

**MINUTES OF THE MEETING
OF THE BOARD OF DIRECTORS
OF THE CENTRAL DELTA WATER AGENCY**

November 14, 2023

A meeting of the Board of Directors of the Central Delta Water Agency was convened at 9:30 a.m. at the office of the Agency, 235 East Weber Avenue, Stockton, California.

Participating in the meeting were Directors George Biagi Jr, Rudy Mussi and Eddie Zuckerman. Others participating were Dante John Nomellini Sr., Dante John Nomellini Jr., George Hartmann, Dominick Gulli, Brett Baker, Tom Zuckerman, and Bruce Blodgett.

The first item of business was approval of the Minutes of the October 10, 2023 meeting. After review,

On Motion - Director Eddie Zuckerman

Second -Director George Biagi Jr, the following resolution was unanimously adopted:

RESOLVED that the Minutes of the October 10, 2023 meeting be and they are hereby approved as submitted.

Next, the Financial Report was given, the written portions of which are attached hereto. Along with the Financial Report, the current bills of the Agency were submitted to the Board for their review.

On Motion - Director Eddie Zuckerman

Second - Director George Biagi Jr, the Board unanimously adopted the following resolution:

RESOLVED that the bills of the Agency be and they are hereby approved for payment as submitted.

No new items of legislation were reported.

On water diversion reporting the alternative compliance plan has place of use shape files for the Central and South Delta essentially complete and reporting. Much of the other portions of the Delta have also reported. Efforts are underway to incorporate license reporting. To incorporate license additional programming is necessary and staff seeks approval of a contract addition with the current consultant. The Board,

On Motion - Director George Biagi Jr

Second - Director Rudy Mussi, unanimously authorized such contract.

On litigation it was reported that DWR is still joining additional entry permits for soil testing with court approval although some legal issues remain to be decided as to DWR authority

The Westlands Water District validation case is not going well for Westlands

The SWRCB is proceeding with voluntary agreements to address minimum stream flows with uncertain results.

On levees the funding for Delta Levee Programs after June 30, 2024 remains uncertain. There is concern that the lack of historic presence in the Delta of waterborne cranes and barges of rock will greatly hamper emergency response.

On the 2015 coordinated curtailment cases the CDWA and other plaintiffs received an award of attorney fees which has not yet been paid.

Other litigation is moving forward, some more slowly than others.

Thereafter, there being no further business to come before the meeting the meeting was adjourned.

CENTRAL DELTA WATER AGENCY

235 East Weber Avenue • P.O. Box 1461 • Stockton, CA 95201
Phone (209) 465-5883 • Fax (209) 465-3956

DIRECTORS

George Biagi, Jr.
Rudy Mussi
Edward Zuckerman

COUNSEL

Dante John Nomellini
Dante John Nomellini, Jr.

NOTICE OF MEETING OF THE BOARD OF DIRECTORS OF THE CENTRAL DELTA WATER AGENCY

Date: TUESDAY, NOVEMBER 14, 2023

Time: 9:30 a.m.

Place: 235 E. Weber Avenue, Stockton, CA 95202

Meeting materials will be posted to the CDWA website before the meeting at <https://www.centraldeltawateragency.org> Conference dial in number (551) 258-5770 - no access code required.

AGENDA

(Action may be taken on any item)

1. Minutes of October 10, 2023, meeting
 2. Financial Report
 3. Appointment of representatives on the Advisory Water Commission
 4. Report on legislation
 5. Report on Water Rights
 - a. Water Diversion and Use reporting
 - b. Delta Area Measuring Method Program (DAMMP) Open ET
 - c. SWRCB water right curtailment
 6. Report on litigation
 7. Report on SWRCB actions
 8. Report on Levee Programs
 9. Report on Delta Protection Commission Plan matters
 10. Report on Delta conveyance
 11. Report on Eastern San Joaquin County Groundwater Banking Authority/SGMA JPA
 12. Other Reports
 13. Public Forum
- Closed session item (Closed sessions are not open to the public.) Government Code section 54956.9(a) and (c) - possible litigation. CDWA vs. Delta Stewardship Council - DWR interference with water rights - CDWA vs. DWR Validation, CDWA vs. SWRCB (Curtailment, etc.), CDWA vs. DWR (DCP), Personnel matters.
- Note: Individuals who require special accommodations are requested to contact Jeanne Urbani at (209) 465-5883 at their earliest convenience prior to the meeting date. TTY users may contact the California Relay service at 1-800-735-2929 or voice line at 1-800-735-2922.

