

STAKEHOLDER ENGAGEMENT COMMITTEE

MINUTES

REGULAR MEETING

Wednesday, November 13, 2019

3:00 PM

(Paragraph numbers coincide with agenda item numbers)

1. CALL TO ORDER

The regular meeting of the Delta Conveyance Design and Construction Authority (DCA) Stakeholder Engagement Committee (SEC) was called to order in the Delta Diamond, 15175 CA-160, Isleton, CA 95641 at 3:04 p.m.

Ms. Barbara Keegan, SEC Co-Chair, opened the meeting with a welcome and explanation of the committee's purpose and scope. Ms. Keegan explained that public comment would be taken on agenda items as well as non-agenda items later in the meeting with a three-minute time limit. Members of the public who wished to speak were asked to please complete a speaker card and provide it to the SEC clerk.

2. ROLL CALL

Committee members in attendance were Angelica Whaley, Anna Swenson, Barbara Barrigan-Parrilla, Cecille Giacomia, David Gloski, Douglas Hsia, Isabella Gonzalez-Potter, Jim Wallace, James Cox, Jesus Tarango (alternate), Karen Mann, Lindsey Liebig, Malissa Tayaba, Dr. Mel Lytle, Paul Ernest Clausen, Phillip Merlo and Sean Wirth constituting a quorum of the Board. Ex-officio members Gilbert Cosio and Michael Moran were also present.

DCA Board Members in attendance were Director Sarah Palmer (Chair), Director Barbara Keegan (Vice Chair) and Director Tony Estremera. In addition, DCA and DWR staff members in attendance were Kathryn Mallon, Valerie Martinez, Joshua Nelson and Carrie Buckman.

3. WELCOME/INTRODUCTIONS

Ms. Keegan thanked members for their attendance and our gracious host for the meeting space, welcomed the public and reviewed housekeeping items regarding committee member sign-in, paperwork, lavatories, as well as committee purpose and description. Ms. Keegan clarified that the SEC is not part of the CEQA or environmental stakeholder engagement process and that the merits of the projects would not be discussed. Rather, this committee will help provide specific feedback to the DCA to help inform their engineering design documents. Further, this committee is an advisory body subject to laws governing local agencies such as the Brown Act. The meeting would be video recorded and available on the DCA website. Ms. Keegan introduced Director Tony Estremera, DCA Board President, to provide a welcome to the committee.

Mr. Estremera welcomed SEC members and expressed his gratitude for their participation. He acknowledged that this first meeting would be an orientation and overview, but as the meetings progress, the committee will be discussing details that can help inform the DCA's engineering documents that are submitted to DWR for their environmental review of a potential Delta Conveyance project. Mr. Estremera emphasized Delta as Place, with support for the people, homes and businesses, as well as a place filled with human history and cultural richness. Mr. Estremera explained this process is a place for the diverse voices of the community to be heard regarding their local knowledge and the deep understanding of their community. The DCA will work with the community to develop an optimal project, optimal construction plan and optimal outcome. Mr. Estremera further noted that he is aware that there are opposers of this project that will possibly never be behind a conveyance project, however felt the importance these voices be included in this process as well. In regards to the scope of the committee, this is not a venue to argue the project's merits, this issue will be addressed through DWR's CEQA process. What can be discussed is the specifics about roads, landmarks and facilities while minimizing community effects. The DCA inspires to build this project with people in mind. In order to get more specificity and detail for this project we turn to committee members' experience, creativity and patience. In addition, we ask that the committee work with the engineering team to reflect the most community input possible in our documents. DCA staff and engineers are here to assist members in their efforts to represent their respective communities.

Ms. Keegan indicated she would take a few moments for introductions. She summarized her experience as being a director for the Santa Clara Water District as well as a civil engineer. Ms. Keegan has a long-time connection to the Delta through family and recreation. She then asked the committee members to introduce themselves, briefly describe their connection to the Delta and indicate why they wanted to be a part of this committee.

Jim Wallace said he is a Courtland resident and is the chair of Delta Legacy Communities. Mr. Wallace has a long family history and environmental consulting experience in the Delta who wants to be a part of the engagement process.

Gilbert Cosio with MBK engineers represents clients in about 40% of the Delta and brings a lot of on-the-ground experience to contribute to DCA.

Cecille Giacoma from Sherman Island is representing communities on the Delta's south end as well as public safety interests. She explained her first loyalty is to natural history and heritage as well as protecting the species found in the Delta.

Douglas Hsia is Secretary of the Locke History Foundation, an organization to preserve and educate the cultural heritage of Locke. He lives on Grand Island and is interested in serving on the SEC to find ways to mitigate project effects and make it livable for the community.

