

Meeting Minutes

Meeting of the California Water Commission Wednesday, August 16, 2023 Warren-Alquist State Energy Building 1516 9th Street, Rosenfeld Hearing Room Sacramento, California 95814 Beginning at 9:30 a.m.

1. Call to Order

Chair Matt Swanson called the meeting to order at 9:30 a.m.

2. Roll Call

Commissioners Bland, Gallagher, Makler, Solorio, Steiner, and Swanson were present, constituting a quorum.

3. Closed Session

The Commission did not hold a closed session.

4. Acknowledgement of California Native American Tribal Governments

This is an opportunity for elected Tribal leaders and formally designated Tribal representatives to identify themselves and to specify the agenda item(s) on which they will comment, as described in the Commission's California Native American Tribal Leadership Comment Policy. No Tribal leaders were identified.

5. Approval June 21, 2023 Meeting Minutes

Vice-chair Steiner motioned to approve the June 21, 2023, meeting minutes. Commissioner Solorio seconded the motion. All Commissioners voted to approve the minutes.

6. Executive Officer's Report

Executive Officer Joe Yun said audio/visual capabilities will be up and running by the October meeting, and reminded the Commission that September's meeting is a field trip to Oroville.

7. Commission Member Reports

Commissioner Steiner was asked by the Brownstein Water Practice Group to present in September on work the Commission has done on groundwater trading as part of Water Resilience Portfolio Action 3.6. She will be joined at the meeting by Executive Officer Yun.

8. Public Testimony

The Commission received written correspondence from Mark E. Capron and Mohammed A. Hasan regarding the post-2026 Colorado River operations plan.

9. Drought Strategies: Expert Panel Recap

Assistant Executive Officer Laura Jensen gave a recap of the drought expert panels held at previous Commission meetings, and a synthesis of feedback from outreach to date. The first expert panel was California Droughts of the Past, Present, and Future. Drought hinges on how

many atmospheric rivers the state gets. Climate change is increasing the odds for extreme summer drought and particularly multi-year droughts. 21st century droughts are hotter, with worsening fires, and severe impacts to groundwater and the Delta. The second expert panel was Protecting Communities and Species. Aquatic ecosystems, groundwater, the Delta, and rural communities are most vulnerable to drought. Urban communities and agriculture are not as vulnerable but still feel the effects. Species in California are drought-adapted, but suffer a litany of obstacles, like habitat disconnection, loss of flow variability, water quality degradation, introduced species, and loss of genetic diversity. Rural communities suffer from unsafe and unreliable wells and water systems, water quality, affordability, and infrastructure issues. Groundwater management is linked to supporting species and rural communities. The third expert panel was an Overview of State Drought Actions, which include providing funding, supporting planning and water management, regulating water supplies, and supporting species through monitoring and rescues, hatchery improvements, restoring fish passages, and law enforcement on state lands.

The fourth expert panel was on Drought Preparedness and Response Strategies. For rural and urban communities, prioritize water conservation to reduce demand, and diversify water supplies. For species, flexibly manage a defined amount of water for system condition, not a single species, and pair it with physical habitat and drought refugia. Agricultural lands provide benefits to species and communities. It is important to engage Tribes in drought-related decision-making and to apply Tribal ecological knowledge. No two tribes are the same. The fifth expert panel was on Wildfire and Forest Management. Drought leads to forest stress, which leads to wildfire. Historically, trails and ridges were kept open by Tribes' burning practices. Now, there is too much tree canopy. We must increase the pace and scale of transitioning from destructive wildfire regime to beneficial, regenerative wildfire regime. This is not one and done, it needs repeated efforts, dedicated attention, and partnerships. The sixth expert panel was on Desalination. In California, there is more brackish groundwater desalinated than seawater. Issues with desalination include high cost to ratepayers, high energy use and GHG emissions, and impacts on marine life at intake and with brine disposal. Impacts are less with brackish desalination. Ocean desalination should be an option of last resort. The biggest opportunities are small-scale. Outreach will include 21 presentations where the four preliminary strategies are shared. Feedback on the strategies will be considered as the white paper is developed. To date there has been no major push back. The high-level strategies will likely remain the same with refinement and detail added to the actions under each strategy.