Notice posted Thursday, November 2, 2023, at 10:00 a.m.

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FINANCIAL REPORT

November 14, 2023

Balance Forward:		\$	2,010,872.25
Income:			
10/1/23 - Quarterly interest			20,190.00
2023-2024 Direct Assessment:			
10/13/23 - RD 548	367.84		
10/20/23 - RD 684	2.00		
10/20/23 - RD 2023	2.00		
11/7/23 - RD 2030	1,645.68		2,017.52
Expenditures:			
Requisition No. 609			(79,025.48)
Balance Forward:			\$1,954,054.29
Less Requisition No. 610:			
Nomellini, Grilli & McDaniel		79,500.39	
Thomas M. Zuckerman		0.00	
Mohan Harris Ruiz #11471		12,528.00	
KSN, Inc. - #36360		448.75	
Freeman Firm - September 2023		4,779.14	
DCP (Access Litigation)	1,234.37		
WaterFix/EIR/EIS	1,110.42		
SWP Contract Extension	502.11		
Freeman Firm - October 2023			
DCP	1,086.25		
WaterFix/EIR/EIS	785.42		
SWP Contract Extension	60.57		
Soluri Meserve, A Law Corp.		7,001.55	
#3036 - DWR Drilling III	1,105.00		
#3037 - DWR/BOR	2,750.00		
#3039 - Lookout Slough	3,146.55		
River Delta Consulting - #0302-11-23		500.00	
George Biagi, Jr.		180.00	
Rudy Mussi		180.00	
Edward Zuckerman		180.00	(105,297.83)
HabitatSeven - Inv. #1427 - WireTransfer			(2,750.00)

Balance Forward: \$1,846,006.46

2023-2024 Assessment \$1,297,238.68 (3,951)

2023-2024 Assessment (billed directly) \$48,203.58

Received to Date:

10/13/23 - RD 548	367.84
10/20/23 - RD 684	2.00
10/20/23 - RD 2023	2.00
11/7/23 - RD 2030	1,645.68
	2,017.52

Balance Due: \$46,186.06

2022-2023 Assessment \$1,298,088.12 (3,595)

Received 12/12/22 (687,906.19)

Received 4/14/23 (610,157.31)

Total Received \$1,298,063.50

2021/2022 Assessment \$1,287,090.00 (3,198)

12/17/21 - 2021-2022 current secured (688,426.81)

4/15/22 - 2021-2022 current secured (614,551.56)

Total Received: \$1,302,978.37

2022/2023 (billed directly) \$40,743.22

Received to Date: (34,933.22)

Balance Due: \$ 5,810.00

Outstanding:

County of San Joaquin	\$ 37.44
Kinder Morgan	\$ 57.72
State of CA - CalTrans	\$ 54.80
State of CA - F&W	\$3,021.88
State Lands Commission	\$1,290.12
Dept Parks & Recreation	\$ 124.22
State of CA	\$1,171.16
Stkn Westlake Invest. LLC	\$ 52.66

2021/2022 (billed directly) \$40,627.82

Received to Date: (35,212.99) including past due assmt.

Balance Due: \$5,414.83

Outstanding:

Kinder Morgan	\$ 57.72
Dept. Transportation	\$ 54.80
Fish & Wildlife	\$3,021.88
State Lands Commission	\$1,290.12
Dept. Parks & Rec	\$ 124.22

State of CA \$1,215.22

SPECIAL FUND 12

Balance Forward: \$4.00

STATEMENT OF WORK
HABITATSEVEN INC.
Delta ACP Evapotranspiration Reporting Application

The following is a scope of work for consulting and web development services in support of the Central Delta Water Agency and South Delta Water Agency (“Delta Agencies”) to improve the current DeltaACP application for Evapotranspiration based water use reporting (herein called “DeltaACP 2.0”). The following provides an overview of the objectives, deliverables, schedule, and budget estimate associated with this scope of work.

1.0 Objectives:

The main objective of this project is to support the design and development of new features and improvements for the DeltaACP to deliver a new release (version 2.0) of the application.

The following lays out the specific deliverables.