Barbara Barrigan-Parrilla with Restore the Delta is here to represent environmental justice communities throughout the Delta in regards to impacts to the urban Delta and wants to ask hard questions to get answers to vital community questions.

James Cox is a long-time Delta resident and retired charter boat captain involved in recreational fishing and boating who is interested in making the project fish friendly.

Isabella Gonzalez-Potter is a policy associate with The Nature Conservancy and is also studying water and environmental management as a graduate student. She is on the committee to ensure restoration and preservation of the Delta habitat for protected species.

David Gloski is a Delta resident and engineer with fluid flow experience who wants to represent locals and ensure protection for homeowners.

Anna Swenson with North Delta Cares wants to ensure community members are represented and her main goal is to ensure information from SEC meetings are passed on to Delta stakeholders and vice versa.

Karen Mann is a land and real estate appraiser in the Delta, an avid angler, President of Save the California Delta Alliance and is currently raising four of her grandchildren in and around the Delta. She wants to make sure residents are included in this process, understand what is going on and can participate in making a difference in the project.

Malissa Tayaba is a tribal representative who wants to ensure it is known that tribes still use the river for traditional purposes and that the plants, animals, etc. of the river are important to tribes. Her biggest goal is to serve as a liaison between the SEC and tribal people throughout the Delta.

Michael Moran is the supervising naturalist with the Big Break Recreational Visitor Center with the East Bay Regional Park District whose charge is to connect people to the Delta. Mr. Moran has a strong desire for an empathetic connection of folks to the Delta and wants to ask questions from multiple perspectives and is aiming for informed Delta decisions.

Lindsey Liebig is the Executive Director of the Sacramento Farm Bureau representing farmers and ranchers of the Delta and their voices. Ms. Liebig wants to ensure resources are protected and have agricultural interests maintained.

Sean Wirth is the Conservation Chair of the Mother Lode chapter of the Sierra Club. Mr. Wirth is also a founding member of Save the Sandhill Cranes Habitat and wants to improve protections for terrestrial species in the Delta.

Phillip Merlo is the Director of Education at the San Joaquin County Historical Museum. He has a long family history in the Delta and is here to represent San Joaquin county's urban, rural, and farming communities.

Dr. Mel Lytle is representing the City of Stockton on behalf of the City Manager Office. Dr. Lytle is the Assistant Director of the Municipal Utilities Department and has been involved in flood control issues, is a former Delta farmer and an avid sport fishing enthusiast. He is interested in ensuring water quality and supply. In addition, Dr. Lytle is the City representative on San Joaquin Area Flood Control Agency (SJAFCFA).

Paul Clausen is the Vice President of a recreational boaters' organization and is interested in water quality, navigable water ways, tidal flows, salinity intrusion and ecology of the Delta as a whole. Mr. Clausen is also the delegate of the PICIA.

Angelica Whaley was born and raised on Sutter Island and now owns a successful wedding venue in Hood. Ms. Whaley is representing Delta businesses and wants to be a voice of the next generation of Delta residents.

Jesus Taranga is an alternate member representing Wilton Rancheria as their Vice Chairman. He wants to be a bridge between the SEC and tribal entities and bring transparency to the process by taking information from the committee to his community and bring the community's concerns to the committee.

Ms. Keegan introduced Mr. Estremera and explained he is the Board member who has pushed to make this SEC possible.

Mr. Estremera highlighted his years of experience with public water agencies and pointed to his interest in stakeholder engagement due to his upbringing in an urban environment where infrastructure projects often affected his community without community member input. Mr. Estremera reiterated that committee members each have something to contribute and he wanted to ensure that this project involves the community unlike the experiences he had growing up. Mr. Estremera noted that the DCA board fully supported the formation of this committee and is awaiting SEC recommendations. He thanked members for their involvement and participation.

Ms. Keegan introduced each staff member and their role. Ms. Keegan then asked Ms. Mallon, DCA Executive Director, to explain her background and approach to projects.

Ms. Mallon discussed her extensive engineering experience with underground water conveyance tunnels in New York and with other large-scale engineering and infrastructure projects. Ms. Mallon worked in California 30 years ago when a peripheral canal was proposed and explained how everyone across the country has been tracking this California water conveyance project that for decades. Ms. Mallon stated her approach to projects is making sure public infrastructure's emphasis is on the public. Ms. Mallon noted that the project is for the people of California and needs to reflect their voices, and she is excited about presenting ideas and hearing members' insight on how to optimize the project in terms of effects and siting of facilities. Ms. Mallon thanked SEC members for their leap of faith in working with the DCA.