Vice-chair Steiner followed up on outreach comments related to the Water Storage Investment Program (WSIP), noting that WSIP Contracts for Administration of Public Benefits are for the environment. Were the commentors looking for something specific to be addressed? Ms. Jensen said since the State is making a huge investment, commenters feel there should be eye toward holistically managing WSIP projects to better the environment during drought.

Commissioner Solorio asked if the Association of California Water Agencies (ACWA) has been participating, and was told they have been engaged throughout, and had a representative on the working group. Ms. Jensen will be presenting to an ACWA committee in two weeks. Commissioner Solorio said appreciates the extra attention paid to the environment and wildlife.

Commissioner Makler said, since fire management is a critical part of watershed management and drought preparedness, is there an opportunity to coordinate with other state agencies. Ms. Jensen said the Wildfire and Forest Resilience Task Force has ideas on bringing water into considerations of fire/forest management. The Sierra Nevada Conservancy (SNC) is working on breaking down administrative barriers so they can pool funds. He asked if it would it make sense to have panel of those groups to talk about fire management, to learn more. Ms. Jensen said we have enough information at this time to draw connections for a white paper.

Vice-chair Steiner appreciated the recognition of atmospheric rivers, and said it is important that we are more prepared not only for drought but for flood.

Commissioner Bland asked if any thought has been given to what the cost may be for implementation of what is outlined in white paper. Ms. Jensen said they are just offering suggestions and it would be premature to add dollar values.

Commissioner Gallagher said it was impressive that a diverse group supported these four strategies. Were there conflicting ideas, and how do you move forward developing action items? Ms. Jensen said they did not move ahead on water rights because they could not get consensus. The actions accommodate most of what they heard from diverse interest groups.

Commissioner Solorio suggested a video showcase of the four drought strategies be produced and put on the Commission's website.

10. Drought Strategies: Public Workshop Report-Out

Atley Keller, Public Affairs Specialist for Stantec, provided a report on three public workshops that took place in July and were intended to get public feedback on the Commission's four preliminary drought strategies: 1. Scale Up Groundwater Recharge; 2. Conduct Watershed-level Planning to Reduce Ecosystem Impacts of Drought; 3. Better Position Communities to Respond to Drought Emergencies; and 4. Increase Capacity & Information Needed to Manage Drought. Prior to the workshops, 233 people responded to a survey that introduced the preliminary drought strategies, asked what the state's involvement should be, and what are the priorities for drought actions that protect species and communities. The three virtual public workshops introduced the Commission's preliminary drought strategies, shared survey results, and offered multiple opportunities for providing feedback. 269 participants attended the three workshops. A survey of Strategy 1 found the highest priorities to be efficient permitting to maximize groundwater recharge (83.5%) and supporting infrastructure investment connected to groundwater recharge (80.7%). Workshop commenters said to identify where and when to recharge, address nearby water quality impacts, integrate recharge into systems in both flood and drought times, improve recharge capacity with healthy soils, and ensure groundwater dependent ecosystems benefit. A survey of Strategy 2 found the highest priorities to be integrating fire and forest management into drought planning (74.2%), and developing environmental watering plans at the watershed scale (70.2%). Workshop comments were to enforce regulations regarding illegal diversions, connect to similar efforts, link land use decisions with watershed management, highlight the role of cultural burns, define ecosystem resilience, and maintain soil health.

Responses to a survey of Strategy 3 talked about demand reduction along with increasing supply, both long-term planning and short-term response, addressing accountability and transparency in funding and resources, understanding the decision-making processes for resource allocation, including communities in conversations, and prioritizing resources for schools, food, water quality, etc. Workshop comments were to promote diverse approaches to address unique community needs, incentivize proactive actions and coordination between counties and organizations, provide options for pre-drought preparedness, support collaborative conversations and relationship building, get agreements in place before emergency funding, and integrate drought response with general emergency response. A survey of Strategy 4 found the highest priority to be identifying lessons learned from recent droughts and generating plans for future droughts (80.6%). Workshop comments were to leverage existing planning work and investments at the local scale, clarify the role of seasonal forecasting, coordinate regionalized messaging across the state, and move from crisis mindset to acknowledge drought as part of the cycle. Additional considerations were to increase storage, promote conservation, address governance structures such as water rights, manage the full system in an integrated manner, assess impacts from land development, consider impacts on domestic well owners, and prioritize environmental education. Common themes were to integrate water and land use decision-making, build drought resilience through natural resources, communities and solutions are not one size fits all, build on what's already working. Preparing for drought outside of drought will require a change in mindset.

