

BOARD OF DIRECTORS MEETING

# MINUTES

SPECIAL MEETING

Thursday, December 19, 2024

1:30 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 in person, by teleconference, and remotely - Conference Access Information: Phone Number: (669) 444-9171, Code: 87500274563#, <https://dcdca-org.zoom.us/j/87500274563?from=addon> at 1:30 pm. President Martin Milobar asked Secretary Gary Martin to chair the DCA Board Meeting.

## 2. ROLL CALL

Board members in attendance from the DCA Boardroom were Director Gary Martin, Director Miguel Luna and Director Robert Cheng. Vice President Tony Estremera and Director John Weed participated from Valley Water Headquarters Boardroom, President Martin Milobar participated from 154 East White Lane, Bakersfield, CA 93307 and Director Adnan Anabtawi participated from Mojave Water Agency. Director Martin chaired the meeting for President Milobar.

Alternate Director in attendance from the DCA Boardroom was Michael Plinski. Alternate Directors Sarah Palmer, Dan Flory, Royce Fast and Dennis LaMoreaux participated remotely.

DCA staff members in attendance were Graham Bradner and Josh Nelson.

## 3. CLOSED SESSION

No public comment was received for the closed session item.

### (a) CONFERENCE WITH LEGAL COUNSEL

Significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2):

- i. *Tulare Lake Basin Water Storage District v. DWR*, Sacramento Superior Court, Case No. 24WM000006 (and related cases Nos. 24WM000008, 09, 10, 11, 12, 14, 17, 62, 76)
- ii. Delta Stewardship Council Consistency Determination Appeal, C20242, DWR 2024-2026 Proposed Geotechnical Activities

(b) PUBLIC EMPLOYEE PERFORMANCE EVALUATION

(Government Code Section 54957)

Title: General Counsel

(c) CONFERENCE WITH LABOR NEGOTIATORS

Agency designated representatives: President Milobar, Graham Bradner

Contractor: General Counsel

**4. OPEN REGULAR MEETING & PLEDGE OF ALLEGIANCE**

Stand-in Chair Martin opened the regular session at approximately 2:20 pm and announced that there was no reportable action from the closed session.

**5. PUBLIC COMMENT**

There were no public comments request received.

**6. APPROVAL OF MINUTES: October 17, 2024, Regular Board Meeting**

Recommendation: Approve the October 17, 2024, Regular Board Meeting Minutes

Motion to Approve Minutes from October 17, 2024, as

Noted: Estremera

Second: Milobar

Yeas: Milobar, Martin, Luna, Estremera, Cheng, Anabtawi, Weed

Nays: None

Abstains: None

Recusals: None

Absent: None

Summary: 7 Yeas; 0 Nays; 0 Abstain; 0 Absent. (Motion passed as MO 24-12-01).

**7. DISCUSSION ITEMS:**

a) **December DCA Monthly Report**

*Information Item*

DCA Executive Director, Graham Bradner, presented to the Board the Monthly Report for December 2024. Mr. Bradner stated that by January or February of 2025, there will be an update to the formatting of the report with the goal to start communicating the timeline information that has been shared over the past year. This is to acknowledge and track milestones that are being met and that the team is working towards. DCA has started to create some separation between the ongoing activities that are continuous throughout the year compared to the activities that have a more finite term.

Mr. Bradner moved on to Section 1, highlighting that there are several ongoing activities around the invoices, forecasting, and program controls. There has been significant work on the Master Programmatic Schedule, this helps articulate the key activities between now and the implementation phase of the program and how various issues or decisions may impact the schedule. Mr. Bradner continued to the Administrative section and stated that there will be improvements made to the audio conditions in the Boardroom to improve microphone abilities and communication during hybrid meetings.

The Engineering team continues to look for potential innovations to improve the constructability of the project, continue to reduce impacts, improve the schedule, and further evaluate and develop concept designs. Many of these innovations are part of the secondary cost estimate released back in May 2024. DCA continues to support the Department of Water Resources (DWR) with permitting activities which will be explained further during the DWR Environmental Report section of the agenda.