4. DISCUSSION ITEMS/PRESENTATIONS

a. Committee Overview and Purpose

Ms. Valerie Martinez, Meeting Facilitator, provided an overview of the committee and its purpose. She highlighted the meeting schedule, frequency and duration. There is one meeting planned for December and may be 3 hours long. The timeframe to keep open on calendars is 3-6pm on the second and fourth Wednesday of the month starting in January. Ms. Martinez indicated there is a roadmap of what will be discussed in meetings between now and April because there are documents due. Ms. Martinez further explained that the SEC is a team effort between engineering staff and Delta stakeholders, and that meetings will be goal-oriented. A rough outline was provided of the meeting topics planned for discussion at the December and January meetings such as system and siting overviews as well as the review of the NOP when it gets released. It was clarified that each meeting will also contain a roundtable portion for committee members to bring forward the concerns, questions and/or input they've received from their respective organizations and communities. Ms. Martinez said that this is an

opportunity to learn and grow together. The DCA will work with the committee members to adjust and modify the process as necessary moving forward.

Ms. Keegan asked if there were any clarifications needed from committee members.

Mr. Wallace asked what documents are due in April. Ms. Martinez indicated Ms. Mallon would be explaining the schedule in more detail during the next portion of this meeting.

Ms. Barrigan-Parilla expressed concern that the time between materials posting and the meeting is not enough time to talk to others in the community. Ms. Martinez indicated DCA will make every effort possible to provide materials as soon as they are available.

Mr. Gloski asked if committee members could get the information on what is planned to be discussed at the meetings so members can be better prepared. Ms. Martinez said the DCA will develop a “roadmap” schedule for members of what is planned for each meeting through April so they have an idea ahead of time the rough outline of meeting topics, with the understanding it is subject to change.

Ms. Mann noted the meetings are being filmed and asked if it was possible to live cast meetings on Cal-SPAN and indicated it is a free service. Ms. Martinez said she is not familiar with how it works but we can look into possibilities. The video will be available on the website.

Mr. Wirth asked if an alternate could attend in his place because there is at least one meeting he will not be able to make. Ms. Martinez indicated there are some considerations that have to be taken into account in determining if that is possible. Ms. Keegan asked Mr. Josh Nelson, DCA attorney, to respond. Mr. Nelson explained that the committee was formed by the DCA Board and only one alternate was appointed to represent tribal governments and adding additional alternates is not within the scope of the committee. Committee members therefore do not have the ability to appoint alternates. He also indicated that alternates would increase the administrative complexity of the SEC for reasons to be explained in the Brown Act training.

Ms. Keegan suggested that perhaps a future meeting could discuss alternates and other ways to ease communications issues since it wasn’t possible to address them all at this first meeting.

Ms. Keegan summarized the committee’s concerns. She acknowledged the interest in having a roadmap to the extent possible so meeting topics are known ahead of time.

Ms. Sarah Palmer, SEC Chairperson, arrived, thanked Ms. Keegan for presiding over the meeting in her absence and explained she missed the first part of the meeting because she was attending her son-in-law’s citizenship ceremony. Ms. Palmer gave an overview of her experience with the Delta and in public water agencies. She expressed the importance of listening to one another and reiterated that community input makes for a better project. Ms. Palmer emphasized her desire to listen to ideas from the committee members and hopes that although this may not be the outcome that everyone wants, this process will ensure Delta stakeholder input is reflected.

Ms. Martinez reiterated the committee’s purpose is to ensure stakeholders are informing the engineering and design efforts of DCA. She explained the SEC has three basic purposes: it provides a forum for Delta stakeholders to provide input and feedback on technical/engineering

issues related to the DCA's current activities; provides an opportunity to identify engineering and design considerations that would avoid, reduce or offset effects from constructions and facility siting; and, importantly, committee members can relay information between their respective groups and the Stakeholder Engagement Committee. Ms. Martinez repeated that these meetings are not part of the CEQA process, not about the project benefits or deficits, but rather they are for members to provide information and expertise to the engineering team that would not otherwise be known.

Ms. Martinez reviewed general guidelines for the committee, explained how meetings would be conducted and described how SEC report-outs would be developed. Ms. Martinez explained the importance of working as a team. It was noted that the meetings will operate in the public sphere and will be subject to the Brown Act. Ms. Martinez indicated that the SEC is about the interests of the local community as well as the greater good and the wider region and state. Ms. Martinez would like to ensure that the process moves forward with compromise and cooperation and to participate in open communication. Ms. Martinez emphasized the importance of being efficient and encouraged committee members to self-monitor the amount of time they are speaking in order to give time for everyone to offer their feedback. Any terms or concepts that need clarification should be brought up in meetings as this is a good source for information and will help provide a true understanding of the project.