2.0: Deliverables:

Under this scope of work, the following deliverables will be produced:

- 1) Bug Fixes: A series of bug fixes will be completed and delivered as outlined by Delta Agencies in Appendix A (CDWA’s Proposed Tasks for HabitatSeven for DeltaACP 2.0).

Deliverable: Bug Fixes

- 2) Cosmetic Changes: A series of cosmetic changes will be completed and delivered as outlined by Delta Agencies in Appendix A (CDWA’s Proposed Tasks for HabitatSeven for DeltaACP 2.0).

Deliverable: Cosmetic Changes

- 3) Incorporate Multiple Reporting Years in UI: As outlined in Appendix A, work will be done to incorporate multiple reporting years in the UI for Statement Number reports (WY 2022 & WY 2023).

Deliverable: Multiple Reporting Years in UI

- 4) Incorporating Licenses: Work will be undertaken to incorporate licenses for WY 2023 reporting. The method of reporting will be the so-called “CDWA & SDWA’s Non-Duplicative Method of License Reporting” as outlined in Appendix A.

Deliverable: Licenses included in DeltaACP 2.0

- 5) UI Based Field Boundaries: Work will be done to improve to the data integration with OpenET specifically as it pertains to field boundaries. A system will be built and integrated into the DeltaACP 2.0 that will allow DeltaACP administrators (Delta Agencies) to draw field boundaries and correct them in real-time. A system will be built to send new or corrected boundaries directly to the OpenET API to return values.

Deliverable: UI Based Field Boundary system

- 6) Transfer to Host: Once the web-application is complete, it will be transferred to the current hosting provider.

Deliverable: Version 2.0 Web-application Host

- 7) Launch: Version 2.0 of the DeltaACP web-application will be launched.

Deliverable: Version 2.0 Web-application Launch.

(Note: launch of Version 2.0 for WY 2023 (and WY 2022) reporting for Statement Number reports may precede the launch of Version 2.0 for WY 2023 reporting for License reports. In that event, there will be two separate launches. Priority will be given to tasks 1, 2 and 3 to meet the deadline for reporting for WY 2023. Once completed, priority will be given to tasks 4 and 5.)

Following the submission of a deliverable by HabitatSeven, the Central Delta Water Agency/South Delta Water Agency designate shall have five (5) business days to accept or reject each deliverable and provide written description of the specific revisions required for the completion of each deliverable. HabitatSeven will address all comments within five (5) business days, either through the re-submission of updated deliverables or a written request for an extension of time to revise such deliverable.

3.0: Schedule

This proposed schedule assumes a November 1, 2023 start date, with an approximate completion date of February 28, 2024.

Item	Due Date
Bug Fixes:	December 15, 2023
Cosmetic Changes:	December 15, 2023
Incorporate Multiple Reporting Years in UI	December 15, 2023
Transfer to Host & Launch for WY 2023 & 2022	
Statement Reporting:	December 15, 2023
Incorporating Licenses:	February 15, 2024
UI Based Field Boundaries:	February 15, 2024
Transfer to Host & Launch for WY 2023	
License Reporting:	February 15, 2024

4.0: Estimated Budget

The work will be performed on a time and materials basis, based on the number of days worked multiplied by a daily rate of \$1000, billed monthly. Estimates of the effort and cost are shown in the table below:

Item	Days	Cost
Bug Fixes	8	\$8,000
Cosmetic Changes	1	\$1,000
Incorporate Multiple Reporting Years in UI	20	\$20,000
Incorporating Licenses	40	\$40,000
UI Based Field Boundaries	30	\$30,000
Transfer to Host:	3	\$3,000
Launch:	3	\$3,000

TOTAL ESTIMATE: \$105,000.00

HabitatSeven will alert the Central Delta Water Agency with 4 weeks of notice if the project is reaching its budgetary limits.

HabitatSeven will not exceed the estimate without prior approval of the Central Delta Water Agency. HabitatSeven will not bill days if not used to support Version 2.0.

Following delivery and launch, HabitatSeven will engage with the Central Delta Water Agency for ongoing maintenance and additional development on a per project basis. These additional items will be scoped in collaboration with the Central Delta Water Agency and any additional work will only be undertaken upon an executed contract. The day rate for additional items and ongoing maintenance will be maintained at \$1000 per day for 2 years after delivery.

5.0: Signature

The parties named below verify that the terms of the SOW are acceptable.

The parties hereto are each acting with proper authority by their respective companies.

Central Delta Water Agency

Full Name: George Biagi Jr.