The Fieldwork team is performing additional reusable tunnel material studies to augment work completed back in 2013-2014. This is taking soil samples from the potential tunnel horizon and mixing those samples with amendments that may be used for the tunneling operations and then further evaluating the engineering and environmental properties of that material to validate the reuse assumptions. DCA is starting to augment that data set and continuing to perform additional evaluations.

Mr. Bradner continued to the budget and stated that a budget of \$43M was approved last June 2024 by the Board. Currently DCA has committed through contracts and task orders a little over \$35M. During the mid-year mark, DCA reviews the budget to identify any over or under runs. \$6,578,894 has been budgeted for fieldwork activities, however, due to the injunction it has not been committed through contracts. Due to this instance, DCA has carried an underrun throughout this year. If the Fieldwork team is able to get back into the field to conduct additional geotechnical work based on the scope of work for this fiscal year, then the DCA would issue portions of that budgeted amount. During the mid-year, DCA starts to reconcile contract scopes and budgets to see what was intended at the beginning of the year versus where DCA currently sits. At times new priorities come up and contracts need to be changed, this allows for any underruns to be repositioned and assigned to new scopes. There will be updates in January and February regarding how the financial fiscal year is going.

Moving on to the cashflow chart, he explained that the blue bars and blue lines represent the planned monthly and cumulative expenditures. The gold bars and the pink line represent the actuals. To date there has been a significant underrun for this fiscal year. During the winter months, the geotechnical work bar drops due to not actively being in the field. This will change during the summer months in May and June. He stated that there will be an underrun this year, however it is dependent on the outcome of the fieldwork.

Mr. Bradner continued to section 5, informing the Board of the ongoing activities and the progress status of the activities. The fieldwork is currently at 0% due to no activity. There will be a more substantial update for this section during January or the February Board Meeting.

Director Cheng asked how much work has been completed by the DCA to support the upcoming Change of Point of Diversion (CPOD) hearings.

Mr. Bradner stated that the next major permit is the CPOD hearings with the State Board. There is substantial support that is required by individuals who will be participating and informing the processes and activities that the DCA will be responsible for. This work is different than the work done for the Environmental Impact Report (EIR) due to the expertise associated with various aspects of the project and providing the information to the State Board. Any request made by DWR for support is provided.

Stand-in Chair Martin asked if the underrun was affecting any other work aside from the geotechnical work.

Mr. Bradner stated that it will impact the innovations and the ability to refine the project. His goal is to bring the best possible project when the project is up for consideration for implementation in a few years. Not having the additional geotechnical work to help understand some conservatism that were built into the EIR concept design is going to limit how many of those conservatisms that the DCA feels comfortable starting to unwind or reduce. Ultimately, it could ripple through DCA's ability to innovate the project.

Stand-in Chair Martin asked if the budget is moving along as it should.

Mr. Bradner stated that the budget is moving as it should.

No further comments or questions were received from the Board, nor were any public comment requests received.

**b) Annual Financial Audit Report**

*Information Only*

Mr. Bradner introduced Russell Robertson from Macias, Gini & O'Connell Audit Firm. Mr. Robertson presented the results of the audit that was completed on the DCA. Mr. Robertson stated that he would explain what the auditor responsibilities are and what needs to be communicated. The auditor's focus was to do an audit for Fiscal Year (FY) 23/24 on the cash receipts and disbursements that DCA received via Metropolitan Water

District (MWD) as they act as the trustee for this activity for DCA. The auditors do not issue an opinion regarding controls, but if there were to be an issue with controls, they would be presented to DCA. Mr. Robertson stated that they provide their unmodified opinion on the report giving a high level of assurance of the statement of cash receipts and disbursements on the report. There is a contribution section along with different disbursements throughout the year. The cash at the end of the year is intended to present the authority's financial position in result to the operations that occurred in FY 23/24. This audit followed the US general Accepted Auditing Standards. With no change in county policy, everything was consistent from the previous year.