Ms. Martinez explained that meetings will be conducted according to the Brown Act, which the attorney will discuss in more detail later in the meeting. The Brown Act helps with transparency but sometimes not with nimbleness. There are requirements for how meetings are noticed, what can be discussed outside of meetings and other considerations that will be explained by the attorney in the Brown Act orientation portion of the meeting. Ms. Martinez explained that information in the meeting is not binding and that we will be listening to all thoughts. It is clarified that these meetings have no voting authority meaning that these meetings are based on consensus but all thoughts will be received, captured, and reported back to the Board.

Ms. Martinez also explained that a summary of meeting highlights will be distributed on Fridays following SEC meetings. It will capture highlights, committee recommendations, consensus as well as dissenting views and next steps. These report-outs will help members move information out from this committee to the public.

Ms. Swenson asked if there would also be meeting minutes and when they would be available for review. Ms. Martinez confirmed minutes would be generated and included in the materials for the next meeting and then posted on the website when finalized.

Ms. Palmer asked if committee members could indicate if they felt something was missing from the highlights summary document. Ms. Martinez indicated their input is welcome, but please keep in mind it is meant to be a brief summary of highlights and not a detailed document.

Ms. Martinez reminded committee members that we are a team and that staff is there as a resource for them if they need help generating lists of their community members or finding avenues to reach out to their respective interest groups.

b. Roles & Responsibilities: DCA and DWR

Ms. Martinez indicated the relationship between DWR and DCA will be described and reiterated staff is here as resources to help SEC members function in their capacity. She introduced Carrie Buckman, DWR Environmental Manager, to give further information.

Ms. Buckman gave a presentation regarding the DWR's roles and responsibilities. She introduced herself and explained her position is to move the project through all the environmental processes and permitting such as CEQA, the Federal Environmental Endangered Species Act and the California Endangered Species Act. Ms. Buckman gave background about the project's reset from Governor Newsom in February 2019 where it was decided this would be a new project that builds on previous information. At this point, DWR withdrew from all California Water Fix environmental documentation including withdrawing CEQA approvals and the NOP as well as all of the permits. Ms. Buckman explained that the DWR is operating under authority of the California Natural Resources Agency and is leading the environmental planning effort and coordinating with state and federal agencies. In addition, DWR is responsible for stakeholder and public outreach and reporting of progress to the legislature as well as managing the schedule and budget of the project.

Ms. Buckman explained that DWR directs and oversees the work of DCA, while DCA conducts the engineering and design work, identifies design strategies that avoid or minimize impacts, and assists with conducting public outreach, public participation and stakeholder engagement activities. Ms. Buckman highlighted the role of the Public Water Agencies which is for them to provide technical expertise to DWR and the DCA and ensure that the planning and project development meet the financial, policy, and long-term planning needs of their retailers, member agencies and rate payers. Ms. Buckman emphasized that the DCA's role with this committee is to access design related issues of the project while DWR is analyzing an entire suite of environmental concerns. She explained that the Notice of Preparation (NOP) starts the California Environmental Quality Act (CEQA) process, noting the intent to develop an Environmental Impact Report (EIR). Release of the NOP will be followed by scoping where DWR is seeking information regarding the scope of the environmental analysis and the alternatives. Ms. Buckman explained that the NOP will include a description of the proposed project, the proposed project objectives, proposed project area and proposed project facilities. Right now, DWR is aiming for release of the NOP in early to mid-December. The DCA can begin engineering work on the proposed project that will be described in the NOP release. DWR is working toward having a draft EIR in late 2020 that will be out for public review for approximately 3 months. A final EIR is anticipated for early to mid-2021 that will result in a Notice of Determination (NOD) of early to mid-2022.

Ms. Buckman indicated DWR is concurrently working on the process to comply with the Federal Endangered Species Act and the California Endangered Species Act that will result in a biological opinion around the end of 2021 and an incidental take permit around the same time as the NOD.

Ms. Buckman shared that a draft Initial Study Mitigated Negative Declaration for soil analysis throughout the Delta would be released for public review on November 20 and the public comment period will end on December 20. She explained it is a separate process from the Delta Conveyance project and the information obtained will inform several projects throughout the Delta.

Ms. Swenson provided feedback that the holiday season is not a good time for public review comment periods and suggested the comment period be extended or that the draft be released in January.

Ms. Palmer noted the concern is important.

Ms. Buckman reiterated that the CEQA process is separate and distinct from this committee and what will be discussed in this committee are drivers of effects and ways to reduce them. Ms. Buckman noted that she will attend SEC meetings as a resource but doesn't want to confuse members being that the SEC is not a forum for CEQA-related concerns. Committee members were encouraged to provide their input on the environmental documents through CEQA, just not in this SEC forum.

Ms. Palmer expressed that Ms. Buckman is an important resource during these meetings and might be able to help us to understand how to stay in our lane.

Ms. Barrigan-Parrilla asked about the soil investigations and raised a concern about water quality issues related to construction and wants to be able to understand how that will be managed.