Title: President

George Biagi Jr.
Signature

Date: 11-14-2023

HabitatSeven Inc.

Full Name: _____

Title: _____

Signature

Date: _____

APPENDIX A

CDWA's Proposed Tasks for HabitatSeven for DACP 2.0

(Prepared by Dan Nomellini, Jr., attorney for CDWA)

1. **Bug Fixes: Current Bugs with WY 2022 Reporting.**

- a. **Amended Reports Bug:** Try to fix the “Amend” Report function regarding “Claim Types.”
 - i. The “Amend” report option does not work properly when it comes to “Claim Types.”
 - ii. HabitatSeven fixed the “Claim Types” issues with the normal reporting, but it is still not working properly when it comes to “Amending” reports.
 - iii. Brief description of the problem:
 - (1) [June 23, 2023 email from Dan Jr]: “I just noticed that the blue-colored "Amend" option appears to be completely broken. I went back to try to "Amend" the report to get rid of Pueblo, etc. and to add Riparian, Pre-1914 and Other, and I received the red-colored "Failed" button.”
- b. **Printing Bug:** Try to develop a better way to print copies of the reports from within the DACP.
 - i. **Problems with the current method:**
 - (1) The DACP it is supposed to print to a PDF; however, for whatever reason that stopped working for me after a month or two after launch on all my web browsers.
 - (a) It will still say “Generating PDF...Close this window when done,” but it never generates a PDF.
 - (2) Because it doesn’t generate a PDF, when you try to print through your browser you end up printing the webpage and the printout is a giant mess.
 - (3) Even when the print to a PDF worked in the very beginning, the text in all the comment boxes got cut off.
 - (4) Also, even when the print to a PDF worked, every PDF report would state that it is “1 of 3 Statement Numbers” for the place of use even if, in actuality, it was “1 of 1” or “1 of 5,” etc.
 - ii. **The new and improved printing function should do the following if possible:**
 - (1) Print out the FULL text in all comment boxes, especially the Additional Remarks box, but all others as well.
 - (2) Either entirely remove the “1 of 3 Statement Numbers” in the printout, or fix it if its easy to fix such that it correctly states whether it is “1 of 1,” “1 of 2” etc.
 - (a) The CDWA would be fine with entirely removing it. The report does not need to state that info (that information is not included in the SWRCB’s reports, so it does not have to be included in the DACP reports.)

iii. **Jordan's prior comments on a potential new method of reporting to fix the "1 of 3 Statement Number" and other printing problems:**

- (a) "[April 18, 2023] Ok. We may need to reconsider having a pdf generated the way it is. I think having a printable page would be better where they can save that as a pdf. Wouldn't have to worry about cross browser compatibility either."

c. **Maximum Rate of Diversion Bug:** Try to fix the "Maximum Rate of Diversion" section of the Report.

- i. The SWRCB's report management system (RMS) allows a diverter to entirely skip the "Maximum Rate of Diversion" section of the report (i.e., it's optional to fill it out).
- ii. When a diverter entirely skips it, the RMS will show blanks in this section, not zeros.
- iii. Since the DACP report entirely skips this section, we need to try to have this section show BLANKS instead of zeros.
- iv. It is not good, and nearly all the time 100% false, for diverters to report ZEROS for maximum rates of diversion. Nearly all diverters are actively diverting water through their points of diversion for many months of the year.
- v. Reporting zeros is potentially harmful to their water rights and needs to be fixed if possible.

d. **No Use Bug:** Try to force every report to list the Purpose of Use as "Irrigation" and Crops Types as "Other," Etc.—No Report Should Ever State "No Use."

- i. If a prior year's report reported "No Use," the DACP apparently reports "No Use" as the purpose of use and does not include crop types or the acreage of the POU, etc.
- ii. We need to try to fix that so every report under the DACP reports "Irrigation" as the purpose of use and crop types as "Other" and POU acreage, etc., regardless of what was reported in a prior year.

e. **Additional Remarks Bug:** Try to fix the "Additional Remarks" boilerplate language so that it does not contain various gibberish when viewing or printing the report through the SWRCB's report management system.