Mr. Robertson stated that there were no significant difficulties encountered during the audit, no uncorrected misstatements, no disagreements, and there was a representation from management indicating what was covered and disclosed was accurate. There were no consultations from other accountants and there were no significant matters, findings or issues during the audit.

The cash receipts and disbursements were consistent with more contributions and expenditures in FY 23/24 for operations during the year. Mr. Bradner's report on the budget was in line with how the operations went for FY 23/24. With a cash position of \$752,000.00 ending FY 23/24. Mr. Robertson stated that more of the report explained the accounting policies that the DCA follows and explains the activities and operations of the project. Mr. Robertson stated that there was \$66,000.00 that was not included in the report, but the cost, revenue and expense was charged but was not part of this financial statement.

No comments or questions were received from the Board, nor were any public comment requests received.

c) **Conceptual Engineering Report Update**

*Information Only*

Mr. Bradner reintroduced DCA Engineering Design Manager, Adam Murdock. Mr. Bradner stated that the document being presented was posted on the DCA website at the end of October and Mr. Murdock is going to review what it represents. There are no new engineering concepts introduced within the document compared to the information in the EIR. This document is more consolidated and user-friendly depiction of the information relative to the Bethany Reservoir alignment.

Mr. Murdock first informed the Board about the Engineering Project Reports (EPR's). The EPR's were developed to represent a concept design supporting the alternatives that were identified and evaluated in the EIR. The EIR looked at three (3) different alignments

represented by the central alignment, the eastern alignment, and the Bethany alignment. In addition, there were four (4) different design flow capacities that were looked at from three thousand (3,000) to seven thousand five hundred (7,500) cubic feet per second (cfs). With the combination of alignments and flow capacities there was also multiple facilities that were required to support that, including the southern complex that supported the Central and Eastern alignment, and the Bethany complex that supports the Bethany alignment. Since DWR has approved and certified the EIR it is important that there be a concept engineering report that represents the selected Bethany Reservoir alignment at the six thousand (6,000) cfs and moving forward it is called the Delta Conveyance Project (DCP).

Mr. Murdock stated that there were two (2) engineering project reports that were put together to describe all the alternatives. Those reports have been organized and compiled into a single report that represents the DCP at the six thousand (6,000) cfs. The work included organizing a narrative report, taking seventy (70) technical memorandums that were prepared and condensing them to forty-four (44) technical memos that explain the DCP. This report is organized in appendices by facility and topic which makes it easy to read and find information. As mentioned previously, no additional content was created, rather it was organized to represent the approved project that was certified in the EIR. The work also included a set of drawing and map books that represent the DCP. The EPR's had five-hundred and eight (508) drawings to describe all the combinations of alignment and flow capacities and now there are only one-hundred and sixty-one (161) drawings that represent the DCP. There is also volume three (3) that are the map books that show where the facilities land on the ground, and now the team is tracking only three (3) of them. Mr. Murdock stated that if anyone would like the information, it is on the DCA website under the Concept Engineering Report.

Overall, the concept engineering report provides a foundational document that will be used to support the development of the design as the project moves forward. The Communications team is also helping explain the engineering work being done by creating an engineering components video that will describe the DCP, and the components required to support the project. There will also be a project virtual tour video that will allow anyone to virtually tour the Delta, see the footprint of where the project is located and help people visualize and understand what the components of the project are.

Director Luna asked if the videos were available now.

Mr. Murdock stated that the videos would be available after the first of the year.

Stand-in Chair Martin asked how long this remains as a final draft.

Mr. Bradner stated that they can remain a final draft for a while as they tend to evolve.

Director Cheng asked if the project innovations were also located in the same repository.

Mr. Bradner stated that the Independent Technical Review (ITR) was included in the ITR panel report in the October 2024 board packet, which is available to the public on the DCA website.