Ms. Buckman clarified that the soil analysis doesn't really relate to the larger picture of dredge and soil management. Rather, these soil tests involve drilling a hole that is 4-6 inch in diameter at various elevations and taking those samples to a lab for analysis. The soil investigation also includes cone penetration tests where a cone is placed in the ground but nothing comes out. Geotechnical results from those investigations will be used for a variety of purposes.

Ms. Buckman explained how the SEC's input would specifically assist DWR in considering construction effects in regards to logistics, roadways, transportation, noise, air quality and dual benefit facilities. Contact information for DWR was provided.

Ms. Mallon responded to earlier discussion and clarified that the project is not a forgone conclusion and that the effort here is to ensure Delta voices are reflected in the engineering documents that go to DWR for their CEQA document. Ms. Mallon then gave a presentation on who the DCA is which is an organization formed by the Joint Powers Agreement (JPA) between participating Public Water Agencies for the purpose of the design and construction of the Delta Water Conveyance Project. The Joint Exercise of Powers Agreement (JEPA) is the document that outlines the services that the DCA provide to DWR in support of their environmental process. Ms. Mallon explained that the DCA takes direction from DWR and is subject to DWR oversight. Both DWR and DCA work collaboratively together and want to help ensure design of the project reflects community engagement. Ms. Mallon reviewed a DCA organization chart and indicated that Tony Meyer, Executive Director of DCO leads oversight of DCA.

Ms. Mallon explained the DCA's key functions which are to provide engineering work to inform DWR's environmental process, assist with stakeholder support, produce presentations surrounding technical work and provide general management such as risk-management, cost, schedule and project management. She emphasized that the DCA is trying to identify potential engineering and design strategies to avoid and/or minimize construction effects in the Delta, and that is a responsibility that every DCA engineer takes seriously.

Ms. Mallon reviewed DCA's workplan, recapping the data collection efforts that have already taken place. Ms. Mallon indicated layouts and locations for facilities will be based on the NOP's project description. In April, according to DWR's projected schedule, DWR wants to start analysis of engineering work, therefore the task between now and April is to get input from the committee that will inform that engineering work. Final concept engineering is due in fall of 2020 and SEC will meet throughout the process. Meetings are scheduled for twice a month until April due to the amount of information to get through, but after that time the goal is to move to only one meeting per month.

In terms of collaboration, Ms. Mallon reiterated that in this planning phase, discussions are limited to DCA's role on the project and the committee's work will inform the engineering document that goes into DWR's analysis for the EIR. She repeated that neither the DCA nor this SEC will review or decide the case for the proposed project, the alternatives to be evaluated in the environmental documentation process, the flow and operating parameters of the proposed project and alternatives, or the assessment of the environmental impacts under the CEQA process.

Ms. Mallon repeated that the SEC will really focus on construction effects of the facilities, and mostly the traffic, noise and air quality. While the other effects will be studied by DWR, these particular effects are the ones most likely to affect Delta stakeholders and where SEC member input will be particularly helpful. Ms. Mallon explained that the committee can also be helpful on providing input when there are particular considerations such as how much room a piece of equipment needs to move around. Additionally, in regards to construction effects, for example, the committee could provide input where there is flexibility for selecting a site for a particular facility. Ms. Mallon further explained the committee could help identify opportunities for dual benefits, for example a basin that could have a nice walking trail or viewing deck.

Ms. Mallon expressed the goal for December's SEC meeting is to distribute booklets to committee members explaining components (pumps, forebays, shafts, etc.) and providing maps that include the factors that are considered when selecting sites for certain project facilities. The goal is to provide renderings rather than drawings and give people an idea of how much space the components will occupy. Additionally, an idea of construction duration and the main highlights of what it will entail will be provided. As soon as possible, the DCA will also provide animations to help members understand how the system works. The maps will provide committee members with the information engineers have in regards to transportation corridors, gas & oil wells that determine where facilities can be located along the routes. Once there is an understanding of what each facility is, we can begin discussing optimization. Ms. Mallon repeated it is all about transparency and making sure SEC members have access to the information that engineers have to keep in mind when selecting locations for facilities.

Mr. Wallace asked if there was a certain engineering completion percentage goal for the engineering team to provide to DWR for preparation of the EIR. Ms. Buckman explained that the aim is to acquire more information about logistics and details than is typically included in an EIR, such as how things will get to the sites during construction. Ms. Palmer said that as we do proposals and mapping, SEC members have insight to contribute to that process. Ms. Mallon further explained what we want to put into this document is information that clearly conveys to the public the design and how we will build it. It isn't about a percentage as much as it is about a purpose of clarity in order for the public to be able to comment on the EIR in a thoughtful way.

Ms. Mallon reiterated we want to be thoughtful about the construction nodes and how we lay out these sites.