Commissioner Gallagher asked how to do watershed planning at a local level. Ms. Jensen said it is a big undertaking, with some precedent set, as the Department of Conservation has watershed coordinators, and their Regional Forest and Fire Capacity Program has block grants for forest management.

Vice-chair Steiner said the workshops were well facilitated, and asked if they heard anything that really surprised them. Ms. Keller said people want to be involved, they have so much knowledge of what is already happening, and we need to build on it and connect the dots.

Chair Swanson said it was helpful to have the workshops abbreviated, and it mirrored what he heard during his participation.

11. Update on Justice, Equity, Diversity, and Inclusion (JEDI)

Bianca Sievers, Deputy Director of Special initiatives at the Department of Water Resources (DWR), provided an overview of equity and its application to work in natural resources in California, and discussed DWR's JEDI-related actions. She discussed key terms in racial equity work, noting that racial equity means eliminating race-based outcome gaps so that race cannot predict one's success and that environmental justice calls for the fundamental right to clean air, land, water, and food for all people regardless of race, color, national origin, or income. She gave a brief history of environmental justice efforts in the United States and explained that frontline communities are those that experience the "first and worst" consequences of climate change. These are often communities of color, placed in the least desirable areas of cities, often with high exposure to climate impacts like flooding. DWR is moving to integrate the strategies most effective for engagement, with community-driven planning, consensus building, and

participatory budgeting. It is important to clearly communicate the constraints and solicit advice from the community of how to navigate. Executive Order N-16-22 directed state agencies to take critical actions on equity and discrimination and established the state's first Racial Equity Commission. The desired outcomes of DWR's equity action plan are a workforce reflective of the people of California, to improve engagement with communities most impacted by structural racism, and to embed racial equity into their projects and programs.

Assistant Executive Officer Laura Jensen discussed JEDI activities within the Commission's office, how those efforts align with DWR's actions, and opportunities for the Commission to further advance this work. To date, Commission's JEDI work is organized around actions in DWR's equity action plan. Equity Objective 1 says that the workforce should be reflective of the people of California. Because the Commission uses DWR's Human Resources department for personnel, staff adopts their practices. Equity Objective 2 is to improve engagement with communities most impacted by structural racism. This taps into the bread and butter of the Commission's public forum, and the Commission is tracking engagement at Commission meetings, on social media, email lists, and translation requests, as well as improving language access on its website by offering certain information in Spanish. The Tribal Leader comment policy was a huge win and is called out specifically in DWR's equity action plan. Next steps include continuing to assess and improve engagement. Equity Objective 3 is to empower communities with technical and financial assistance. This is important, but not central to the Commission's work right now. Equity Objective 4 is to embed racial equity into our projects and programs. One of the options posed to the Commissioners today is to adopt a policy or resolution on environmental justice and/or equity. Staff can research and come back with an overview of what other boards, commissions, and departments have done. There is the opportunity to incorporate this work into the Commission's 2025-2030 strategic plan.

Commissioner Bland said we should talk to other State commissions, so we are semi-symmetrical in engagement and policy.

Commissioner Makler said through the President's Justice 40 Initiative, there are a lot of grants available. What is DWR doing to integrate them? He would like to see an educational program on the SWP in California public schools, how to manage through drought and fire, and questions of equity. Ms. Sievers said it is something they are considering in the upcoming strategic plan. Public education for the next workforce pipeline is critical to DWR. Justice 40 uses different social indicators. It is a challenge to determine who should receive funding and who should not. DWR is putting together a federal funding strategy. He then asked if disadvantaged communities (DACs) have a bridge between state and federal programs. He was told they look at DACs, and how funding is allocated. Some programs are only based on household income, which is not an indicator of your vulnerability to a climate event.

Vice-chair Steiner said state ballots have seven languages, and asked how they are expanding their translation opportunities. Ms. Seivers said a contract is in place that allows them to translate up to eight languages. DWR's Sustainable Groundwater Management Act (SGMA) office allowed Groundwater Sustainability Agencies to leverage DWR's language translation services contract. The vice-chair said we are seeing efforts to rewrite history, and schools have become ground zero for inclusive programs. Has DWR seen any backlash to their efforts? Ms.