Stand-in Chair Martin stated that videos and photos are very helpful.

No further comments or questions were received from the Board and no public comment requests received.

- d) **Adopt Resolution Approving the Amendment #9 to the Joint Exercise Powers Agreement with the Department of Water Resources and Finding that Execution of the Amendment is Not a Project Subject to CEQA.**

*Approve Resolution*

DCA General Counsel, Josh Nelson presented the Ninth Amendment to the Joint Exercise of Powers Agreement (JEPA), which would modify the JEPA in two (2) ways. The first would be to extend the current repayment date of DWR's initial contribution towards the project. It is currently set for January 10, 2025 and the amendment proposes extending it to June 30, 2027. This is consistent with past amendments where dates were extended further towards the final decision on the project. The second amendment would delete some language which provides that during the planning phase the JEPA would expire June 30, 2026. Mr. Nelson reminded the Board that recently the JEPA was amended to better define the planning phase and to clarify that the planning phase will continue until all design permitting and similar efforts are completed, and the project is ready for construction and implementation. Given the changes the explicit deadline is no longer necessary and the amendment proposes to delete it. This is an administrative amendment and would not be considered a project subject to the California Environmental Quality Act (CEQA).

No comments or questions were received from the Board, nor were any public comment requests received.

Recommendation: Adopt by motion to Approve the Amendment #9 to the Joint Exercise Powers Agreement with the Department of Water resources and Finding that Execution of the Amendment is Not a Project Subject to CEQA

Motion to Approve the Amended Amendment #9 to the Joint Exercise Powers Agreement with the Department of Water resources and Finding that Execution of the Amendment is Not a Project Subject to CEQA

Noted: Cheng  
Second: Anabtawi  
Yeas: Milobar, Martin, Luna, Estremera, Cheng, Anabtawi, Weed  
Nays: None  
Abstains: None  
Recusals: None  
Absent: None  
Summary: 7 Yeas; 0 Nays; 0 Abstain; 0 Absent. (Motion passed as Resolution 24-12).

e) **Adopt Resolution Commending and Thanking Barbara Keegan for Her Service on the Board**

*Approve Resolution*

DCA Executive Director, Graham Bradner, acknowledged and thanked Alternate Director Keegan for her service. Alternate Director Barbara Keegan has served on the DCA's Board of Directors since its formation in 2018 as a representative of Santa Clara Valley Water District. This item is an opportunity to recognize and thank Alternate Director Keegan for her service on the Board of Directors. Among her many contributions to the DCA and the Delta Conveyance Project, Ms. Keegan's role as the Vice-Chair of the Stakeholder Engagement Committee (SEC) was essential to the formulation of conceptual alternatives that minimize effects to the Delta while accomplishing the goals established for the project by the California Department of Water Resources. Staff thanks Ms. Keegan for her efforts and wishes her well in her future endeavors.

Alternate Director Palmer stated that she was proud and pleased to serve in the SEC. Ms. Keegan showed a great deal of tact and diplomacy, understanding and empathy during the hearing and various reports. Alternate Director Palmer stated that Ms. Keegan's contributions in being part of the SEC helped get good feedback from the individuals that were involved. Alternate Director Palmer thanked Ms. Keegan and was very happy for the opportunity to work with her.

Director Weed stated that Ms. Keegan is an extraordinary individual. Alternate Director Keegan has been the City Engineer for Sunnyvale and also served her terms with Valley Water. Director Weed recalls her giving him advice that big projects go over budget and over time.



Director Estremera stated that he accepts the recognition of her service on her behalf. Ms. Keegan was Director Estremera's alternate and he appointed her when he was vice chair of the Community Committee. Ms. Keegan served very well and he wishes the best for her. He stated that if she were present, she would thank the Board and Staff for this wonderful resolution.