Ms. Swenson asked where is the discussion about water quality during construction and how construction would be managed in relationship to that. Ms. Buckman indicated that some of that discussion would be coming later as we go through the environmental analysis meaning those topics would not be discussed through the SEC process.

Ms. Barrigan-Parrilla asked for clarifications as to what is meant by logistics. Ms. Mallon explained that logistics mean how we get goods and materials around the Delta.

Mr. Hsia asked if the prior studies performed from the prior project are still available and if they would be used for the new project. Ms. Buckman clarified that as this project's reset is proceeding, they are evaluating what data can still be used so that DWR is mindful of taxpayer resources. They are making determinations as to what analysis will have to be redone and what, if any, data is still applicable to the new project as it is developed.

Ms. Mann asked what was meant by "transportation" because there are roads, bridges, waterways, etc. and how those elements would all coordinate. Ms. Mann shared her personal experience in meeting up with a large barge being pushed by a tug boat in one of the rivers and was concerned for other boaters. Ms. Mann also mentioned the recreational boaters who utilize the waterways include young people with expensive wakeboard boats and lack of experience. Ms. Mann had concern for the safety of boaters meeting up with barges in narrow rivers. Ms. Mallon agreed that's one of the reasons it was important to have recreational boaters on this committee. While barging is a way to move goods and materials around to alleviate pressure on roadways, DCA would like to hear from the committee about some of the specifics regarding barge landing locations in consideration of recreational uses, seasonal restrictions, flooding issues, and so forth. Ms. Mallon explained that these are all things the engineers are already studying but would like to present to the committee for their input, as well.

Ms. Mann also asked about the amount of time staff has spent in the Delta and wanted to ensure it was clear that Delta stakeholders care not just about Discovery Bay or other popular locations but the entire 1,100 miles of Delta waterways. Ms. Mallon reiterated that this is why this committee was formed and why we have asked this group to provide their voices. SEC members can help ensure DCA has an expansive view of engineering work.

Ms. Swenson expressed the desire to see domestic well water quality issues studied sooner rather than later because safe drinking water and flood concerns are critical issues to residents throughout the Delta. Ms. Buckman clarified that her earlier comments about addressing water quality "later" were intended to mean that water quality is a DWR and not a DCA responsibility. Ms. Mallon added that as the committee work progresses and DCA shows members how facilities will be constructed, it will be very clear what the intent is and what will be involved so that members can provide feedback.

Mr. Wirth asked what the project actually is and when the project description will be solidified. It was suggested that if the committee members are to provide input, there needs to be an actual project, not a whole series of possible projects which may be the project that is selected. Mr. Wallace expressed the opinion that State Water Contractors formed the DCA as a JPA because

they did not trust DWR to build the project correctly so now the DCA is having to make up for several years of mistakes.

Ms. Barrigan-Parrilla asked when it would be known whether or not it would be considered a federal project and whether that would be known before the NOP is released. Ms. Buckman said neither is yet known.

Mr. Merlo asked for clarification as to whether or not this committee would be an appropriate place to discuss possible effects on historic sites and/or if the members of this committee could provide input on where to place facilities so as to avoid historic sites. Ms. Palmer said these are the types of things we are looking for members to discuss. Ms. Buckman agreed and clarified that this committee is not going to address what the impacts are on historic sites but could absolutely give input on avoiding or minimizing potential effects through engineering and design. Ms. Mallon said the way she thinks about it is this committee helps “engineer out the effects.”

Ms. Palmer opened public comment, indicating two members of the public had submitted speaker cards.

Ms. Deirdre Des Jardins, California Water Research, referenced the DWR presentation that said discussions during the SEC are intended to provide recommendations to the DCA Board of Directors, but the September 19, 2019 resolution creating the SEC states that “no formal input, opinions or recommendations shall be provided by the committee without the request of the Board, Executive Director or DWR.” Ms. Des Jardins expressed it is confusing and would like clarification as to whether SEC discussions are formal or informal.

Mr. David Stirling asked at what point will there be public hearings before the State Water Resources Control Board and the Delta Stewardship Council, and will there be hearings. Ms. Buckman referenced her earlier presentation that indicated the schedule right now is showing the end of 2021 and into 2022. Mr. Stirling asked if that will be after the EIR has been prepared, and Ms. Buckman said it will be a little bit concurrent but mostly after.

Ms. Martinez offered an opportunity to take a short break, being mindful the meeting was about 15 minutes behind schedule.

The committee recessed for a 5-minute break.

As the committee reconvened, Ms. Buckman addressed the earlier comment about the public comment period regarding the soil analysis. She explained the public comment period was set in consideration to minimizing overlap with the projected scoping meeting schedule anticipated for the release of the project NOP. Ms. Buckman asked if there is a preference for a longer comment period even though there would be a longer overlap with the project scoping period, or if members would rather have the 30-day period with a minimized overlap.