Seivers said no, not within the communities they are going to. There may be people within the government structure and system who don't see the importance in this work, who see it as separate from their mission. DWR sees it as an opportunity to grow and learn. The vice-chair then said she would like to see CNRA's revised policy before they decide to adopt or adapt it.

Commissioner Solorio said he would like to take part in the upcoming summit. Water should be an educational item, as many water districts have educational programs. Ms. Sievers said not everyone is aware that one million people do not have access to safe drinking water.

Chair Swanson said the definition of terms was helpful.

12. Update on Conveyance Activities

Michael Sabbaghian, DWR Executive Advisor, discussed the Conveyance Subsidence Program (CSP). Groundwater overuse has caused subsidence in the Central Valley, resulting in a reduction of capacity of 25-50% in four canal facilities. The California Aqueduct and San Luis Canal are managed by the SWP. The Friant-Kern and Delta-Mendota canals are in the Central Valley Project (CVP) and managed by the U.S. Bureau of Reclamation (USBR). SGMA addresses subsidence issues. The CSP is addressing the current loss of capacity. Due to their significant statewide public benefit, the four canal segments are being addressed through a coordinated approach. Canals as water delivery systems also benefit flood protection as demonstrated during the 2023 winter storms. Lack of canal capacity hampered the ability to move water fast enough and to store it. The CSP was initiated with the Budget Act of 2021, which included \$100 million with an additional \$100 million in 2022. There is a \$2.355 billion effort to resolve subsidence issues with the four canal facilities over the next 10 years. The goal is a funding split of one-third federal, one-third state, and one-third local. The areas served will have direct economic benefit from the construction activities. The ability to move water will bring stability to the water supply for the region. The program not only required consideration of the current level of subsidence, but anticipated additional subsidence over the next 20 years. The CSP will restore the four canal facilities to pre-subsidence condition. The CSP is prioritizing the most severe canal segments for restoration. The project proponents will solicit public input as part of their California Environmental Quality Act (CEQA) process. The SWP has direct engagement with Tribes. Both Friant Water Authority and San Luis Delta-Mendota Water Authority are working to secure federal funding for all four canal segments. SWP is also lobbying at the federal level to secure funding, working with DWR to see if stimulus funding can be used.

Ajay Goyal, Manager of the Statewide Infrastructure Investigations Branch in DWR's Division of Planning, discussed the San Joaquin Valley Conveyance Study (SJVCS). Risks to the valley include the drying up of wells for vulnerable communities, increased flood risks, shortage of water for agriculture, potential repurposing of agricultural land, reduction of water in streams and lakes, degradation of aquifer health, loss of riparian vegetation and wildlife habitat, loss of conveyance capacity due to subsidence, and increased vulnerability for all sectors. Effects of climate change necessitate wholesale changes in managing the system. Integrated watershed management includes multi-sector and multi-benefit conveyance, and multi-fund investments. Water Resilience Portfolio Action 19.4 directed the Commission to assess a state role in financing conveyance projects that could help meet needs in a changing climate. The SJVCS builds upon the Commission's conveyance white paper. The SJVCS objectives are to evaluate

climate vulnerability of federal, state, and local conveyance systems; identify improvements needed to make them climate resilient; identify opportunities to convey flood waters for groundwater recharge with existing/improved conveyance; identify opportunities to improve drinking water supplies for vulnerable communities; and assess performance of existing, restored, and improved conveyance in the San Joaquin and Tulare basins. They have completed the review of previous studies and assessment of water imbalance in the San Joaquin Valley. Next steps are to quantify available flood waters and evaluate climate vulnerability, assess available capacity to convey flood waters for recharge, identify improvements needed to the conveyance system, and estimate costs for improvements to conveyance infrastructure.

Commissioner Makler asked how much of the \$2.355 billion is committed to projects. Mr. Sabbaghian said, based on the state's cost share, \$785 million. They've allocated \$200 million so far, and are \$653 million short in the federal allocation. Locals are stepping up and covering the federal share. He asked if the 20-year design objective of restoring the effectiveness of conveyance is an average, or will it require further investment. Mr. Sabbaghian said that is the big challenge of SGMA, to get subsidence to zero after 20 years. He then asked if basins do not make SGMA targets, is it contemplated in future maintenance. Mr. Sabbaghian said SGMA needs to put penalties in place, and the people causing damage will have to pay.

