California
WATER COMMISSION

Meeting Minutes

Meeting of the California Water Commission
Wednesday, July 20, 2011
State of California, Resources Building
1416 Ninth Street, First Floor Auditorium
Sacramento, CA 95814

1. **Welcome and Introductions**

   The meeting of the California Water Commission was called to order at 1:02 p.m. by Chair Anthony Saracino.

2. **Roll Call**

   Interim Executive Officer Sue Sims called roll. The following members were present: Joe Byrne, Dave Cogdill, Danny Curtin, Joe Del Bosque, Kim Delfino, Luther Hintz, Paul Kelley, and Anthony Saracino. Member Andrew Ball was absent.

3. **Approval of minutes**

   A motion was made and seconded to approve the Meeting Minutes from the June 15, 2011 meeting. A vote was taken and the motion passed unanimously.

4. **Interim Executive Officer's update**

   Ms. Sims asked if any members of the commission would like to report any communication with any members of the public. Mr. Saracino reported that Justice Scotland had contacted him regarding naming a State Water Project Facility after Justice Ronald Robie; that issue would be addressed during Agenda Item 8. He also announced that he Commission had received a grade of "B" in the Delta Vision Report Card. The report suggested the Commission needs a strategic plan and a clear purpose.

   Ms. Sims mentioned that Andrew Ball had taken a tour of State Water Project facilities on June 29.

   She mentioned that the Commission has responsibilities to approve a list of special flood control projects, and the Commission would be briefed on this subject at a future meeting.

   She also mentioned the Association of California Water Agencies (ACWA) has asked the Commission to participate in a project on the benefits of funding local projects and

integrated regional water management. Ms. Sims will begin work on this project with ACWA and a draft will be available in the next few months.

Vice-Chair Paul Kelley then summarized a conference call he had earlier in the week with DWR staff regarding emerging flood issues including, Section 104 and 408 crediting issues, the Army Corps of Engineers' Levee Vegetation Policy and the upcoming fiscal year schedule. He suggested that the Federal Appropriations committee meet before the next Commission meeting on August 17.

9. **Informational briefing on the California Roundtable on Water and Food Supply's report on Agricultural Water Stewardship** (this item was heard out of order)

Leo Winternitz provided an overview of the California Roundtable on Water and Food Supply's report on Agricultural Water Stewardship and its various recommendations. Mr. Saracino asked how the Roundtable will address water storage and suggested the Roundtable participate in the Commission's upcoming Water Storage Workshops. Mr. Winternitz replied that the group had not begun to address storage yet, but it would be a key issue as the group begins meeting in the near future. He asked for the Commission's official support of this on these recommendations, and members of the Commission agreed.

5. **Federal legislative update**

Kasey Schimke, DWR Assistant Director for Legislative Affairs presented an overview of three federal bills, HR 1837- Nunes, HR 1251-Costa, and HR 2352 -Frelinghuysen. He provided an overview of the intention of each bill and its place in the legislative process.

6. **Informational Item: Update on Agricultural Water Measurement Regulations and Office of Administrative Law response**

Spencer Kenner, Staff Counsel, provided an update on the Agricultural Water Measurement Regulation that was passed by the Commission at its June meeting. The emergency regulation was sent to the Office of Administrative Law (OAL) as approved. OAL staff alerted DWR staff that OAL would not approve the regulations as submitted because of the inclusion of the phrase "or future amendments" in section 597.1(i) regarding Central Valley Project contractors; however, OAL recommended removal of the entire paragraph. Staff removed the phrase "or future amendments" and continued with the process of submitting the emergency regulation. The emergency regulation was approved and is currently in effect. Immediately after, the same language was submitted for the permanent regulation. Mr. Kenner presented two options; 1) continue with the process for the permanent regulation, and take up any remaining issues at the end of the 45-day public comment period or, 2) vote to repeal the regulation.

Several commission members raised concerns about the process that was used by DWR to change the approved regulations. The commission decided to proceed with the regulations as submitted, but made it clear that in the future any change to an approved regulation must come back to the commission for re-approval.