- i. We might be able to solve this by simply redoing the cutting and pasting of the boilerplate language into the DACP's Additional Remarks box.
- ii. Perhaps all you need to do is "remove all formatting" when you cut and paste it into the DACP's Additional Remarks box?
- iii. Things to do before cutting and pasting the language into the DACP:
 - (1) Remove all formatting.
 - (2) Make sure there are no unnatural sentence breaks ("hard returns"?).
 - (a) It frequently happens when cutting and pasting text and is seemingly the reason why the SWRCB's report management system includes the letter "n" wherever there is a "hard return?" within the middle of or at the end of a sentence.

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- f. **Protective Measure to Prevent the Submittal of Reports with Incorrect OpenET Data:**
Consider blocking the submittal of a report through the DACP if there are any ZEROS in any of the boxes for “amounts directly diverted” or “amounts used.”
 - i. This would help prevent the submittal of erroneous reports.
 - ii. There, of course, should never be zeros in any of those boxes under the DACP.
 - iii. Thus, if there are zeros, then the DACP is not working properly and reports should not be passed on to the SWRCB.
 - iv. It would be ideal if the user received a “Failed” notice if there were any such zeros so it does not inadvertently send an erroneous report (and never realizes it did so).

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2. Minor Cosmetic Changes to DACP Website.

a. Tweaks to Home (Landing) Page:

- i. The first paragraph on the Home (Landing) Page states:

"The Delta ACP application allows diverters to easily measure and report water use under Water Code sections 5104 and 1840 using satellite based ET estimates.

- ii. Tweaks to that first paragraph.

- (1) Remove the initial quotation mark. This is not a quote.
- (2) Spell out "Delta Alternative Compliance Plan" (I've since realized that we do not spell it out very often and it would be good to have it spelled out on the Home/Landing page).

- iii. After the above tweaks the first paragraph would look like this:

The Delta Alternative Compliance Plan (Delta ACP) application allows diverters to easily measure and report water use under Water Code sections 5104 and 1840 using satellite based ET estimates.

b. Potentially Fix the Font for the Website So it Shows the Dots for the Letter "i".

- i. Was it a design choice to leave out the dots for the letter "i" or is that a formatting glitch of some sort?
- ii. It only happens on the Home, About, Help/FAQ, and Contact pages.
 - (1) Once you log in, the dots show up for the letter "i."
- iii. This has always looked a bit odd to me and like a formatting glitch, but again, it may just be a stylistic design choice. We had much more important things to worry about, so I never said anything.
 - (1) If it is a glitch, can it be easily fixed?
 - (2) If it is not a glitch and is a stylistic design choice of sorts, is it easy to switch to a font that has dots for the letter "i", or is that a tedious ordeal?
 - (a) **No need to change it at the moment.** I personally would rather have dots on the "i," but if the rest of you like it without the dots, then I could certainly live with it.
 - (b) Thus, just please clarify whether it is intentional and if so, whether it is easy to add the dots if we collectively wanted to.

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3. **Incorporate WY 2023 Reporting for Statement Numbers.**

a. **Dashboard Tweaks:**

- i. One thing we obviously need to do is tweak the DACP dashboard to accommodate both WY 2023 reporting and WY 2022 (we still have lots of folks who haven't yet filed for WY 2022, unfortunately [and others that may someday want to go back in and amend a prior report]).

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4. **Incorporate WY 2023 Reporting for Licenses.**

a. **Method of License Reporting to Incorporate into the Delta ACP:**

- i. The so-called "CDWA & SDWA's Non-Duplicative Method of License Reporting."

b. **General Description and Features of that Method:**

i. **Eligibility Criteria:**

- (1) The entire Place of Use (POU) of the License must be covered by the POU of one or more Statement Numbers.
- (2) (Include a WARNING that the diverter should consult with a water attorney or advisor if the diverter is not sure whether it meets the above criteria.)

ii. **Is a Digitized POU Map for the License Required?**

- (1) No. Because no OpenET data will be inputted into the License Report form, a digitized POU map is not required.

iii. **How License Reports Will Be Filled Out under the Delta ACP under this Method:**

- (1) The License Report will be pre-populated with the number ".01" or ".001" in the amount diverted and amount used boxes for each month as a nominal placeholder.
- (a) The number ".01" or ".001" will be hard-coded and cannot be altered by the diverter.
- (2) The License Report will pre-populate boilerplate language in the Additional Remarks box that explains that the License Report incorporates by reference the monthly OpenET diversion and use data reported in the Statement Numbers that cover the same place of use as the License.
- (a) This boilerplate language can be deleted or modified by the diverter.