Stand-in Chair Martin stated that Ms. Keegan and Ms. Palmer maintained a positive and professional position during meetings, especially the SEC meeting. He expressed his appreciation for Ms. Keegan's efforts.

Director Cheng stated that he has heard from various sources about how great Ms. Keegan's efforts have been and wanted to extend his appreciation.

No further comments or questions were received from the Board, nor were any public comment requests received.

Recommendation: Adopt by motion Commending and Thanking Barbara Keegan for Her Service on the Board

Motion to Approve Commending and Thanking Barbara Keegan for Her Service on the Board

Noted: Estremera  
Second: Weed  
Yeas: Milobar, Martin, Luna, Estremera, Cheng, Anabtawi, Weed  
Nays: None  
Abstains: None  
Recusals: None  
Absent: None  
Summary: 7 Yeas; 0 Nays; 0 Abstain; 0 Absent. (Motion passed as Resolution 24-13).

**8. STAFF REPORTS AND ANNOUNCEMENTS:**

Stand-in Chair Martin stated that members of the public may address the Authority on matters pertaining to the Reports at this time.

No public comment requests were received for any of the staff reports.

**a. General Counsel's Report**

DCA General Counsel, Josh Nelson, informed the Board that his update was provided in the Board packet.

No comments or questions were received from the Board.

**b. Treasurer’s Report**

DCA Controller, Bernadette Robertson provided a verbal report on behalf of DCA Treasurer, Katano Kasaine. The beginning cash balance for the Delta Conveyance Design and Construction Joint Powers Authority (Authority) as of October 1, 2024 was \$807,854. Receipts for October through November 2024 totaled \$6,262,783 representing contributions from the Department of Water Resources, Delta Conveyance Office (DCO), for payment of the Authority’s obligations and total disbursements for the same period were \$4,751,617 resulting in an ending cash balance of \$2,319,020 as of November 30, 2024.

As of November 30, 2024, the Authority’s outstanding receivables amounted to \$1,348,021 consisting of 12 invoices issued to the DCO. Deposits, comprising of office lease security deposit and court ordered entry permit reserves, and prepaid expenses were \$1,023,073 and \$260,483, respectively, as of November 30, 2024. For the same period, balances for accounts payable and advances were \$2,862,781 and \$800,000, respectively. The net position as of November 30, 2024 was \$1,287,816.

No comments or questions were received from the Board.

**c. DCP Communications Report**

DCA Communications Manager, Valerie Martinez informed the Board that the DCA brochure has been updated and is on the DCA website. There will be another update to the brochure in January 2025 due to the Board rotations and/or additions that will occur. There will also be brochures printed and readily available. The Communications team is working with the engineers to create a components video that animates the construction of the project.

Ms. Martinez went on to mention that all the videos and fact sheets are up to date and the virtual tour videos are currently being updated. There was a prior tour video created during Covid-19 that had limited information, and a preferred project was not selected at the time. The new tour video gives more information of the project. The engineers are working on a video that animates the construction of the components. Ms. Martinez stated that both videos would be out after the first of the year. The decision makers and different partners of the project are currently reviewing the videos to ensure all the work that has been completed this past year is captured.

DCA had a booth at the Association of California Water Agencies (ACWA) in early December with the help of various DCP members. There were compliments given to DCA regarding the information that was provided regarding the project. Ms. Martinez stated that since the summer, Mr. Bradner, Ms. Buckman and DWR Director Karla Nemeth have done about

seventy (70) presentations to partner agencies. This allows for interpersonal communication and have communities have their questions answered regarding the project. The social media efforts are continuing in providing information online to help understand the project.

Stand-in Chair Martin thanked the team for their continued great work.

No further comments or questions were received from the Board.

