fieldwork team completed the Spring 2022 Exploration Program in June and the Summer 2022 Exploration Program in September in an attempt to fill these data gaps and update the geologic models. After the borings are complete, the samples undergo two (2) different testing, laboratory and in-situ. The laboratory testing is performed at a lab and consists of gradation and fines content, and Atterberg limits index tests and triaxial consolidated and unconsolidated, direct shear, various rock strength tests and other various tests. The in-situ testing is performed in-house and consists of standard penetration tests, cone penetration test (CPT) resistances, pressuremeter, seismic CPTs, PS-Logging, CPT pore-pressure dissipation and slug, falling head, and packer tests. These tests provide a better understanding for a variety of project components including tunneling methods, machine selection, dewatering and slurry walls, foundations, and more.

President Palmer inquired if there has been any collaboration with the United States Geological Survey agency or if they are to have access to the information.

Mr. Bradner informed the Board that he believes that there has been some collaboration with the agency in collecting the historical information, and he expects that there will be continued collaboration potentially coordination through DWR.

Director Cheng thanked Ms. Villalobos-Galindo for her presentation. He was curious whether the DCA could perform all 326 explorations at once or if the IS/MND possesses limitations.

Mr. Bradner informed the Board that many of the explorations are not easily accessible, requiring temporary entry permits or court-ordered entry access. The historical data was not readily available when the IS/MND was composed, and the team has found that a lot of the explorations identified in the IS/MND have already been historically assessed. The DCA is now focusing on areas that still contain gaps.

Director Cheng inquired about the timing of when the historical data was collected and if the technology today allows for better reliability. He also asked how the team determines which test to perform in each area and the relative cost for those tests.

Mr. Bradner informed the Board that a lot of the data was collected in the mid to late 1950's and provides valuable data for shallow subsurface information. The more recent data does tend to be better, however the older data can still be useful. The Engineering team determines which test to perform depending on the information needed.

Director Cheng asked if the DCA intends to perform all 326 borings.

Mr. Bradner informed the Board that the DCA does not intend to perform all 326 borings.

President Palmer stated that some of the historical data is important for determining levy strengthen composition because some of that will not have changed over the years.

Mr. Bradner agreed with President Palmer, however unfortunately there's a lot of laboratory testing that's required for more advanced analysis and even though many of those points are useful from a stratigraphy perspective, they don't have the laboratory testing that's needed for a more detailed analysis.

Director Martin thanked Ms. Villalobos-Galindo for the presentation and stated how critical this is for the effort of this project. He asked if the Board should expect to see this kind of update in the future on a regular basis and will the necessarily slow-moving operation of the subsurface investigation start to produce results that the Board can see and hear more about?

Mr. Bradner informed the Board that the DCA will update the Board periodically during the current phase of the exploration program. There is a limitation regarding public distribution of this information as the entry documentation requires that the information be treated as confidential. The DCA is updating Delta wide geologic conditions and providing this information to DWR for their review of alternatives and evaluation.

James Crowder, Attorney at Soluri Meserve, A Law Corporation, provided public comment, informing the Board that the initial study and IS/MND that the geotechnical investigations rely on is currently being litigated.

No further questions or comments were presented by the Board. No additional public comment request received for this item.

c) **DCA Policy Against Discrimination, Harassment and Retaliation**

*Adopt Resolution*

Executive Director, Graham Bradner, introduced Marcie Scott, DCA Human Resources Manager. Ms. Scott informed the Board that this policy is vital for building the foundation for future personnel management and it is important to define the federal requirements and the broader mandates that are in California law, as well as the process for any complaints to be raised as well as how they will be addressed. She reminded the Board that the DCA does not currently have any

employees, however it is important to communicate clearly and collaborate with the contracting agencies on the DCA process. This will also allow the DCA to set expectations for the workspace to ensure a professional and appropriate workspace for everyone.

President Palmer thanked Ms. Scott for her presentation.

No comments or questions received from the Board, as well as no public comment requests received.

Recommendation: Approve Resolution to Adopt a Policy Against Discrimination, Harassment and Retaliation

Motion to Approve Resolution to Adopt a Policy Against Discrimination, Harassment and Retaliation, as

Noted: Martin

Second: Estremera

Yeas: Palmer, Milobar, Martin, Atwater, Estremera, Cheng, LaMoreaux

Nays: None

Abstains: None

Recusals: None

Absent: None

Summary: 7 Yeas; 0 Nays; 0 Abstain; 0 Absent. (Motion passed as Resolution 22-08).

## 8. STAFF REPORTS AND ANNOUNCEMENTS:

### a. General Counsel's Report

DCA General Counsel, Josh Nelson, provided the written report in the Board package. Mr. Nelson informed the Board that the Governor has announced that the statewide declaration of emergency for the COVID-19 pandemic will sunset at the end of February of next year. This does have an important potential change to the Board's ability to utilize the very flexible teleconference rules under AB361, which were included in the new remote meeting legislation, AB 2449 and takes effect January 1<sup>st</sup>, 2023. Those rules are conditioned upon there being a statewide declaration of emergency and with that being rescinded moving forward that will prevent the Board's ability from using those flexible rules after February 2023. He noted that there is some ambiguity in the statute about whether it is possible to continue meeting remotely under those rules of state and local health officials are continuing to recommend social distancing. If that is the case, beginning after or on March 1st and there will be two (2) ways in which the Board can utilize meetings. The first will be just the traditional rules that have been in place before the pandemic and as a reminder, those allow any of the directors to participate from a remote location as long as that remote location is accessible to the public and listed on the agenda. Directors may benefit from establishing satellite meeting locations and DCA staff will reach out to the various member agencies to work through the logistics. In addition, AB 2449 does permit calling in from a remote location which is not accessible to the public or listed on the agenda in certain instances. In particular, you have to satisfy either a just cause or an emergency standard which are both defined in the statute. Emergencies are effectively medical emergencies and just causes include childcare needs, a medical emergency, or traveling for DCA business. There are some practical limitations on attending from remote locations under the statute. First there are limits on the numerical number of times you can utilize the exceptions depending on which one you're using. Second, if any single

director is calling in from a remote location that's not accessible to the public a quorum of the entire Board needs to be in the same physical location, so for the DCA purposes four (4) of the Board members would always need to be in person in the DCA Boardroom. In addition to that there are requirements to identify anyone over the age of 18 who may be in the room with you when you're calling in from a row location as well as the general discussion of your relationship to that person. The DCA does anticipate bringing in a more detailed item for discussion to the Board at a future meeting in advance of February.

**b. Treasurer's Report**

DCA Treasurer, Ms. Katano Kasaine, stated that two written reports were provided in the Board package. She informed the Board that the reports cover July, August, and September of 2022. At the end of September, the disbursements totaled approximately \$3.4M and the ending cash balance was \$448,273. Year to date actual expenses were \$2.5M lower than the budget.

Director Cheng inquired about if there are any long-term investments that the DCA is making with the cash on hand.

Ms. Kasaine informed the Board that there typically are not a lot of funds left over to invest as DCO provides the funds and it is utilized to pay bills.

**c. Verbal Reports**

None.

**9. FUTURE AGENDA ITEMS:**

None.

**10. ADJOURNMENT:**

President Palmer adjourned the meeting at 2:55 p.m., remotely-Conference Access Information:  
Phone Number: (916) 262-7278, Code: 1468030055#, <https://meetings.ringcentral.com/j/1468030055>