Ms. Delfino requested DWR provide a legal briefing on the provision of the regulation that was called into question by the Office of Administrative Law.

Public Comment:

Kevin Wang, of Best, Best, and Krieger, LLP, representing Friant Water Authority, spoke on behalf of the Central Valley Project contractors. He objected to the language regarding CVP contractors, as currently written, and provided a four-part recommendation for specific language. He agreed to provide the Commission his formal comments in writing.

7. **Informational briefing on Commission responsibilities related to eminent domain proceedings for State Water Project facilities and public comment (WC § 11575, CCP § 1245.220)**

Allan Davis, DWR Chief of Real Estate Service, presented information to the Commission regarding its role in the Department of Water Resources' eminent domain process, DWR's land acquisition process prior to seeking a Resolution of Necessity, and proposed geotechnical activities on acquired land. Ward Tabor, DWR Assistant Chief Counsel, reviewed the legal principles involved. Karin Shine, DWR Staff Counsel discussed DWR's authority related to eminent domain, DWR's process for seeking Temporary Entry Permits to properties, and the court decision that resulted in DWR's decision to seek Resolutions of Necessity for certain properties.

Public Comments:

- Randy Baranek, Delta Resident and Farmer, discussed the original temporary entry permit cases, the agricultural heritage of the Delta, and spoke against a potential peripheral canal or tunnel and in favor of dredging.
- John Baranek, Delta Resident, discussed silting in the Delta and provided the Commission members a copy of the lawsuit *Cortopassi Partners vs. the State of California*. He proposed dredging as a solution in the Delta.
- Melinda Terry, Manager of the North Delta Water Agency and Executive Director of the Central Valley Flood Control Association, questioned the Commission regarding its process and suggested the Commission define the Resolution of Necessity process and let stakeholders know when and how to engage.

- Jane Wagner-Tyack, Restore the Delta, pointed out that DWR may only acquire property rights on projects that are authorized and funded.
- Rogene Reynolds, Delta Resident, noted that her property is in the BDCP "restoration opportunity area" and questioned how the determination would be made that "restoring" her property would save a given number of fish. She cautioned the members to do some "hard thinking" regarding how the Commission uses eminent domain. She also noted the BDCP is not a "project" and the Commission must look into DWR's authority for this project.
- Dr. Siara Andrew, Psychologist and Delta resident, commented on DWR's conduct as they attempted to access her property for environmental studies. In response, Chair Saracino committed to help DWR improve their communications related to the eminent domain process.

8. Informational Item: Proposal for naming State Water Project facility

Chair Saracino reminded the Commission it has the authority to name facilities of the State Water Project after deserving individuals. He noted he received several letters supporting naming a facility after Justice Ron Robie. Ralph Torres, DWR Deputy Director for the State Water Project, commented that impacts of renaming a facility are minimal, with costs under $10,000. Documents will be updated as needed to incorporate the name change and regulatory agencies will be notified. He noted the State Water Project Contractors are supportive of the change. Paul Kelley requested staff create a formalized process for naming the facility. Mr. Saracino committed to work with staff to develop a process and bring it back to the Commission at the next meeting.

9. Update on California Water Commission Water Storage Workshops

Ms. Sims noted that that the meeting dates for the workshops had been finalized and the initial round of speakers and panelists would be invited to participate that week. She provided an overview of workshop panel topics, and welcomed input from other Commission members as to appropriate participants.

10. Consideration of items for next California Water Commission meeting

Agenda topics for the August 2011 meeting include the Delta Plan, State Water Project Renaming, a Federal Appropriations Committee meeting report, a report on Water Storage Workshops, an update from DWR's legal office on the Agricultural Water Measurement Regulations, and a proposal on the process for eminent domain proceedings. Sue suggested that as part of the resolution of necessity process, Commissioners could make field visits to the sites were borings are proposed.

11. Public Comments

There were no further public comments.

12. Adjourn

The meeting was adjourned at 3:26 p.m.