**d. Legislative Liaison Update**

Director Miguel Luna presented to the board that Ceasar Chavez would say that “There doesn’t need to be a perfect political system, what is needed is perfect participation.” Director Luna stated that there was much participation this past year for the project including close to one hundred (100) meetings from Mr. Bradner, Ms. Buckman, Director Nemeth and Secretary Wade Crowfoot. He expressed his appreciation for the Communications team and their efforts in ensuring that the materials were available. Director Luna stated that the recently approved funding allows for continued in-depth study of the preconstruction of the project. Director Luna has been able to coordinate with the Governor’s office staff, DWR, contractors, Californians for Water Security and DCA staff.

Director Luna informed the Board that it is important to continue to have open dialogue and one-on-one meetings. He stated that there is going to be new Administration at the federal level come January. He thanked Director Cheng and others for being present during the MWD meeting regarding DCP funding and for them expressing the importance of the project to their agencies. He stated that communication is key and will be valuable for the next 2 years.

Stand-in Chair Martin thanked Director Luna for his presentation and for taking on this role.

Director Cheng would like to congratulate MWD on their support. He was privileged to be in the meeting during the voting process and the Board education process that took place. Director Cheng stated that he understands that there are differences but believes that differences make for stronger projects. He congratulated the Communications team and Director Luna.

Alternate Director Palmer commended everyone involved in the process to achieve the MWD vote. She appreciated Director Cheng’s historical ideas and Director Luna’s perspectives of continuing milestones.

Director Estremera stated that he appreciates Director Luna and his leadership as the Legislative Liaison. It is important to be involved with Legislative individuals on a personal level. Director Estremera recognizes Director Luna and Chair Ortega for their leadership in

getting MWD to support the project. Director Estremera would also like to bring the positivity to the Santa Clara Valley Water Agency and have the Board also supporting the project.

Stand-in Chair Martin stated that he believed Mr. Bradner, Ms. Buckman and other members on the team have been very effective with doing the presentations. In addition to Ms. Martinez and her team with the communication efforts.

Mr. Bradner stated that each time they visit an agency they learn more about the agency's priorities and concerns. This allows Mr. Bradner to explain the project in depth to the agencies. Mr. Bradner appreciates Director Luna's and everyone on the DCA Board's contribution.

No further comments or questions were received from the Board, nor were any public comment requests received.

**e. DWR Environmental Report**

DCA Executive Director, Graham Brander presented on behalf of DWR Environmental Manager Carrie Buckman due to Ms. Buckman attending a hearing at the Delta Stewardship Council. Mr. Bradner mentioned key permitting activities, the first is the water rights, CPOD hearings at the State Water Resource Control Board. There was a procedural prehearing conference earlier in the week to discuss hearing procedures. The policy statements are set for February 18, 2024 and then continuing in March 2025 and into April 2025. Mr. Bradner stated that for the CPOD hearings, there is a hyperlink included in the electronic board packet online for hearing notice information.

DWR is working with the Department of Fish and Wildlife, US Fish and Wildlife Service and National Marine Fisheries to complete consultation efforts for the State and Federal Endangered Species Act permits. The Delta Plan Consistency determination for the overall project, the self-certification package has not been submitted to the Delta Stewardship Council. There was a geotechnical-only submittal that was submitted for the geotechnical work called for 2024 to 2026, however it seems to be more 2025 to 2026 geotechnical activities. With the package being submitted there was a public hearing today in front of the Stewardship Council and Mr. Bradner assumes that if the hearing is completed, then there are sixty (60) days allowed to make a decision regarding the hearing including the appeals that were brought before the Stewardship Council.

The Community Benefits Program is still underway with a draft implementation plan with guidelines out for public review and seeking input from the public by March 1, 2025 regarding the project.

No comments or questions were received from the Board, nor were any public comment requests received.

**f. Verbal Reports, if any**

No verbal reports were received

**9. FUTURE AGENDA ITEMS:**

No future agenda items requested.

**10. ADJOURNMENT:**

Stand-in Chair Martin adjourned the meeting at 3.31 p.m., remotely-Conference Access Information: Phone Number: (669) 444-9171, Code: 87500274563#, <https://dcdca-org.zoom.us/j/87500274563?from=addon>