Commissioner Gallagher asked if subsidence was considered when the system was built in the '60s and '70s, and will restoring the reduction in conveyance be enough for today's demand? Mr. Sabbaghian said subsidence was not considered. There are studies going on to determine what improvements must be made. One thought is moving canal out of these areas that are susceptible to subsidence. That would be a long-term plan; this program is fixing the problem right now to avoid the current problem, the inability to move water. Mr. Goyal said they will be looking at design capacity and changes that need to be made in conveyance in the SJVCS.

Commissioner Solorio said so much water in the Central Valley is used for private agricultural purposes, yet the funding formula has public subsidies for many large, private beneficiaries. Mr. Sabbaghian said the federal government is a partner with the Friant and Delta Mendota canals, the SWP is covered by water contractors. The inability to deal with drought and flooding will lead to much larger impacts. The volume and magnitude are so big, if they did not step in, they would not be able to recover. Long-term improvement of the system solely or significantly paid by ratepayers is being looked at.

Vice-chair Steiner asked if the State is working alone on the SJVCS. Mr. Goyal said they have the lead, and are working with other partners.

Chair Swanson and Commissioners Bland and Solorio left the meeting at 11:59, resulting in the remainder of Item 12 becoming a workshop, as there was no longer a quorum. Commissioner Solorio returned before the end of Item 12.

The Commission took a one-hour lunch break.

Chair Swanson and Commissioner Bland returned, constituting a quorum.

13. Consideration of Action on Resolutions of Necessity for the Perris Emergency Release Facility Project (Action Item)

DWR is advancing the Perris Emergency Relief Facility (ERF) Project and has initiated negotiations for a property pursuant to the State's eminent domain authority. David Smith, DWR Senior Right of Way Agent, and Kyle Muteff, DWR Attorney, presented evidence regarding how the property is necessary to meet the goals of the ERF Project.

Mr. Smith said Lake Perris is the terminus for the SWP, and was built without an emergency release facility. When Lake Perris Dam was constructed, there was limited development downstream. If an emergency release occurred today, the downstream community would be severely impacted. The project would build an emergency relief facility to safely route the flow of water during an emergency drawdown event that requires the rapid lowering of Lake Perris. The project will provide protection from a 100-year flood and a major earthquake failure to more than 6,000 residents of Perris. DWR needs to acquire approximately 11.76 acres of fairground property permanently in fee, and 15.02 acres with a temporary easement. This includes approximately eight acres of fairground parking facilities, of which five acres will be permanently transferred to DWR.

Mr. Muteff described the location and extent of the property to be taken. DWR needs to acquire the DiMatteo property and then transfer it to the fairgrounds as substitute parking facilities. The DiMatteo property is vacant land adjacent to the fairground that has historically been used for parking. The project's public use is to safely route water in the event of an emergency release. DWR has authority under Water Code to acquire property rights necessary for the operation of the SWP. California Code of Civil Procedure requires DWR to obtain a Resolution of Necessity (RON) from the Commission, as the appropriate governing body. The RON must find: the public interest and necessity require the proposed project; the proposed project is planned or located in the 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 that either the offer has been made to the owner or owners of record, or the offer has not been made because the owner cannot be located with reasonable diligence. The public has a strong interest in DWR being able to safely release water from Lake Perris in the event of an emergency. The City of Perris has developed substantially since the Lake Perris Dam was constructed. Due to this development, the project footprint needs to be along Ramona Expressway to avoid construction in residential developments. The offer required by the Government Code was made to the DiMatteo property owner on April 11, 2023. The attorney representing the owner of the DiMatteo property has expressed concern about the valuation of the property. Settlement discussions are ongoing. The DiMatteo property is the only remaining privately owned property that needs to be acquired. DWR and the fairgrounds are working on transferring the property to DWR.

Vice-chair Steiner asked if the property owner has a problem with the \$475,000 offer made, and whether they have gotten their own appraiser. Mr. Muteff said the owner has submitted an appraisal and discussions are continuing.

Commissioner Bland asked if the county could assign a valuation. Mr. Muteff said they retained a third-party appraiser, that set a ground mark determination. They offered \$5,000 to the owner for an appraisal that has now been submitted for review.