Mr. Wallace asked when the scoping period is, and Ms. Buckman indicated that it would follow release of the NOP, which will hopefully be released in early to mid-December. The scoping period would extend into February. The idea was to make the public comment period on the soil analysis document end before the holidays, but she is open to hearing the committee’s preferences.

Ms. Swenson expressed that the holidays are a time of rest and spending time with family and she therefore requests that DWR extend the comment period into January to give the public more time to provide comment. Ms. Liebig expressed the preference would be an extension of the comment period, even if that means an overlap with the scoping period for the project. Ms. Buckman explained that the notices has already been sent to the printer, so notices that members receive will still have the December 20 date. However, the period could still be extended.

Ms. Martinez noted that making a decision about extension may not be possible in this committee as it might require input from DWR. Ms. Buckman agreed and noted she has heard the concerns and will take them back to DWR for consideration.

c. Ralph M. Brown Act & Public Records Act (PRA) Training

Ms. Martinez introduced Josh Nelson, DCA Interim General Counsel, to provide the committee an orientation regarding the Brown Act and Public Records Act. *(Please see the SEC member meeting packet at dcdca.org for all materials distributed to committee members regarding the Brown Act & PRA Training.)*

Mr. Nelson explained he is the DCA's attorney and his role includes ensuring the DCA complies with public transparency laws including the Brown Act and Public Records Act. Mr. Nelson explained this training for committee members is necessary before committee work begins because the legislature and voters have adopted these laws to ensure that all local decisions and discussions occur in public. It is important that we follow these laws.

Mr. Nelson provided an overview of what he would discuss and explained that it is not an exhaustive list of what the law entails. He acknowledged many committee members have experience with these laws through their work with public agencies. Mr. Nelson explained that this committee is subject to the Brown Act because it is a committee formed by a local agency's Board. He noted the law is very specific about who is subject to follow the Brown Act.

Mr. Nelson explained that any time a majority of committee members meet to discuss issues within their jurisdiction, the Brown Act applies. It was clarified that a majority of this committee is 10 members, and there are exceptions to what counts as a meeting. Ceremonial occasions, meetings of other legislative bodies (such as a DCA Board meeting) or individual contacts don't constitute a meeting, so long as members are not discussing committee business by themselves.

Mr. Nelson then explained serial meetings and how they are violations of the Brown Act that are important to avoid. Serial meetings referred to as a daisy chain can occur if one committee member talks to another member, who then talks to another, who then talks to another, etc. If that occurs and a majority is reached, it is a Brown Act violation. Mr. Nelson advised that if a committee member is being told by another committee member what a different committee member thinks, remind them that it is important to avoid a Brown Act violation and discourage the conversation from continuing. Another type of serial meeting is a hub-and-spoke type, when committee members talk to a 3rd party and facilitate communications between committee members. This type of serial meeting is also to be avoided because it also violates the Brown Act.

Mr. Nelson further explained that meetings can occur multiple ways, including in person, via telephone, through email, written correspondence, use of intermediaries and social networking sites such as Facebook and Twitter.

Mr. Nelson also explained how the Brown Act applies in terms of ensuring meetings are open and public. Agendas are posted 72 hours prior to regular meetings. The meeting packet is a public record once it is distributed to the SEC. The SEC can only discuss items on the agenda. Mr. Nelson also explained that an opportunity for the public to comment must be offered on agenda items as well as non-agenda items and that time limits are permissible. It was further explained that SEC members should not engage with the public during public comment. Staff can briefly respond to a question, but the public comment period is not an opportunity to engage in dialogue with the public. The time for that would be when an item is brought back for discussion and deliberation.

Mr. Nelson then provided an orientation of the Public Records Act (PRA). He noted that a record is any writing which contains information related to the SEC is a public record. It is a very broad law. Text messages, voicemails, emails, written notes, etc., are all considered records. In some instances, it can also apply to information retained only on a private account or email address. Mr. Nelson explained that even if committee members engage in committee business on their personal email accounts, it is potentially a public record. When the DCA receives a PRA request, they must generally respond within 10 days. DCA can only charge direct copying costs. Most records are disclosable, although there are exemptions for personnel records and attorney-client privileged documents.

Mr. Nelson provided best practices for committee members in consideration of the Public Records Act. It was advised that all SEC records should be assumed to be public, including all emails sent or received by SEC members regarding the SEC. Further, members are asked to use their DeltaStakeholder.org email on all SEC business. If using a personal email account, members must cc their DeltaStakeholder.org email address on all sent emails and forward copies of all received emails to their DeltaStakeholder.org email accounts. He explained this is because if a PRA request is received, DCA can access the emails on their servers rather than asking members for access to their personal accounts.

