

California Water Commission

Resolutions of Necessity and Eminent Domain

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DWR's Authority

- Water Code section 11575 allows DWR to acquire land to construct, maintain or operate the State Water Project.
- Water Code section 11580 allows DWR to use the process of eminent domain to acquire the property if an agreement with the owner of the property cannot be reached. Section 11580 also requires the project which requires the property being taken to be authorized by DWR, and DWR to have funds available to pay for the taking.

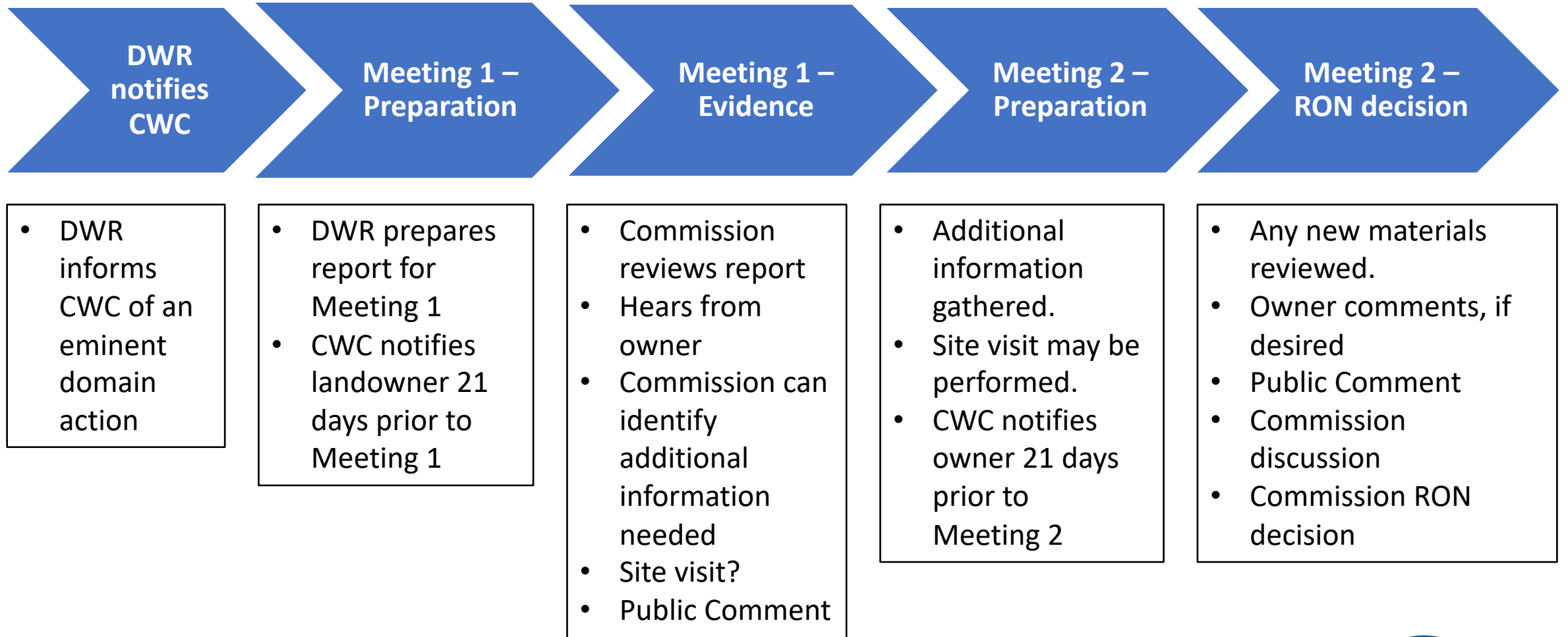


Resolutions of Necessity

- DWR must obtain a resolution of necessity from the California Water Commission to proceed with an eminent domain action. (Cal. Code of Civ. Procedure sections 1245.210 and 1245.220)
- DWR will prepare the staff reports, notices, and all supporting documentation for the Commission.



Commission Resolution of Necessity Process



DWR Notifies Commission

- DWR staff notify CWC staff of their decision to pursue an eminent domain action.
- Not a public notice.
- DWR staff and CWC staff work together and coordinate documentation for the process.



Preparation for Meeting 1

- CWC will notify landowner and any other property interests at least 21 days before the Commission meeting.
- The notice includes date, time, location of the Commission meeting and explanation of opportunities to provide comment on the item.



Preparation for Meeting 1 - continued

- DWR prepares a report for the Commission agenda item that contains the necessary statutory information from Cal. Code of Civil Procedure sections 1245.230, 1240.510, and 1240.610.
- The report will include:
 - required findings;
 - status of related parcels & detailed parcel description;
 - copy of CEQA compliance; and
 - other information.
- Report will be posted with the Commission agenda 10 days prior to the meeting.

Consideration of Evidence – 1st Meeting

- DWR will present evidence contained in the report.
- Landowner allowed to present.
- Public may participate at the meeting, and written comments may be submitted before or during the meeting.
- Commission can identify additional information or legal analysis needed, including a site visit with landowner approval.
- **NO ACTION MAY BE TAKEN TO ADOPT THE RESOLUTION OF NECESSITY.**

Preparation for Meeting 2

- Additional legal analysis or information gathering performed by DWR.
- Optional site visit performed
 - If enough Commissioners attend, would be a public meeting
 - Not required
- Necessary notice sent to landowner and other property interests at least 21-days prior to second Commission meeting.



Commission Meeting 2

- DWR will provide responses to Commission questions and review the DWR-drafted report.
- DWR will provide additional legal documentation, as requested.
- Landowner testimony will be heard.
- Public testimony will be heard.
- Commission discussion
- Two-thirds vote required to adopt the resolution (six members, regardless of how many Commissioners attend the meeting).



Resolution Requirements

- Resolutions of Necessity must contain:
 - General statement of public use for which the property is being taken;
 - Description of the general location and extent of the property to be taken, with enough detail to identify the property; and
 - Commission declaration.



Resolution Requirements – Commission Declaration

- The Commission has found and determined:
 - The public interest and necessity require the proposed project;
 - The proposed project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury;
 - The property described in the resolution is necessary for the proposed project; and
 - The offer required by ...the Government Code has been made to the owner(s) or the offer has not been made because the owner cannot be located ...
- (Cal. Code of Civ. Pro. 1245.230)