Commissioner Solorio motioned to approve the RON. Commissioner Bland seconded the motion. Chair Swanson reminded the Commission they are making a decision based on the four findings. All Commissioners voted in favor. Motion passed 6-0.

14. Update on the Model Water Efficient Landscape Ordinance (MWELO)

Julie Saare-Edmonds, Senior Environmental Scientist, and Shem Stygar, Senior Water Resources Engineer, both with DWR's Water Use Efficiency Branch, provided an overview of MWELO, what it does, and what improvements are planned.

Ms. Saare-Edmonds said MWELO is a statewide model for local agencies to enforce minimum water-efficiency standards in urban landscape design, construction, management, and maintenance. It drives water-efficiency through water budgets and thoughtful selection of soil, plants, irrigation, stormwater management, and non-potable water supplies. MWELO uses a water budget based on local climate, plant water use, irrigated landscape area, irrigation efficiency, and project type (residential vs. non-residential). It is not restrictive, no one is penalized. There are two compliance pathways. Prescriptive is simpler with less flexibility and only allowed for landscape projects less than 2500 sq. ft. Performance is more flexible and complex. MWELO implementation is adopted and enforced by local agencies, and required of 500-plus land use agencies. Locally adopted water efficiency ordinances can be stricter. MWELO applies to new construction or landscape renovations that require a building or landscape permit, plan check, or design review, and existing landscapes greater than one acre. Local agencies are required to report to DWR annually. AB 2515 directs DWR to update MWELO every three years through regulation or make a finding that an update is not a useful or effective means to improve efficiency or administration of the ordinance.

Mr. Stygar said MWELO has been correctly implemented by knowledgeable agencies, however, general implementation is inconsistent and poor. Only 258 of 500-plus local agencies reported on MWELO implementation in 2022. It has ambiguities, which can lead to misinterpretation about what is required. Its organization does not allow for logical progression, understanding of responsibilities and authorities, and leads to misunderstanding and confusion. An update will address these issues and inconsistencies. MWELO was enacted 1993 and updated in 2010. A 2020 update was deferred, as DWR wanted to understand why implementation and enforcement were not happening. Since November 2022, DWR has engaged with the Landscape Statewide Advisory Group (LSAG) on draft MWELO amendments. Draft MWELO amendments draw on a 2021 report by UC Davis and a 2019 LSAG workgroup and include simplifying to provide clarity and reduce ambiguities, and improving understanding, workflow, and implementation. These will not change existing requirements, and are not likely to require a Standardized Regulatory Impact Assessment or CEQA as most changes are administrative. DWR intends to begin rulemaking this year.

Commissioner Gallagher asked if it was voluntary for new or existing developments. Ms. Saare-Edmonds said it is required, although historically it has been ignored by many cities and

counties. She then asked how it was enforced. Mr. Stygar said locally. If a project does not require a building or landscape permit, it is outside of MWELO.

Vice-chair Steiner asked if there was a cap on water usage for a property owner, and if it was up to local water agencies to do enforcement. Ms. Saare-Edmonds said yes to both. Caps are calculated on plant types, size of the landscape, and adjustment factors. She then asked if there were objections to the caps. Mr. Stygar said they are not adjusting the caps right now.

15. Water Storage Investment Program: Project Update

Water Storage Investment Program (WSIP) Manager Amy Young provided an update on the progress of projects being considered for funding. Harvest Water Program was approved for final funding in June. The funding agreement is in progress. Los Vaqueros Reservoir Expansion JPA is updating the project schedule. Their estimated final award date was moved from June to July 2024. In November, proponents for the Willow Springs Water Bank will update the Commission on their progress seeking a State Water Contractor partner for the project. The Chino Basin Program and Sites Project are updating their project schedules. We should understand those shifts within the next couple of months. The Pacheco Reservoir Expansion recirculated draft Environmental Impact Report moved from May to June 2025, and staff adjusted their final award date from August to November 2027. They will give a project update at the October Commission meeting.

16. Consideration of Items for Next California Water Commission Meeting

The Commission will hold an off-site meeting in September, touring Oroville Dam spillways and the Feather River Fish Hatchery.

17. Adjourn

The Commission adjourned at 2:02 p.m.