Ms. Palmer advised to never “reply all” to emails regarding SEC business. To that point, Mr. Nelson explained that when members receive an email from DCA, it will only have the recipient’s name in the “to” field as to avoid an inadvertent “reply all” by SEC members.

Mr. Nelson pointed members to the additional handouts that were provided in the meeting packets including the SEC Charter and a guideline document for avoiding serial meetings. He also pointed members to two documents available on the California Cities website regarding open and public meetings and guidelines regarding the Public Records Act.

Ms. Palmer added that when the Board doesn’t respond to public comment, it is because they are not supposed to engage the public during public comment.

Mr. Hsia asked if he posted about tonight’s meeting on Facebook, is there anything he should watch out for. Mr. Nelson answered it would only be a concern if other committee members started commenting on the post.

Mr. Gloski asked if personal notes were public records and Mr. Nelson advised you should presume that they are and will be provided to the public when asked.

Ms. Swenson asked for DCA's plan for posting agendas locally. Ms. Martinez explained the Friday before the meeting, the packet is distributed to the SEC and the agenda is posted in the DCA lobby as well as at the meeting venue and the website. Ms. Martinez also expressed there are aspirations for noticing through social media and encouraged members to augment these efforts. Ms. Swenson said the best practices in the Delta are post offices and libraries. Ms. Mallon added that Ms. Janet Barbieri maintains a list that she sends to as well. Ms. Nazli Parvizi added we also plan to advertise in local papers. A committee member noted for urban areas, meetings notices need to be in newspapers. Ms. Martinez offered that DCA will pull together a document indicating how we are noticing the meetings. Another committee member suggested providing notice to local yacht clubs. Ms. Martinez agreed and noted there is a constant effort to expand the stakeholder email list to include groups such as yacht clubs and others. In fact, some groups may already be on the list that is receiving the email notifications.

Ms. Palmer also stated sending the agenda out to various community groups is part of how the committee members can fulfill their function.

Ms. Palmer opened public comment.

Ms. Des Jardins expressed appreciation for the breadth and depth of knowledge of the Delta represented on the committee. She would like clarification about the DCA's authority in terms of appointing representatives to the committee and being able to remove committee members at will, as stated in the Board resolution.

Mr. Nelson responded to an earlier question raised as to whether or not Brown Act violations are ever enforced. He stressed violations are indeed serious and if an allegation is found to be substantiated, the plaintiff can be entitled to attorney fees which can be very substantial.

5. PUBLIC COMMENT (NON-AGENDA ITEMS)

Ms. Palmer opened public comment for non-agenda items.

Ms. Des Jardins said there should be modelling to show whether proposed intake locations would work with up to 10-ft sea level rise and also to show if there would be adequate flows past 1,000-ft long intakes at current locations. Convening this panel to review site locations is putting the cart before the horse if it has not been validated that these intakes would work.

6. FUTURE AGENDA ITEMS

Ms. Martinez announced the next meeting location has yet to be determined because we need significant amount of space and locations are subject to venue availability. Because of this, the meeting dates provided earlier could shift. The goal is to always provide information to the committee as soon as it is available.

Ms. Martinez explained the December agenda may change based on whether or not the NOP has been released by that meeting date.

Ms. Martinez also reminded members of some housekeeping items for the committee: W-9 forms, onboarding forms, sign-ins at each meeting and meeting location surveys. She reminded them an email set-up guide has been provided to them and asked them to verify their information on the directory that will be released to the public and write in their phone number if they would like that included.

Mr. Clausen asked if it is possible to attend the meeting by teleconference. Mr. Nelson explained that this question is a matter covered in the Brown Act. Any location where there is a teleconference requires a public notice and making the location of the teleconference available to the public, so it poses difficulties but it is an issue we can explore. Ms. Palmer indicated if you were going to take the meeting from home, you'd need to post the notice on your front door.

Mr. Gloski asked if it is possible for committee members to suggest items for future agendas. For example, he indicated it would be helpful to have projections about the benefits regarding jobs or expenditures, as that would be helpful to share with the community. Ms. Mallon answered that the engineers do have models for that type of data. Facilities and sitings will be prioritized up front and then we can begin to explore those other topics.

Ms. Gonzalez-Potter asked if the Brown Act rules still applied to Facebook live streaming videos since it is not a physical location. She also asked if DCA has social media channels and suggested posting meeting notices there. Mr. Nelson explained the Brown Act does not recognize Facebook Live as a valid meeting location. Ms. Martinez indicated social media channels are currently a work in progress and information will be available there once they are up and running.

7. ADJOURNMENT

Ms. Palmer adjourned the meeting at 6:08 p.m.